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ALABAMA COURT OF CIVIL APPEALS

SPECIAL TERM, 2019

2180047, 2180048, 2180049, and 2180050

T.N. n/k/a T.N.G.

v.

Covington County Department of Human Resources

Appeals from Covington Juvenile Court
(JU-13-185.02, JU-13-186.02, JU-13-187.02, and JU-13-188.02)

EDWARDS, Judge.

T.N., now known as T.N.G. ("the mother"), appeals from a judgment terminating her parental rights to her children,

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R.A., C.A., L.N., and S.N. ("the children").¹ The children have been in foster care since their removal from the custody of the mother in December 2013 by the Covington County Department of Human Resources ("DHR"). In June 2016, DHR filed in the Covington Juvenile Court petitions to terminate the mother's parental rights to the children; those cases were assigned numbers JU-13-185.02, JU-13-186.02, JU-13-187.02, and JU-13-188.02, respectively.² After a lengthy trial held over eight separate days between November 2016 and October 2017, the juvenile court, on August 31, 2018, entered in each case a judgment terminating the mother's parental rights.³ The mother timely appealed; her appeals were assigned numbers 2180047, 2180048, 2180049, and 2180050, respectively.

"A juvenile court is required to apply a two-pronged test in determining whether to terminate parental rights: (1) clear and convincing evidence must support a finding that the child is dependent;

¹The birth dates of the children are as follows: R.A., August 6, 2005; C.A., July 10, 2006; L.N., July 2, 2008; and S.N., May 5, 2009.

²The petitions also sought to terminate the parental rights of P.A., the father of C.A.; S.V., the father of L.N. and S.N.; and the unknown father of R.A.

³The judgment also terminated the parental rights of P.A., S.V., and any unknown father of R.A. See note 2, supra. None of those men have appealed.

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and (2) the court must properly consider and reject all viable alternatives to a termination of parental rights. Ex parte Beasley, 564 So. 2d 950, 954 (Ala. 1990)."

B.M. v. State, 895 So. 2d 319, 331 (Ala. Civ. App. 2004). A juvenile court's factual findings in a judgment terminating parental rights based on evidence presented ore tenus are presumed correct. K.P. v. Etowah Cty. Dep't of Human Res., 43 So. 3d 602, 605 (Ala. Civ. App. 2010). A juvenile court's judgment terminating parental rights must be supported by clear and convincing evidence. P.S. v. Jefferson Cty. Dep't of Human Res., 143 So. 3d 792, 795 (Ala. Civ. App. 2013). "Clear and convincing evidence" is "[e]vidence that, when weighed against evidence in opposition, will produce in the mind of the trier of fact a firm conviction as to each essential element of the claim and a high probability as to the correctness of the conclusion.'" L.M. v. D.D.F., 840 So. 2d 171, 179 (Ala. Civ. App. 2002) (quoting Ala. Code 1975, § 6-11-20(b)(4)).

The termination of parental rights is governed by Ala. Code 1975, § 12-15-319. That statute reads, in pertinent part:

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"(a) If the juvenile court finds from clear and convincing evidence, competent, material, and relevant in nature, that the parent[] of a child [is] unable or unwilling to discharge [his or her] responsibilities to and for the child, or that the conduct or condition of the parent[] renders [him or her] unable to properly care for the child and that the conduct or condition is unlikely to change in the foreseeable future, it may terminate the parental rights of the parent[]. In determining whether or not the parent[] [is] unable or unwilling to discharge [his or her] responsibilities to and for the child and to terminate the parental rights, the juvenile court shall consider the following factors including, but not limited to, the following:

". . . .

"(2) Emotional illness, mental illness, or mental deficiency of the parent, or excessive use of alcohol or controlled substances, of a duration or nature as to render the parent unable to care for needs of the child.

". . . .

"(7) That reasonable efforts by the Department of Human Resources or licensed public or private child care agencies leading toward the rehabilitation of the parent[] have failed.

". . . .

"(12) Lack of effort by the parent to adjust his or her circumstances to meet the needs of the child in accordance with agreements reached, including agreements reached with local departments of human resources or licensed child-placing

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agencies, in an administrative review or a judicial review."

The facts revealed by the record are as follows. The mother first became known to DHR in June 2013.⁴ The initial triggering event precipitating DHR's involvement was the placement of the two older children, R.A. and C.A. (hereinafter referred to collectively as "the older children"), who were at the time almost eight years old and almost seven years old, respectively, in acute care at Laurel Oaks Behavioral Health Center ("Laurel Oaks"). At that time, according to Natalie Pinson, who was the foster-care caseworker first assigned to the family's case, the children were reporting hallucinations and were observed to be wearing clothing with holes and shoes that were falling apart. DHR opened the case to supervision in June 2013 and began providing the mother services aimed at preventing the removal of the children from the home.

