

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

ATTORNEY FOR APPELLANTS:

NANCY A. MCCASLIN
McCaslin & McCaslin
Elkhart, Indiana

ATTORNEYS FOR APPELLEE:

COURTNEY G. WILLIAMS
DCS, Elkhart Local Office
Elkhart, Indiana

ROBERT J. HENKE
DCS Central Administration
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**



IN THE MATTER OF THE INVOLUNTARY)
TERMINATION OF THE PARENT-CHILD)
RELATIONSHIP OF:)

D.S., et al. (8 minor children with the same initials),)

And)

D.H. (Mother) & D.S. (Father),)

Appellants,)

vs.)

INDIANA DEPARTMENT OF CHILD)
SERVICES,)

Appellee.)

No. 20A04-1006-JT-377

APPEAL FROM THE ELKHART CIRCUIT COURT
The Honorable Terry C. Shewmaker, Judge and
The Honorable Deborah A. Domine, Juvenile Magistrate
Cause Nos. 20C01-0911-JT-, 89, 90, 91, 92, 93, 94, 95, and 96

January 4, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

DARDEN, Judge

STATEMENT OF THE CASE

D.H. and D.S. appeal the termination of their parent-child relationship with their eight children (“D.S.#1 – D.S.#8,” collectively “the children”).¹

We affirm.

ISSUES

1. Whether sufficient evidence supports the termination.
2. Whether the trial court erred in admitting evidence.
3. Whether the trial court erred in denying Father’s motion for change of judge.

FACTS

D.H. (“Mother”) and D.S. (“Father”) are the biological parents of eight minor children.² On April 18, 2008, D.S.#8 was born with THC in his meconium. Mother and Father agreed to an informal adjustment, which they successfully completed in October

¹ All eight children have the initials “D.S.”

² The children ranged in age from eight months to fourteen years at the time of removal from Mother and Father’s care.

2008. On December 9, 2008, the Department of Child Services (“DCS”) received a report that Mother and Father were abusing drugs and that their residence was unsafe and unsanitary. The children were removed and placed into therapeutic foster homes.

On December 12, 2008, DCS filed a petition alleging that the children were children in need of services (“CHINS”) due to (1) lack of supervision; (2) cockroach infestation of Mother and Father’s residence; (3) Mother and Father’s admitted drug use and positive drug screens for marijuana at the time of the children’s removal; (4) an allegation from school personnel that “they believe they witnessed a drug sale” when they visited Mother and Father’s residence, (DCS Ex. 2C); (5) a report from “[a] health care professional who visits the home . . . [that she saw] a firearm within reach of the children,” (DCS Ex. 2C); (6) D.S.#4 and D.S.#5 (who were ages seven and six at removal) “had not been enrolled in school prior to [2008],” (DCS Ex. 2C); (7) eight-month-old D.S. was born with THC (marijuana) in his system; and (8) hair follicle drug screen samples from D.S.#7 and D.S.#8 (who were ages two and seven months at removal) were positive for cocaine.

At the CHINS hearing on December 16, 2008, Mother and Father entered a general admission to the allegations of inadequate housing and drug abuse, and the juvenile court adjudicated the children as CHINS. On January 15, 2009, the juvenile court entered a dispositional decree in each of the eight causes, wherein it adopted DCS’s case plan, which set out *inter alia* the following objectives: (1) attendance of supervised visits with the children, with the potential for unsupervised visitation at the discretion of

DCS and CASA; (2) enrollment of the two oldest children in psychotherapy; (3) completion of addictions assessments and compliance with all recommendations; (4) random drug testing; (5) completion of psycho-parenting assessment and compliance with recommendations; (6) providing a safe, clean and sanitary home; and (7) securing employment and steady income. On April 21, 2009, the trial court appointed Angie Santos as court-appointed special advocate (CASA).

During the children's sixteen-month long wardship, they received services from DCS. Experts identified the following special needs of the children: speech disabilities and delays; aggression and anger; medical conditions that required on-going care; developmental delays; and educational deficits. Mother and Father initially received services from DCS; however, in April of 2009, Father stopped receiving services when he was arrested for dealing cocaine. He was subsequently convicted and sentenced to thirteen years in prison. Mother, who was already on probation, was arrested during the pendency of this action for operating a motor vehicle while intoxicated. Although Mother responded positively to services, she failed to demonstrate the ability to meet the basic needs of the children, to adequately supervise them, and to recognize the extent of their special needs. Nor did she secure adequate housing or steady employment.

