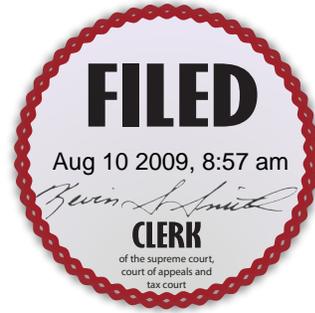


**Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.**



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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 )  
S.L., and P.L. II, )

Minor Children, )

A.L., Mother, )  
P.L., Father, )

Appellants-Respondents, )

vs. )

ALLEN COUNTY DEPARTMENT OF )  
CHILD SERVICES, )

Appellee-Petitioner. )

No. 02A03-0904-JV-188

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APPEAL FROM THE ALLEN SUPERIOR COURT  
The Honorable Charles F. Pratt, Judge  
Cause Nos. 02D07-0711-JT-220 and 02D07-0711-JT-221

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**August 10, 2009**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BARNES, Judge**

**Case Summary**

P.L. (“Father”) and A.L. (“Mother”) appeal the termination of their parental rights to their children P.L., II (“P.L.”) and S.L. We affirm.

**Issue**

The sole issue before us is whether there was sufficient evidence to support the termination of Mother and Father’s parental rights.

**Facts**

S.L. was born in 1994, and P.L. was born in 1998. In addition to S.L. and P.L., Mother and Father have five other children. In 1997, S.L. was placed in the custody of her grandmother under a guardianship arrangement. In 2001, P.L. was placed in the custody of an aunt and uncle after he was found to be a CHINS. The grandmother, aunt, uncle, P.L., and S.L. all lived in the same household. After being removed from their parents, neither child ever went back to living with them. The first CHINS proceeding was closed in 2003.

In February 2005, the Allen County Department of Child Services (“DCS”) initiated a second CHINS proceeding after discovering that the home of the aunt and uncle where P.L. and S.L. had been residing was extremely filthy, and determining that

the children could not return to the care of Mother and Father. Among other matters, Father suffers from severe agoraphobia and Mother has emotional health issues and limited mental functioning. S.L. and P.L. then were placed in licensed foster care; S.L. later moved to a group home setting.

After the initiation of the second CHINS proceeding, S.L. and P.L. underwent psychological evaluations. It was revealed during these exams that both S.L. and P.L. had been sexually abused by some of their cousins and a friend of the cousins, which led to inappropriate sexual behavior between S.L. and P.L. and between S.L. and P.L. and other children. As a result, both S.L. and P.L. are considered at risk for engaging in further inappropriate sexual behavior or being victimized again and must be closely supervised. P.L. also has been diagnosed with ADHD and takes two medications. S.L. has been diagnosed with borderline intellectual functioning and Fetal Alcohol Syndrome and likely will require therapy and treatment throughout adolescence.

On November 14, 2007, the DCS filed petitions to terminate Mother and Father's parental rights to S.L. and P.L. only. The trial court held hearings on the petitions on April 9, April 21, May 12, and November 17, 2008. The DCS indicated to the trial court that its plan for S.L. and P.L. following termination was to seek their adoption. On February 13, 2009, the trial court entered orders terminating Mother and Father's parental rights. They now appeal.

## Analysis

“When reviewing the termination of parental rights, we do not reweigh the evidence or judge witness credibility.” Bester v. Lake County Office of Family & Children, 839 N.E.2d 143, 147 (Ind. 2005). “We consider only the evidence and reasonable inferences that are most favorable to the judgment.” Id. Where, as here, a trial court enters findings and conclusions granting a petition to terminate parental rights, we apply a two-tiered standard of review. Id. First, we determine whether the evidence supports the findings. Id. Then we determine whether the findings support the judgment. Id. We will set aside a judgment only when it is clearly erroneous. Id. A judgment is clearly erroneous when the findings do not support the trial court’s conclusions or the conclusions do not support the judgment. Id.

A petition to terminate the parent-child relationship must allege:

- (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;
  - (ii) a court has entered a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification are not required, including a description of the court’s finding, the date of the finding, and the manner in which the finding was made; or
  - (iii) after July 1, 1999, the child has been removed from the parent and has been under the supervision of a county office of family and children for at least fifteen (15) months of the most recent twenty-two (22) months;

- (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.

Ind. Code § 31-35-2-4(b)(2) (2008).<sup>1</sup>

The DCS had the burden of proving these allegations by clear and convincing evidence. See Bester, 839 N.E.2d at 148. Clear and convincing evidence need not show that the custody by the parent is wholly inadequate for the child's survival. Id. Instead, it is sufficient to show by clear and convincing evidence that the child's emotional and physical development would be threatened by the parent's custody. Id.