⁴The record reflects that the mother also had interactions with the Coffee County Department of Human Resources and the Dale County Department of Human Resources. Neither the events giving rise to those interactions nor the resolutions of any matters investigated by those departments are readily apparent from the record. The mother was herself a foster child who was later adopted. The circumstances of the mother's removal from the custody of her natural parents is also not contained within the record.

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According to Pinson, the children's behavior was "chaotic." She said that they were jumping off of the furniture and that it was "wild" in the home. Pinson testified that the mother would sometimes yell and scream at the children but that, at other times, she might take a calming tone, commenting that "you know you shouldn't be doing that." The mother's lack of consistency in her approach to discipline, Pinson noted, did not serve to calm the children. Pinson also observed that the mother had a significant attachment with C.A., who she would address in a "baby voice"; Pinson further noted that C.A. constantly wanted the mother's attention. Pinson indicated that the mother had less of an attachment with R.A., who, Pinson noted, sought the mother's attention but was seldom given it.

Pinson further testified that hygiene was also an issue. She said that the school the older children attended had reported that the children had an awful odor, that the children's underwear would be filthy, that the children would complain that their "hineys" hurt, and that the children suffered issues with lice. Pinson said that her investigation into the conditions of the home indicated that the children

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would wet the bed frequently and that the mother did not apparently know about the bedwetting, resulting in the children's repeatedly sleeping on filthy sheets and mattresses.

Pinson testified that the mother had moved five times during Pinson's tenure as caseworker for the family, which lasted approximately one year, between December 2013 and December 2014. Pinson said that the mother would often blame her decision to relocate on something her landlord had not done. However, Pinson learned that the mother had, at times, fallen behind on her rent; thus, she indicated that the mother may have moved at times to avoid eviction.

During the period Pinson had the case, the mother had had relationships of some sort with two men, M.E. and C.G., who did not get along. The mother was in a romantic relationship with M.E., who she later married for a brief time. M.E. broke R.A.'s finger while disciplining her, so DHR implemented a safety plan under which M.E. could not be in the home. However, Pinson said, she believed that the mother and M.E. had repeatedly violated the safety plan based on comments made by the children. Pinson said that she had attempted to

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"catch" M.E. at the home, but, she said, he had once escaped through a window and, another time, had hid in the attic; she remarked that the children found those episodes "funny." The mother later divorced M.E. and subsequently married C.G.

As part of its duty to provide services to the mother, DHR required the mother to undergo a psychological evaluation with Dr. Curry Hammack in November 2013 and again in January 2016. Dr. Hammack's psychological reports were admitted at trial, and he testified regarding his findings relating to the mother's mental health. Dr. Hammack testified that, during his 2013 evaluation of the mother, he gave the mother a battery of tests and spoke with her about her past and current situations. According to Dr. Hammack, the 2013 testing had revealed that the mother's IQ is in the low average range and that she suffers from depression and anxiety. He noted that his 2013 evaluation included the Minnesota Multiphasic Personality Inventory ("MMPI"), which revealed that the mother had low self-esteem, would tend to get agitated and frustrated, and would become overwhelmed as her stress levels increased. He said that the mother had explained that she had been adopted and that she had a long history of "emotional

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volatility." Dr. Hammack testified that the mother had admitted being hospitalized as a teenager at Laurel Oaks and as a young adult in Bryce Mental Hospital; he said that she also admitted having been diagnosed as suffering from bipolar disorder. Dr. Hammack noted that the mother had explained that three of her four children had behavioral issues.

Based on his 2013 testing and observations of the mother, Dr. Hammack concluded that the mother suffered from an anxiety or mood disorder and from personality disorder with primary borderline features, dependent features, and somatic features. He commented that he had seen evidence indicating that the mother might, in fact, suffer from bipolar disorder, but he said that he did not like to diagnose bipolar disorder based on a one-day evaluation; instead, he explained that he had diagnosed the mother with a mood disorder, which, he said, indicated that the mother suffered from fluctuating moods. According to Dr. Hammack, he had recommended that the mother participate in mental-health counseling and drug therapy with mood stabilizers in conjunction with an antidepressant. Dr. Hammack also had recommended that the mother have in-home assistance to help her set up a structured environment for the

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children and to teach her discipline techniques and how to relate to the children when they had outbursts. Based on his evaluation in 2013, Dr. Hammack concluded that the mother could not, at that time, provide adequate supervision or structure for the children.