On November 17, 2009, DCS filed a petition for the involuntary termination of Mother and Father's parent-child relationship with the children. On May 17, 2010, the trial court held a fact-finding hearing. Subsequently, on May 19, 2010, the trial court terminated Mother and Father's parental rights.

Additional facts will be provided as necessary.

DECISION

Mother and Father challenge the sufficiency of the evidence to support the trial court's termination of their parental rights. They also argue that the trial court erred in admitting certain evidence and in denying Father's request for change of judge.

1. Standard of Review

“Parental rights are of a constitutional dimension, but the law provides for the termination of those rights when the parents are unable or unwilling to meet their parental responsibilities.” *In re E.E.*, 736 N.E.2d 791, 793-94 (Ind. Ct. App. 2000). The purpose of terminating parental rights is not to punish the parents, but to protect their children. *Id.* at 794.

When reviewing the termination of parental rights, we will not reweigh the evidence or judge the credibility of the witnesses. *In re D.D.*, 804 N.E.2d 258, 264 (Ind. Ct. App. 2004). Instead, we consider only the evidence and reasonable inferences therefrom that are most favorable to the judgment. *Id.* Where, as here, the juvenile court enters findings of fact and conclusions of law in its termination of parental rights, we apply the following two-tiered standard of review: we must determine whether the evidence supports the findings; and whether the findings support the judgment. *Bester v. Lake County Office of Family & Children*, 839 N.E.2d 143, 147 (Ind. 2005).

“In deference to the juvenile court's unique position to assess the evidence, we will set aside the court's findings and judgment terminating a parent-child relationship

only if they are clearly erroneous.” *In re J.H.*, 911 N.E.2d 69, 73 (Ind. Ct. App. 2009). A finding of fact is clearly erroneous when there are no facts or inferences drawn therefrom that support it. *D.D.*, 804 N.E.2d at 264. A judgment is clearly erroneous only if the conclusions of law drawn by the court are not supported by its findings of fact or the conclusions of law do not support the judgment. *J.H.*, 911 N.E.2d at 73.

2. Sufficiency of Evidence

To effect the involuntary termination of a parent-child relationship, the State must present clear and convincing evidence establishing the elements of Indiana Code section 31-35-2-4(b)(2). *D.D.*, 804 N.E.2d at 265. Thus, the State must prove that:

(A) one (1) of the following exists:

(i) the child has been removed from the parent for at least six (6) months under a dispositional decree;

* * *

(B) there is a reasonable probability that:

(i) the conditions that resulted in the child’s removal or the reasons for placement outside the home of the parents will not be remedied; or

(ii) the continuation of the parent-child relationship poses a threat to the well-being of the child;

(C) termination is in the best interests of the child; and

(D) there is a satisfactory plan for the care and treatment of the child.

I.C. § 31-35-2-4(b)(2). Because subsection (b)(2)(B) is written in the disjunctive, the juvenile court need only to find by clear and convincing evidence that one of the two requirements of subparagraph (B) has been met in order to terminate a parent-child relationship. Here, the juvenile court found both conditions of subsection (b)(2)(B) to be

met. In our review, however, we will consider the evidence that supports its finding that continuation of the parent-child relationship posed a threat to the children's well-being.

a. Well-being

Specifically, the juvenile court found, “[T]he children’s serious needs and the parents [sic] limited abilities to provide for those needs supports the conclusion that a continuation of the parent-child relationship poses a threat to the well being of the eight [S.] children, and that termination of parental rights is necessary to protect the children today and in the future.” (Order 7). The court made the following pertinent findings:

