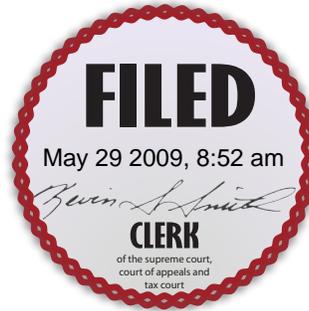


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE  
COURT OF APPEALS OF INDIANA**

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In the matter of the termination of the )  
Parent-Child Relationship of J.G. )  
 )  
D.G., )  
 )  
Appellant-Respondent, )  
 )  
vs. )  
 )  
INDIANA DEPARTMENT OF CHILD )  
SERVICES (KNOX COUNTY OFFICE) )  
 )  
Appellee-Petitioner. )

No. 42A01-0811-JV-526

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APPEAL FROM THE KNOX SUPERIOR COURT  
The Honorable W. Timothy Crowley, Judge  
Cause No. 42D01-0712-JT-015

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**May 29, 2009**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**FRIEDLANDER, Judge**

D.G. (Father) appeals the trial court's termination of the parent-child relationship with his son, J.G., upon the petition of the Knox County Department of Child Services (the DCS). He presents the following issue for our review: Was there sufficient evidence to support the termination of his parental rights?

We affirm.

J.G. was born on September 26, 2003. He was removed from his parents' home in March 2006 because of his mother's mental illness and Father's inability to protect him. At the time of the removal, J.G.'s mother was suffering from trichotillomania. J.G. had a bald patch on his head because his mother was pulling out his hair and eating it.

In August 2006, J.G. was adjudicated to be a Child in Need of Services (CHINS). Both parents were ordered to participate in specified programs and services and to abide by certain rules. J.G. was placed in foster care.

DCS filed a petition to terminate J.G.'s parental relationship with both parents in December 2007. At the time the petition was filed, the parents had dissolved their marriage. At the August 2008 hearing on the petition, Mother voluntarily relinquished her parental rights. She is not a party to this appeal. The court held a hearing on the petition to terminate Father's parental rights.

The evidence most favorable to the termination reveals that Father is mildly mentally handicapped and suffers from bipolar disorder, depression, and anxiety. Father stays up late playing video games and frequently sleeps soundly until the middle of the following afternoon. If he has a morning appointment, he will sometimes stay up all night drinking

coffee so that he does not miss the appointment. Father's brother has a substantiated allegation of child molestation, yet Father continues to ask if his brother can visit J.G. despite DCS's recommendation that J.G. have no contact with his uncle. Father receives social security disability payments and frequently mows yards for extra money. He has a payee for his social security payments because he was spending all of the money within five days of receiving it. He lives in an apartment by himself, and his largest monthly expense is cigarettes. Father allows people into his home without knowing their names and did not know whether the woman he was planning to marry had children. J.G. and Father play together well during their weekly visitation, but Father has difficulty being a parent because he acts more like a child than an adult.

DCS Family Case Manager Keena Vieck and Preventative Aftercare Case Manager Brandy Worland both testified about their concerns that Father is unable to provide a safe and secure home environment for J.G. The case managers also testified that Father has made no significant progress on his CHINS goals as evidenced by his: 1) excessive sleeping; 2) failure to keep scheduled appointments; 3) failure to take medicines as prescribed; 4) dishonesty with service providers; and 5) failure to cooperate and follow case managers' recommendations.

Also at the hearing, J.G.'s foster mother testified that when he was placed with the family at age 2, J.G. screamed and continuously beat his head on the wall and floor. He was not talking and had not started potty training. He did not want physical contact with others and would not eat. After two years with the foster parents, J.G. still has speech delays, but he

no longer beats his head on the floor, he eats regularly, and is affectionate with his foster parents.