Dr. Hammack's 2016 evaluation was similarly conducted; he noted that he had not readministered the MMPI to the mother but that he had readministered the other tests. The mother's IQ had improved somewhat to the average range, but Dr. Hammack did not indicate that the change was important. He said that the mother still suffered from some depression and anxiety and that she was fearful that negative outcomes would occur. Dr. Hammack testified that the mother had revealed that DHR did not think she was making enough progress. Dr. Hammack maintained his main diagnosis of mood disorder but also diagnosed the mother with borderline personality disorder. He reiterated in his 2016 evaluation that the mother would need ongoing counseling, mood-stabilizing drugs, and further in-home services. He also noted that the children would need to be in counseling. Dr. Hammack opined that, as of January 2016, the mother could not parent the children effectively,

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and he voiced concerns that the mother's personality would result in "less probability of her following through with the treatment plan."

The older children were placed in counseling with Emma Cosby upon their placement in foster care. Cosby testified that the older children had already received psychiatric care at Laurel Oaks before she began treating them in January 2014. She explained that R.A. had been diagnosed with episodic mood disorder and had previously suffered sexual abuse. According to reports that Cosby had received from the foster parents, R.A. was bullying C.A., was lying, was acting out sexually, and was suffering from hallucinations and nightmares. Cosby noted that her first impression of R.A. was that she was underweight, avoided eye contact, and sucked her thumb, which Cosby said she had found unusual for a child of eight. Cosby testified that R.A. had made significant improvements during therapy, including being in the gifted program at school, cessation of sexual acting out, and less bullying of C.A. However, Cosby said that R.A. still has problems with lying at times and that her mood does fluctuate; Cosby also commented that R.A. and C.A. still had a difficult relationship. R.A.

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takes the following medications: Abilify, which serves as a mood stabilizer and antipsychotic, and Concerta, for attention-deficit/hyperactivity disorder ("ADHD"). R.A. also takes allergy medications and melatonin for sleep.

Cosby also testified about her treatment of C.A., who had entered therapy with problems ranging from sexual acting out with R.A., self-soothing by excessive masturbation, hallucinations, and nightmares. Cosby commented that it was difficult at first to understand C.A., who appeared to suffer from some speech impediments or issues; Cosby said that, although C.A. was seven, listening to her was like listening to a three or four year old. According to Cosby, C.A. had been diagnosed with post-traumatic stress disorder, ADHD, and speech-language deficit and had also suffered child sexual abuse; C.A. had been in Laurel Oaks five times before Cosby began treating her. Cosby explained that C.A. was the most attached to the mother and that she suffered from the separation from the mother and her siblings, even going so far as to admittedly falsely report certain symptoms, like hallucinations, in an effort to be returned to the mother's custody. C.A. has been prescribed Lexapro, an antidepressant,

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Geodon, an antipsychotic, Vyvanse, an ADHD medication, and clonidine, another ADHD medication used in conjunction with Vyvanse. Cosby testified that, at the time she testified in November 2016, C.A. had had an additional psychological hospitalization after her entry into foster care.⁵

Cosby had also treated L.N. and S.N. (hereinafter referred to collectively as "the younger children"). She explained that she had begun seeing the younger children in July 2014. She said that she saw L.N. for issues relating to bedwetting and attention-seeking behaviors. Cosby said that L.N. had suffered from an attachment disorder and enuresis, both of which had been successfully addressed in counseling. Cosby testified that she had treated S.N. based on his foster parents' concern that he would bang his head when sleepy; she said that S.N. also had some speech issues. According to Cosby, S.N. was tested for ADHD in December 2014 and placed on medication, which he takes only during the school week. Cosby said that, like L.N., S.N. had suffered from attachment disorder.

⁵As will be explained later, C.A. has been in two other psychological-treatment centers since the trial of these termination-of-parental-rights actions began in November 2016.

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Cosby testified that the older children had made some improvements in their mental health since entering foster care and counseling in January 2014 and that the younger children had made marked improvements. She explained that the older children would need consistent mental-health treatment throughout their childhood; as she put it, their problems will not "go away." Furthermore, Cosby commented that the older children need structure and consistency in order to manage their mental health and resulting behaviors, and she expressed concern regarding whether the mother could provide that structure and consistency. Cosby testified, however, that she had concerns about how a termination of the mother's parental rights would affect the older children, especially C.A. She indicated that, at least for C.A., continued foster care and visitation with the mother might be in C.A.'s best interest.