The sole challenge Mother and Father make to the trial court's judgment is that the DCS failed to prove that it had an adequate plan for the care and treatment of S.L. and P.L. following termination. They point out their children's severe psychological issues, which may make them more difficult to place for adoption, and the apparent fact that no specific family or families have yet agreed to adopt either child. Additionally, Mother and Father note that because she is over fourteen years old, S.L. would have to consent to her adoption. See I.C. § 31-19-9-1(a)(5). They contend that it is unclear whether S.L.

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<sup>1</sup> Effective July 1, 2009, subsection (b)(2)(A)(iii) of this statute was reworded slightly. See P.L. 131-2009 § 65. We quote the version of the statute in effect at the time of the proceedings in this case.

would consent to any adoption. Furthermore, Mother and Father argue that there is a lack of evidence that their supervised visitation with the children during the CHINS proceeding was detrimental and, thus, there would be no harm in delaying termination of their parental rights and allowing continued visitation.<sup>2</sup>

This court has held that in order for a plan to be “satisfactory,” it “need not be detailed, so long as it offers a general sense of the direction in which the child will be going after the parent-child relationship is terminated.” Lang v. Starke County Office of Family and Children, 861 N.E.2d 366, 374 (Ind. Ct. App. 2007), trans. denied (quoting In re Termination of Parent-Child Relationship of D.D., 804 N.E.2d 258, 268 (Ind. Ct. App. 2004), trans. denied.). Attempting to find a suitable adoptive family for a child is clearly a satisfactory plan. Id. The fact that there is not a specific family in place to adopt the child does not make a plan of adoption unsatisfactory. Id.

Thus, in this case the DCS did not have to detail precisely what would happen to S.L. and P.L. after termination. It was sufficient to state that the DCS will attempt to find adoptive families for both children. With respect to P.L., the CASA testified that she believed he had a good chance of being adopted. The CASA also testified that with respect to whether S.L. would consent to being adopted, she understood that Mother and Father cannot care for her adequately and she did not refuse to consider being adopted by another family.

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<sup>2</sup> Actually, only Mother has had consistent visitation with the children. Father’s visitation has been very sporadic, allegedly due in large part to his agoraphobia.

We also believe the DCS did not have to guarantee that S.L. and P.L. will both find adoptive homes. It would be unfortunate if that does not occur, but that should not prevent the termination of Mother and Father's parental rights. Otherwise, this could lead to a situation in which it is more difficult to terminate parental rights in cases where years of failing to adequately parent children leads to them being severely psychologically damaged and thus very difficult to adopt. We will not countenance such a result. The DCS has a sufficient plan for S.L. and P.L.<sup>3</sup>

We also address Mother and Father's argument that delaying termination of parental rights would not harm S.L. or P.L., and would allow continued visitation in the meantime. Courts have often observed that prolonged uncertainty in a child's life, caused by delays in terminating parental rights where such termination is called for, can be very detrimental to the child's development. See Baker v. Marion County Office of Family & Children, 810 N.E.2d 1035, 1040 (Ind. 2004) (quoting Lehman v. Lycoming County Children's Servs. Agency, 458 U.S. 502, 511, 102 S. Ct. 3231, 3238 (1982)). Here, it was not clearly erroneous for the trial court to conclude that, regardless of what the future holds for S.L. and P.L., it is preferable at this time to sever their ties with Mother and Father and allow the children to go forward without this connection to their troubled past. It also should be noted that Mother and Father do not argue that they are able to take

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<sup>3</sup> Admittedly, it would have been helpful if the DCS could have provided testimony or evidence to the effect that pending adoption, S.L. and P.L. would continue their current placements in the group home and licensed foster care, respectively. See Matter of M.B., 638 N.E.2d 804, 808 (Ind. Ct. App. 1994), trans. denied. However, it should necessarily be implied that the DCS will not permit S.L. and P.L. to fend for themselves until such time as an adoptive family is found.

custody of S.L. and P.L., nor do they contend that they would be able to do so at any time in the foreseeable future. It is difficult to perceive why S.L. and P.L. would be better off if termination was delayed indefinitely.

### **Conclusion**

There is sufficient evidence to support the termination of Mother and Father's parental rights to S.L. and P.L.; specifically, there is sufficient evidence that the DCS has an adequate plan for S.L. and P.L. following termination. We affirm.

Affirmed.

NAJAM, J., and KIRSCH, J., concur.