ix. Dawn Harris testified that [D.S.#1] is aggressive and defiant. DCS case manager Boyer described that [D.S.#1] is currently involved in individual therapy. Boyer further described that when she first came into the system, [D.S.#1] was involved in special needs classes at school, but she has worked hard and is now in mainstream classes. Mandy Garver Ballage³ described that at 14-years old [D.S.#2] reads at a second grade level. His reading level, she said has increased a full grade since the DCS became involved in his life. [D.S.#2] is an angry child; he is involved with probation and is in therapy. Case manager Boyer testified that [D.S.#2] also has medical issues, he has a heart murmur needs physical therapy for his shoulder and is currently under medical care for an undescended testicle. 12-year old [D.S.#3] also has a heart murmur according to case manager Boyer. In addition, Ms. Garver Ballage described that [D.S.#3] has speech delays. She has an Individualized Education Plan because she is seriously delayed in school, she is low functioning, and her medical problems include scoliosis for which she may need a brace. Ms. Gaver [sic] Ballage also described that [D.S.#3] is involved in weekly therapy and is scheduled for genetic testing. Garver Ballage described that 9-year old [D.S.#4] came into the system with extreme communication delays, she is unable to pronounce many letters. When first taken into protective custody [D.S.#4]’s speech was 80% inaudible; she has made improvement, but there is still work to be done. Case manager Boyer also described that [D.S.#4] has ADHD and suffers

³ At the fact-finding hearing, this witness spelled her last name as “B-a-l-l-g-e.” (Tr. 70).

from depression. 8-year old [D.S.#5], also has speech problems, has a sleep disorder, and ADHD. Dawn Harris testified that like the siblings, 5-year old [D.S.#6] has poor speech, and is lacking in social skills; [D.S.#6] is currently in speech therapy. 3-year old [D.S.#7] has delayed speech, is involved in First Steps because of developmental delays, and has upper respiratory problems that need ongoing medical attention. Both case manager Boyer and Dawn Harris described that 2-year old [D.S.#8] has the most serious medical needs. It is believed the [D.S.#8] may have fetal alcohol syndrome. He has regular appointments at Riley Children's Hospital because he is not gaining weight, he has been diagnosed with failure to thrive. [D.S.#8] has serious developmental delays, upper respiratory problems, he has a narrow throat making it difficult for him to swallow, and he wears a helmet to avoid head injuries resulting from severe tantrums. Boyer added that all eight of the [S.] children were underweight at the time they were removed from the care of their parents.

* * *

x. * * * Father is unable to provide for [the children's] needs as a result of his incarceration. Mother is on probation, limiting her ability to allocate time to her eight children. Additionally, she is currently facing a modification of her probation that may require her to participate in inpatient drug treatment. Equally important, mother does not have a car or a home. Medicaid may be able to help with transportation, but if not mother has no back up plan to get the children to the many appointments that they will need to continue to make progress toward overcoming their disabilities. Finally, Dawn Harris testified that the mother failed to attend the last meeting which was scheduled to address the children's ongoing needs and their progress in treatment. Additionally, mother's own testimony supports the conclusion that she does not have a clear understanding of her children's disabilities and needs; understanding the children's needs is a necessary part of addressing those needs.

(Order 2-7).

The following evidence supports the juvenile court's findings: Sherrie Baskins, addictions counselor for Oaklawn Psychiatric Center, testified that Mother failed to follow recommendations, "did not attend group on regular basis," refused urine drug screens, and failed to "attend[] community support groups as recommended as part of the

program.” (Tr. 90). She testified that Mother needs continued treatment for alcohol and marijuana addictions, but either “cannot, or chooses not, to make the changes needed to live a life alcohol and drug free.” (Tr. 95).

Dawn Harris, family consultant for KidsPeace National Centers, implemented the children’s treatment goals. She testified that without explanation, Mother failed to attend the quarterly inter-disciplinary team meeting in March 2009, during which DCS caseworker(s), CASA Santos, therapists, and Mother were to review each child’s progress. She testified that Mother’s failure to attend revealed an alarming lack of engagement. She testified further that she observed no improvement in Father’s parenting and felt that he “should have interacted more with the children.” (Tr. 137).

Mandy K. Garver Ballge, a KidsPeace family consultant, testified that at the time of removal, each of the children was developmentally-delayed and suffered from severely-impaired speech:

[T]hey couldn’t speak correctly and people didn’t understand them and they called them stupid and they would come home crying sometimes and would be very upset because . . . they didn’t understand They wanted really badly just to speak correctly, but they didn’t understand that they were saying things wrong and how they were saying it wrong.

(Tr. 154-55). She also testified about her concerns for the children’s safety due to the parents’ lack of attentiveness, supervision, and consistency in discipline. She testified that there was “no structure,” “the kids were just . . . allowed to run wild,” and “we were very afraid for their safety.” (Tr. 157). She testified that many of the children suffer from serious medical conditions that require ongoing care and monitoring.