The juvenile court questioned Cosby about her concern for the older children and the effect termination of the mother's parental rights might have on them. The juvenile court questioned how allowing the children to return to an unstructured home might affect them, to which Cosby answered that the children would decompensate. Cosby admitted that

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placing the children in an unstructured home would repeatedly expose them to continued stressors, which would, over time, be more harmful to them than termination of the mother's parental rights, which would occur only once. Cosby also noted that continued foster care and regular contact with the mother might have some negative consequences, like perpetually giving the children hope that reunification would occur, despite it being unlikely.

To aid the mother, DHR provided in-home services through FOCUS to assist the mother with acquiring and improving parenting, budgeting, and home-management skills. Lori Foreman, the program manager for FOCUS, testified about the four interventions FOCUS had with the mother. The first intervention, which began in June 2013 and ended in October 2013, was what Foreman called a preservation intervention. According to Foreman, a FOCUS worker worked with the mother in her home for one hour, two days per week, to address the mother's issues with parenting, budgeting, and home-management skills. During the first preservation intervention, Foreman noted, the children were "wild," the mother had established no boundaries for the children, and the

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mother had established no schedule. Foreman also testified that the mother had had men in and out of the home, which, she said, had made the home less stable. Foreman commented that the mother had made some progress during the first preservation intervention but that it had not been successful because the mother had been unable to meet the goals established. Foreman said that the mother's progress would be like taking "two steps forward, three steps back"; she commented that when it seemed that the mother was making progress on stability, another person would be in the home on the next visit, resulting in more chaos.

Foreman said that FOCUS had requested and had been granted an additional period to work with the mother to assist in the prevention of the removal of the children. That second preservation intervention lasted from October 2013 to December 16, 2013, when the children were removed from the mother's home by DHR. Foreman said that the second preservation intervention was marked by a decline in the mother's progress. During that second period, the mother violated the safety plan and allowed M.E. back into her home. According to Foreman, that was a safety threat to the children, which resulted in

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their removal and the termination of the second preservation intervention.

Foreman testified that FOCUS had provided the mother with reunification intervention on two occasions. The first of the reunification interventions occurred between October 2015 and December 2015 when DHR attempted reunification of the mother with C.A. FOCUS again provided in-home services to the mother twice per week to review with the mother parenting, home-management, and budgeting skills. Foreman also explained that the mother would work well with the in-home worker on one occasion, even demonstrating an understanding of the parenting skills taught, but then, on a subsequent visit, would slam the door in the worker's face. The mother would then excuse her behavior by saying that her medications were making her "moody." Foreman commented that the mother's erratic and agitated behavior had occurred to varying degrees during each intervention.

During the first reunification intervention, the mother was granted unsupervised, overnight weekend visitation with C.A. Foreman said that she would pop in during the weekend visits to observe the mother and C.A. Foreman commented that,

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during the weekend visits, the mother would point out insignificant scratches or bruises on C.A. and would accuse the foster parents of abusing her, generally "blow[ing] it out of proportion." According to Foreman, the mother would not implement parenting skills because she would instead focus on what she perceived to be injuries to C.A. or complain about the foster parents and DHR during visits, even after Foreman explained to the mother that discussion of such topics would be better handled outside the presence of C.A. and not during visitations. Finally, Foreman opined that the mother's visits with C.A. had been harmful to C.A. because, she said, the mother would pass on her unfounded allegations and paranoia about the suspected abuse to C.A. Foreman testified that, based on the mother's lack of progress during the intervention, she had recommended to the Individualized Service Plan ("ISP") team that reunification not occur, and, she said, FOCUS's first reunification intervention concluded on December 17, 2015.

FOCUS provided a second reunification intervention for the mother when DHR attempted to reunify her and the younger children beginning in February 2016, when the mother was

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granted unsupervised, overnight weekend visitation with the younger children. The goals of the second reunification intervention were the same as all previous interventions: to assist the mother in learning and demonstrating proper parenting, home-management, and budgeting skills. Although Foreman opined that the attempt to reunify the younger children "went better" than the attempt to reunify the mother and C.A., she testified that the second reunification intervention had been ultimately unsuccessful as well. Foreman said that the mother would tell the younger children during the weekend visits that they had better behave or that DHR would come in the middle of the night to take them back to their foster home and falsely told the children that DHR had done that to C.A. In addition, Foreman said that, after the first few weeks, the mother's agitation had increased and the mother had complained about the younger children being "hyperactive," had called R.A. a "spoiled brat," and had complained about the children's foster parents. Foreman recounted that, during one FOCUS session, the mother had become so agitated that she left the room, cursing under her breath. Foreman explained that the mother had not been

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displaying her parenting skills because she was focused on other things, like the mother's perception that her attorney, DHR, or her mental-health professionals were not "helping" her. Foreman said that she had had to redirect the mother constantly. The second reunification intervention ended in May 2016, when DHR changed the permanency plan from reunification to termination of parental rights.