Following the hearing, the trial court issued an order terminating Father's parental rights. The order provides in relevant part as follows:

4. That it has been established by clear and convincing evidence that a continuation of the parent-child relationship poses a threat to the well-being of the child. Every child wants and needs a stable and nurturing relationship with its parents. In this case, the parents' mental health issues make a nurturing relationship impossible. [Father] dearly loves his son, but because of his own mental health issues he cannot properly care for the child. [Father] would certainly never harm [J.G.], but he has demonstrated a history of not being able to protect [J.G.] from harmful behavior by others. Further, [Father] is unable to appreciate and understand his role in protecting his child from the bad behavior of others. Placing the child back in the home of the Father would present significant risks for the child.

*Appellant's Appendix at 7. Father appeals.*

The purpose of terminating parental rights is not to punish parents but to protect their children. *In re Termination of the Parent-Child Relationship of D.D.*, 804 N.E.2d 258 (Ind. Ct. App. 2004), *trans. denied*. Although parental rights are of a constitutional dimension, the law allows for the termination of those rights when parties are unable or unwilling to meet their responsibility as parents. *Id.* The trial court must subordinate the interests of the parents to those of the child when evaluating the circumstances surrounding the termination. *In re R.S.*, 774 N.E.2d 927 (Ind. Ct. App. 2002), *trans. denied*.

This court will not set aside the trial court's judgment terminating a parent-child relationship unless the judgment is clearly erroneous. *Id.* When reviewing the sufficiency of the evidence to support a judgment of involuntary termination of a parent-child relationship,

we neither reweigh the evidence nor judge the credibility of the witnesses. *Id.* We consider only the evidence that supports the judgment and the reasonable inferences to be drawn therefrom. *Id.*

Ind. Code Ann. § 31-35-2-4(b)(2) (West, PREMISE through 2008 2nd Regular Sess.) sets out the following relevant elements that the Department of Child Services must allege and prove by clear and convincing evidence in order to terminate a parent-child relationship:

(i) [T]he child has been removed from the parent for at least six 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.

Father contends that there is insufficient evidence to support the termination of his parental rights. Specifically, he contends the DCS failed to prove that the continuation of the parent-child relationship poses a threat to the well-being of J.G.

A trial court need not wait until a child is irreversibly influenced by a deficient lifestyle such that his physical, mental, and social growth is permanently impaired before terminating the parent-child relationship. *In re E.S.*, 762 N.E.2d 1287 (Ind. Ct. App. 2002).

The evidence reveals both case managers testified that Father is unable to provide a safe and

secure home environment for J.G. According to the case managers, Father sleeps excessively, fails to keep scheduled appointments, fails to take medicines as prescribed, is dishonest with service providers, and fails to cooperate with them. In addition, Father allows people into his home without knowing their names and continues to ask if his brother, a child molester, can visit J.G.

Further, when J.G. was removed from the home at age two, he screamed and continuously beat his head on the wall and floor. He was not talking, would not eat, and did not want physical contact with others. Although, he continues to have a speech delay, J.G. no longer beats his head on the wall and floor, eats regular meals, and is affectionate with his foster parents. Recognizing our deferential standard of review, we find that this evidence supports the trial court's finding that the continuation of the parent-child relationship poses a threat to J.G.'s well-being. We reject Father's invitation to reweigh the evidence.

Because of our determination above, we need not reach the issue of whether there is a reasonable probability that the conditions resulting in J.G.'s removal or the reasons for continued placement outside Father's home were unlikely to be remedied. *See In re L.V.N.*, 799 N.E.2d 63 (Ind. Ct. App. 2003) (noting that I.C. § 31-35-2-4(b)(2)(B) is written in the disjunctive and, therefore, only one of the two requirements of subparagraph (B) need to be established by clear and convincing evidence).

We reverse a termination of parental rights “only upon a showing of ‘clear error’ – that which leaves us with a definite and firm conviction that a mistake has been made.” *Egley*

*v. Blackford County Dep't of Pub. Welfare*, 592 N.E.2d 1232, 1235 (Ind. 1992). We find no such error here and therefore affirm the trial court.

Judgment affirmed.

NAJAM, J., and VAIDIK, J., concur.