Margaret Dickey, team leader of supervised visitation for Oaklawn Psychiatric Center, testified that Mother failed to adequately supervise the children during visits. She testified that during one outdoor visit, one of the children “ran off a few times and I had to point it out to mom; he was wandering off towards a wooded area that was right by the street.” (Tr. 188). She also testified that she had not increased the frequency of Mother and Father’s visits because she “didn’t see significant lastly [sic] progress.” (Tr. 186). She testified that further that unsupervised visitation was not an option because

[j]ust based on the length of time it’s taking to see this progress, I think it’s been fairly slow and we still seem to struggle with making sure that . . . the kids are all, you know, staying together and safe, and things of that nature.

(Tr. 190).

CASA Angela Santos testified that Mother and Father lack the means to provide for the children, and have failed to display the level of engagement necessary to monitor the children’s special needs, which require on-going care.

We have eight children and you would think that we have two parents that would want to put their children first and do whatever they could to get these children back, and mom has had some dirty – dirty screens, she’s ended up in jail. And, though I know they love their children, and their children love them, it appears that mom and dad just can’t get it together and we have eight children that can’t wait. We have eight children that need their rights to have a family and need to learn to be children who up until now . . . haven’t been able to be children.

(Tr. 269).

Lastly, Tamela Boyer testified that she was the DCS family case manager “in this CHINS case and also for the informal adjustment.” (Tr. 206). She testified that “Mother

is still having trouble with addictions issues and denial of those issues. There hasn't been consistency with her addictions therapy[.]” (Tr. 226). She testified that although Mother accepted assistance with transportation and her search for employment, “she did not cooperate with any follow-through in between, as far as looking for employment that had been suggested, or trying to follow through with any of those kinds of things on her own.” (Tr. 209). She testified that at the time of the fact-finding hearing, Mother was unemployed, had recently been evicted, and was sharing the one-bedroom apartment of someone she had met during her incarceration.

Boyer also testified that Mother was on probation when the children were removed; that during the pendency of this action, she was convicted of operating a motor vehicle while intoxicated with a BAC level that was over twice the legal limit, with minors in the vehicle; and that at the time of the fact-finding hearing, a petition to revoke Mother's probation was pending. She testified further that although Father completed parenting classes, underwent a psycho-parenting assessment, and began drug therapy, “he wasn't able to participate in any services” following his April 2009 arrest for dealing cocaine; he was subsequently convicted and sentenced to thirteen years. (Tr. 214).

In addition, Boyer testified that she never recommended unsupervised visitation because “I don't think that mom supervises them closely enough.” (Tr. 213). She testified that Mother and Father failed to participate in the children's medical and therapeutic care during the wardship; that they “need[] to have some understanding, acknowledgment, that [the children] have all of these issues, and I haven't seen the

motivation to [do so],” and “it doesn’t appear that they have an understanding of what the disabilities really entail and what needs to be done about them.”⁴ (Tr. 228, 230).

We find no clear error from the juvenile court’s finding that continuation of Mother and Father’s parental rights posed a threat to the wellbeing of the children.

b. Best Interests

Next, as to whether termination of the parent-child relationship is in the children’s best interests, the trial court found that Mother and Father lacked the means to provide the basic necessities, and were unable to provide the structure, guidance, and supervision required for eight children with significant special needs. The trial court made the following pertinent findings:

i. * * * [T]he case law is clear on this issue and it provides that “[A] parent’s historical inability to provide adequate housing, stability, and supervision, coupled with a current inability to provide the same will support a finding that termination of the parent-child relationship is in the child’s best interest.” *In re A.L.H.*, 774 N.E.2d 896, 900 (Ind. App. 2002). Here, father is unable to provide housing for his children, and mother testified that she is currently unable to provide that housing as well. The children came into the system with serious developmental delays and disabilities. Father is unable to provide for those disabilities and needs today because of his incarceration; mother’s lack of understanding limits her ability to provide for these needs as well.

ii. In addition, Dawn Harris and Mandy Garver Ballage both supervised visits between the eight [S.] children and their parents, and both expressed concerns over the safety of the children while in their parents’ care because of parents [sic] inability to adequately supervise. Mandy Garver Ballage described that she recommended that parents participate in parenting classes because at visits the parents simply

⁴ As to the level of engagement required to care for the children, she testified that the baby (D.S.#8), for example, “needs to have someone who can be right on top of knowing what his weight is, knowing exactly what he’s eating, is he getting all the calories that he needs in a day’s time.” (Tr. 229-30).

allowed their children to “run wild.” Neither of the supervisors were ever comfortable enough with the parents’ abilities to supervise to recommend expanded visits or unsupervised visitation between the parents and their children.

iii. More recently visits were supervised by Margaret Dickey of Oaklawn; she too described that during even the most recent visit there was still a struggle on mother’s part to keep the children safe. Father is no longer involved in visits because of his incarceration.