Foreman was questioned about C.G.'s involvement with FOCUS services. She said that C.G. had sometimes participated in visits with the mother. She opined that C.G. was a stabilizing influence on the mother, but, she said, C.G. often had withdrawn when the mother became agitated and upset instead of standing up to her or pointing out her attitude. Thus, Foreman opined, C.G. had not been, and would not be, a sufficiently stabilizing influence when the mother became stressed.

Foreman testified that, in her opinion, the mother had not made significant and sustained improvements in her parenting and home-management skills such that even one child could be safely returned to the home. Although she admitted that the mother had made some strides in her home-management

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skills and her ability to parent, Foreman said that the mother still had difficulty seeing safety risks and other problematic issues, like the lack of cleanliness caused by pets, in her home. Foreman admitted that some of the mother's weekend visits had gone well, but she said that she was worried about the mother's ability to handle her children long-term and full-time, when the children would have homework and activities and would need a schedule. Foreman noted that the mother liked to plan activities for the children during the visits, which Foreman commented was a "positive"; however, she said, the mother would get frustrated when the children did not want to follow the rules or complete the activity as the mother had planned. Foreman also testified that the mother had not improved her budgeting skills because she had often become agitated when budgeting skills were brought up by a FOCUS worker.

Another concern Foreman voiced was the mother's lack of acceptance of her mental-health diagnoses and compliance with her treatment plan. Foreman said that the mother had periodically stopped taking her mental-health medications during FOCUS interventions and that the mother had indicated

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that she did not need those medications. Overall, Foreman stated that, in her opinion, reunification with the mother was not appropriate.

Amanda Freeman, a FOCUS worker, testified that she had provided in-home services to the mother once per week between February 2016 and April 2016, when Freeman left her employment for maternity leave. Freeman said that the mother had been cooperative at first. She noted that the mother had utilized the parenting skills discussed and had given feedback about how she implemented her skills. However, after a few weeks, Freeman said, the mother had stopped cooperating; Freeman described the mother's participation after that point as being limited to one-word answers and indicated that the mother had stopped using her parenting techniques.

According to Freeman, the mother had informed Freeman that she had stopped taking her prescribed mental-health medications approximately two weeks into Freeman's involvement; Freeman said that the mother's decision to stop taking her medications coincided with the mother's decline in participation and the mother's agitation and paranoid-like behavior during sessions. Like Foreman, Freeman commented

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that the mother would become agitated during her sessions, even to the point of leaving the room and cursing under her breath. In addition, Freeman testified that the mother had talked over her during sessions, had rolled her eyes, and had talked about how she did not need FOCUS intervention. According to Freeman, the mother had had a hard time keeping the children calm and controlled during visits and had begun calling the children "spoiled brats" and had accused them of being "hyper." Freeman also said that the mother had herself indicated insecurity about her ability to "keep" the children.

Melinda Collier, the manager of therapeutic foster care at the United Methodist Children's Home ("the UMCH"), testified about the children's issues when they entered into foster care and their foster-care experiences. According to Collier, when the children were first removed from the custody of the mother in December 2013, R.A. was lagging behind in her school work, was destructive, and was defiant. C.A. suffered from sleep disturbances, self-soothed by masturbating, and hallucinated. C.A. had been in Laurel Oaks on at least four occasions before DHR became involved with the family. R.A. and C.A. were aggressive toward one another, and both had been

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sexually abused, allegedly by a homeless man their mother took in off the street. The older children were initially placed together in a therapeutic foster home with well-established therapeutic foster parents. However, even those experienced therapeutic foster parents had extreme difficulty parenting both R.A. and C.A. together, and the children were ultimately moved to separate foster homes in June 2014.

Collier testified that R.A.'s behaviors have improved in her current placement. Collier noted that, although she was behind in her schooling when she entered foster care, R.A. tested into the gifted program at her current school and now enjoys school. R.A. testified briefly at trial and indicated that she enjoys school, misses her siblings, and is fond of her foster parents and her friends. Collier said that R.A.'s school provides her special attention and services aimed at keeping her busy and engaged during the school day to minimize her disruptive behaviors.

Collier testified that C.A.'s issues, unlike R.A.'s, had not lessened over her time in foster care. In fact, Collier testified that, at the time of her testimony in June 2017, C.A. was at Brewer's Porch, a "very intense residential

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[mental-health] program" for children and that C.A. had also had one hospitalization at Laurel Oaks during her foster-care placement. Collier explained that C.A.'s behaviors included unraveling her own clothing, defiance, and violent outbursts, including throwing chairs and stabbing other students with pencils. Collier testified that C.A. had destroyed a chair and an office table in one of her foster homes, had broken a window in her bedroom in that same home, had destroyed her toys, and would have frequent outbursts both in the foster home and in public. According to Collier, C.A.'s self-soothing behavior -- which was to masturbate, sometimes so violently and vigorously that she caused herself pain -- had improved for a time but, at the time Collier testified, had resumed and was continuing. Collier said that C.A. would self-soothe when she was upset, was angry, did not want to comply with a directive, or was bored. Although Collier admitted that some of C.A.'s outbursts and her self-soothing behaviors had lessened during the period of attempted reunification with the mother, she remarked that C.A.'s behavior would lessen at times and escalate at other times without any clear indication of a pattern. She opined that

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C.A.'s more recent decline might have to do with her increasing isolation at school, where her behavior had prevented her from making friends. Collier testified that she did not think that increasing C.A.'s visits with the mother or returning C.A. to the custody of her mother would solve C.A.'s behavioral issues.

Annie Hobbie, a DHR caseworker who was assigned to the children's cases beginning in November 2014, testified about her interactions with the mother and the children. Hobbie testified that the mother's home often had an odor, some of which might have been attributable to the pets in the home, which included two cats, a litter of puppies, and a turtle. Hobbie said that, early in her tenure as caseworker, the mother was having issues with the kitchen sink and with the heating system in the house. According to Hobbie, the mother received \$733 in monthly Social Security disability benefits and did not have any other source of income except, perhaps, assistance from C.G., who Hobbie said might have been living in the mother's home and who did odd jobs to earn money. Hobbie said that she was not certain how the mother was able to pay her rent and utilities and provide food and clothing

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for herself or the children. Hobbie testified that DHR had provided the mother four FOCUS interventions, two psychological evaluations, mental-health services, and gas vouchers; Hobbie also said that DHR had offered to pay for mental-health medications but that the mother had declined DHR's offer.

Hobbie explained that the mother had made progress during DHR's involvement but that the progress was not sustained or consistent. According to Hobbie, the ISP team had determined that reunification with the older children would not be possible. She noted that R.A. had expressed an interest in having visitation with the mother but had also asked whether her mother could come live with her at her foster home. The issues with C.A., Hobbie explained, had continued both during and after the attempt to reunify her with the mother. Hobbie specifically mentioned C.A.'s flushing toys down the toilet in her foster home and her suffering from encopresis while the attempt to reunify her with the mother was ongoing. After DHR ended the reunification effort, Hobbie said, C.A. had increased her self-soothing habit but had not suffered from encopresis as frequently.

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According to Hobbie, DHR's attempt to reunify the mother with the younger children had also not been successful. Hobbie reported that L.N. had hidden her undergarments under the bed after visits with the mother and that she had also suffered from enuresis. In addition, she noted that the younger children would sometimes tell the mother that she was doing something differently than their foster parents and that the mother would become frustrated at being corrected by the children.

Hobbie further explained that DHR was concerned about the mother's ability to monitor her own mental health. Hobbie said that the mother's pill counts were often wrong and that the mother had decided to discontinue her mental-health medications. The mother's inability to be responsible for her own mental health, Hobbie explained, caused significant concern over whether the mother could properly monitor the children's mental health and whether she would make certain they complied with treatment directives and took their medication properly.

Hobbie also testified that the mother had no relatives willing to assist her by assuming custody of the children.

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Hobbie explained that the mother's adoptive parents had indicated to her that, although they had custody of the mother's oldest child, they were concerned about the behaviors demonstrated by the children at issue and thought they were too old to take on more children to rear. The mother's adoptive mother also told Hobbie that no other relatives were suitable or able to maintain custody of the mother's children. C.A.'s father was incarcerated, consented to the termination of his parental rights, and did not have relatives willing to assume her custody; the younger children's father did not provide the names or contact information for any potential relative resources and also consented to the termination of his parental rights. R.A.'s father was unknown. The mother herself testified that she had no suitable relatives willing to take custody of the children.

Melinda Barton, the DHR supervisor at the time she testified in June and August 2017, testified that, in her opinion, the most pressing issue preventing reunification of the family was the mother's mental health. Barton testified that the mother had not, in her opinion, met the requirements set out by Dr. Hammack in his psychological evaluations.