(Order 7-8).

As we have already discussed above, various service providers testified as to Mother and Father’s unresolved drug dependency issues, inability to provide basic necessities and adequately supervise the children, and their failure to fully comprehend the children’s extensive special needs. We reference our discussion above, as well as Boyer’s testimony below as to why she believed termination of Mother and Father’s parental rights to be in the best interest of the children:

The parents both have addictions issues and issues with drugs . . . , mom has continued to have those issues. Mom has not been able to gain employment and provide a home for them, or for herself. She doesn’t seem to follow-through when she’s given the opportunity to and – and guidance from the home-base[d] case manager to try to find employment. She . . . [has] not been able to provide parenting skills on a consistent level and . . . I just don’t feel that she can provide for the children and dad is incarcerated and unable to at this time.

(Tr. 227).

Based upon the foregoing, the evidence was sufficient to prove by clear and convincing evidence that termination of Mother and Father’s parental rights was in the children’s best interests.

c. Satisfactory Plan

Next, Mother and Father argue that DCS failed to prove that adoption was a satisfactory plan for the children. Specifically, they argue that D.S.¹ and D.S.² wanted them to retain parental rights; that DCS failed to identify a single adoptive placement that would accommodate eight children; and that the DCS should have placed the children with Mother's great aunt, who had expressed interest in serving as their guardian.

Indiana Code section 31-35-2-4(b)(2)(D) provides that the DCS is only required to establish that "there is a satisfactory plan for the care and treatment of the child" in termination proceedings. We have long held that adoption is a "satisfactory plan" for the care and treatment of a child under the termination of parental rights statute. *In re A.N.J.*, 690 N.E.2d 716, 722 (Ind. Ct. App. 1997).

Under cross-examination, family case manager Boyer testified that at Mother's request, DCS had submitted documentation for an inter-state compact with Illinois as to maternal great-aunt, S.D. She testified that at the time of the fact-finding hearing, DCS had not "received that back." (Tr. 226). She testified further that, in her opinion, it was not in the children's best interest to further extend the sixteen-month long wardship to await Illinois' determination as to the inter-state compact.⁵ Boyer testified that in light of Mother and Father's demonstrated inability to meet the children's basic needs and significant medical needs, DCS's plan for the children was adoption.

⁵ Our decision does not preclude DCS from considering the maternal great-aunt as an adoptive parent for the children in the future.

The record reveals that DCS established a plan to place the eight children for adoption. The DCS, therefore, presented clear and convincing evidence from which the juvenile court could conclude that DCS had a satisfactory plan for the children. We find no clear error from the juvenile court's findings and judgment ordering termination of Mother and Father's parent-child relationship with the children.

2. Admission of Evidence

Next, Father argues that the juvenile court erred in admitting, over his objections, certified copies of the clerk's record in the underlying eight CHINS cases, into evidence. Specifically, he objected on grounds of hearsay, irrelevancy, and substantial prejudice to DCS Exhibit Groups 1-16, which contained, *inter alia*, DCS's affidavit of probable cause, pre-placement preventative services checklist, advisement to parents and guardians of parental rights, and order on protective custody. We disagree.

The admissibility of documents as exhibits is a matter within the discretion of the trial court and will be reversed only upon a showing of abuse of that discretion. *In re A.H.*, 832 N.E.2d 563, 567 (Ind. Ct. App. 2005). Relevant evidence is defined as "evidence 'having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.'" Ind. Evid. R. 401.

"In bench trials, it is generally presumed that the trial judge disregards inadmissible evidence and renders its decision solely on the basis of relative and probative evidence." *In re A.J.*, 877 N.E.2d 805, 814 (Ind. Ct. App. 2007). "Likewise, it

is presumed that evidence, which might be inadmissible and prejudicial when placed before a jury, is disregarded by the court when making its decision, unless the defendant presents evidence to the contrary.” *Id.* Here, in admitting DCS Exhibits Groups 1-16, the juvenile court remarked, “I am admitting them with the qualification that hearsay will be exclude [sic] in any decision made.” (Mother and Father’s App. 808-09).