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Barton remarked that the mother had missed mental-health appointments and had seemed less concerned with her mental-health compliance when she was having regular reunification visits with C.A. Thus, Barton said, she stressed with the mother the need for continued compliance with her mental-health regimen during the attempted reunification with the younger children. Barton noted that the mother's medication counts had been "off" and that her demeanor, at times, had indicated that she was consistently not taking her medication.

The mother testified that she loves her children and that she is capable of rearing them. She described her relationship with each child as follows. The mother described her relationship with R.A. as "strained" when R.A. was younger and remarked that R.A. had struggled in school but had no behavior problems when she was in the mother's custody; the mother said that their relationship was "better now" because R.A. listened more and was not as "hyper" during visits with the mother.

The mother said that her relationship with C.A. was very close; she described C.A. as "very much like" her and said that C.A. was, at times, very "babyish" and, at times, more

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mature. According to the mother, C.A. had had no behavioral issues in school when she lived with the mother but, like R.A., was behind in her school work. The mother explained that C.A. was very angry when she was placed in foster care and opined that C.A. would benefit from being returned home because C.A. "needs [the mother] more"; she commented that C.A. could be manipulative and mean when she did not have regular contact with the mother. Although she admitted that C.A. had self-soothed when she was in the mother's custody, the mother insisted that C.A. had not engaged in the destructive behaviors she had while in foster care.

The mother described her relationship with the younger children as good. She said that L.N. was "very bubbly" and was not easily agitated. She described S.N. as "all boy."

The mother testified that she had learned parenting skills and coping skills from the FOCUS interventions. She said that she learned better ways to handle the children, how to talk about issues with the children, and how to use time out instead of yelling. She also described herself as more willing to listen and less argumentative as a result of the FOCUS interventions. The mother admitted that, when the

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children were first removed from her custody in December 2013, she was overwhelmed and had needed assistance with the children. However, the mother testified that she could currently parent her children.

The mother further admitted that C.A. had been in Laurel Oaks several times before her removal from the mother's custody in December 2013. The mother indicated, however, that one or more of those hospitalizations had occurred when her adoptive parents had had custody of the children under a 2012 safety plan with the Coffee County Department of Human Resources. The mother also disputed some of the Laurel Oaks intake notes, which indicated that C.A. was suicidal and homicidal, that C.A. had hit and punched the mother, that C.A. had cut one of her siblings, and that C.A. had set something on fire. The mother said that C.A. was not homicidal and had never hit or kicked her, cut anyone, or set a fire; she admitted that C.A. was suicidal, that she had sometimes hit one or more of her siblings, and that she had cut her own hair.

The mother's two counselors, Carla Bent and Mavis Thomas, who are both employed with the South Central Mental Health

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Center ("SCMHC"), also testified on the mother's behalf. Bent is the mother's group-therapy leader. She testified that the mother attends group therapy once per month and that she participates regularly. Bent said that she thought the mother may have missed one group session. According to Bent, the mother was no longer taking her mental-health medications but had suffered no further symptoms. Bent specifically stated that the mother had not reported depression, anger, or manic episodes "in a while."

Thomas testified that she had been the mother's therapist since May 2015; she said that originally she met with the mother once per week but that, at the time she testified on August 31, 2017, she was meeting with the mother every other week. Thomas said that the mother had done well in therapy. Although Thomas testified that the mother suffers from a borderline intellectual disability, depression, and anxiety, she stated that she disagreed with Dr. Hammack's diagnosis of borderline personality disorder because, she said, the mother did not, in her opinion, have enough of the signs of that disorder. Thomas explained that during therapy she works with the mother on her self-esteem, on taking responsibility for

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her bad choices, and on making good choices. According to Thomas, the mother needed to work on her self-confidence and learn how to assert herself. Thomas testified that she believed that the mother could parent her children but that she was not ready for all four to be returned to her home. Thomas opined that the mother would need assistance from DHR and that it would be a "process"; she estimated that the mother would need three to six months of further assistance before she could safely parent all four children.

Thomas noted that the mother, although diagnosed as having bipolar disorder (by another psychiatrist who was not named), was not on any antipsychotic medications. Instead, she had been prescribed trazodone and Paxil, which are both antidepressants; however, the mother's records also indicate that she had been prescribed Lamictal, which is used to treat bipolar disorder. Thomas commented that "Dr." Eslami had taken the mother off of her medications; however, treatment records admitted into evidence indicated that the mother had reported to personnel at SCMHC that she had discontinued taking her medications and had requested that she be taken off her medications.