Moreover, “errors in the admission of evidence, including hearsay, are to be disregarded as harmless unless they affect the substantial rights of the party.” *City of Indianapolis v. Taylor*, 707 N.E.2d 1047, 1055 (Ind. Ct. App. 1999). *See also In re W.B.*, 772 N.E.2d 522, 533 (Ind. Ct. App. 2002). The juvenile court must evaluate a parent’s fitness to parent at the time of the termination hearing; however, it must also take into consideration evidence of the parent’s habitual patterns of conduct in determining whether there is a substantial probability of future neglect or deprivation of the child. *McBride v. Monroe County Office of Family & Children*, 798 N.E.2d 185, 199 (Ind. Ct. App. 2003). Accordingly, we have previously held that evidence of a parent’s prior involvement with the Department of Child Services, including the filing of previous CHINS petitions and previous termination proceedings, is admissible as proper character evidence and helpful in demonstrating negative habitual patterns of conduct to determine parental fitness and the best interests of the children. *A.F. v. Marion County Office of Family & Children*, 762 N.E.2d 1244, 1252 (Ind. Ct. App. 2002). *See also Carter v. Knox County Office of Family and Children*, 761 N.E.2d 431, 437 (Ind. Ct. App. 2001) (DCS is “entitled to offer into evidence ‘the CHINS petition, the predispositional report,

the parental participation order, the modification report or any other document or order containing written findings, which was required to be created during the proceedings.’’).

Father has not carried his burden. We find a sufficient nexus between DCS Exhibits 1-16 and the underlying termination action, and, further, that this evidence was relevant to determining Mother and Father’s capacity to parent the children. Thus, we cannot say that the juvenile court’s admission of these documents adversely affected Mother and Father’s substantial rights. Based upon the foregoing, we cannot say that the juvenile court abused its discretion in admitting DCS Exhibits Groups 1-16.

3. Change of Judge

Lastly, Mother and Father argue that the trial court erred in denying Father’s oral motion for change of judge. A ruling upon a motion for a change of judge rests within the sound discretion of the trial judge and will be reversed only upon a showing of abuse of that discretion. *Carter*, 761 N.E.2d at 434. An abuse of discretion occurs when the trial court’s decision is against the logic and effect of the facts and circumstances before it. *Ind. Univ. Med. Ctr., Riley Hosp. for Children v. Logan*, 728 N.E.2d 855, 859 (Ind. 2000).

Indiana Trial Rule 76 provides, in pertinent part, as follows:

(B) In civil actions, where a change may be taken from the judge, such change shall be granted upon the filing of an unverified application or motion without specifically stating the ground therefor by a party or his attorney. Provided, however, a party shall be entitled to only one [1] change from the judge. * * *

(C) In any action except criminal no change of judge or change of venue from the county shall be granted except within the time herein provided. Any such application for change of judge . . . shall be filed not later than ten [10] days after the issues are first closed on the merits. Except:

* * *

(6) if the moving party first obtains knowledge of the grounds for change of venue from the county or judge after the time above limited, he may file said application, which must be verified personally by the party himself, specifically alleging when the cause was first discovered, the facts showing the ground for a change, and why such cause could not have been discovered before by the exercise of due diligence.

Ind. Tr. R. 76(B), (C).

Father asserts that he orally moved for a change of judge after the juvenile court judge indicated that she had presided over the JM and JC matters involving Mother and Father. Father argues that he so moved because “if the judge had already heard evidence about the father, it would imply that it would affect her decision-making ability.” Mother and Father’s Br. at 38. He maintains that his failure to subsequently file a verified application for change of judge, pursuant to Indiana Trial Rule 76(C)(6), “is not relevant because the application would have been denied, also.” Mother and Father’s Br. at 39.

Father’s oral motion for change of judge did not comply with Indiana Trial Rule 76(B). In light of his subsequent failure to avail himself of the opportunity, pursuant to subsection (C)(6), to file a verified application stating both his ground(s) for seeking a change of judge and why those grounds could not have been discovered earlier, we cannot say that the juvenile court’s denial of his motion for change of judge gave rise to reversible error. We find no abuse of discretion.

Affirmed.

NAJAM, J., and BAILEY, J., concur.