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Likewise, Bent testified that "Dr." Joshua Eslami had indicated in a physician's note that the mother could stop taking her medications, but, when confronted with other notes indicating that the mother might have requested that her medications be discontinued, she admitted that the mother may have precipitated the discontinuance of her medications. Bent testified that a patient could not be forced to take her medication. Bent also explained that "Dr." Eslami is, in actuality, a certified registered nurse practitioner ("CRNP"), who practices under a "Dr. Jilly," who, Bent stated, the mother has never actually seen for treatment.

A review of the mother's SCMHC records reveals that the mother reported to a "Neva Wallace" on March 14, 2016, that she was no longer taking her Paxil and that she thought she was being prescribed too much trazodone. Another entry from that same date by a "Jennifer Byars" indicates that the mother reported that she was no longer taking her prescribed medications because "I am on too much medication and my sleep medication [trazodone] is prescribed too high. ... I don't

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know why I am on Paxil because I am not depressed."⁶ In addition, Byars recorded the mother as saying that she had seen "a psychiatrist in Montgomery (Dr. Hammond?), who according to [the mother] 'said nothing is wrong with me.'" Byars described the mother as irritable and noted that she "voices frustration."

A March 15, 2016, note by Bent indicates that the mother was happier during group therapy and that the mother had reported that "the doctor took her off of all her meds yesterday." A March 24, 2016, progress note recorded by a "Brenda Donaldson" indicated that the mother reported that she had "recently told CRNP she has seen a psychiatrist and he told her 'there is nothing wrong with me.'" The March 24, 2016, note goes on to state that the mother had "asked that all medications ... be discontinued." No note contained in the records from SCMHC indicates that a psychiatrist determined that the mother did not need her medications or

⁶None of the notes contained in the mother's SCMHC records indicates that the mother specifically discussed discontinuing her Lamictal prescription, but that medication was discontinued at the same time as the mother's prescriptions for Paxil and trazodone were discontinued.

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that she was not still suffering from bipolar disorder, which was the diagnosis that the records contained.

On appeal, the mother argues first that DHR presented insufficient factual evidence of her "unfitness" and, therefore, that the termination of her parental rights is not supported by clear and convincing evidence. Within the section of her brief discussing that issue, the mother complains that the juvenile court improperly admitted several of DHR's exhibits that, she contends, were subject to her hearsay objection.⁷ Secondly, the mother contends that the evidence at trial established that termination of her parental rights would not be in the best interest of the children.

⁷The mother also mentions that the juvenile court did not properly follow Rule 615, Ala. R. Evid., because it permitted multiple employees of DHR to remain in the courtroom during the presentation of evidence. However, other than making that statement and citing that rule, the mother does not develop any argument relating to that alleged error by the juvenile court, and we decline to develop one for her. See White Sands Grp., L.L.C. v. PRS II, LLC, 998 So. 2d 1042, 1058 (Ala. 2008) ("Rule 28(a)(10)[, Ala. R. App. P.,] requires that arguments in briefs contain discussions of facts and relevant legal authorities that support the party's position. If they do not, the arguments are waived."); see also Spradlin v. Spradlin, 601 So. 2d 76, 79 (Ala. 1992) (explaining that an appellate court is not required to do a party's legal research or to develop an argument on behalf of a party).

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We first dispense with the mother's argument that the juvenile court erred by allowing DHR to admit its records over the mother's hearsay objection. Indeed, DHR offered and the juvenile court admitted DHR Exhibits 3 and 4, which are voluminous exhibits comprising 310 and 295 pages, respectively, and which contain numerous ISPs and case narratives and notes from the various caseworkers, supervisors, and providers who were involved in the children's cases. The mother objected to the wholesale admission of those exhibits, complaining that they contained hearsay and that they were not business records. In her brief argument on this alleged error, the mother cites Ex parte State Department of Human Resources, 890 So. 2d 114 (Ala. 2004), and L.A.C. v. State Department of Human Resources, 890 So. 2d 1026 (Ala. Civ. App. 2003), which cases she also cited to the juvenile court in her objection.⁸

DHR presented the testimony of two caseworkers assigned to the family, a DHR supervisor, a FOCUS supervisor, a FOCUS worker, the foster-care coordinator of the UMCH, the

⁸DHR did not address the mother's hearsay issue in its brief on appeal.

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children's counselor, and the psychiatrist who performed the mother's psychological evaluations. The mother testified, and she presented the testimony of two of her counselors. Most witnesses testified at length, in detail, and, often, with assistance from certain records used to refresh their recollections; witnesses were also cross-examined based on certain information contained in various records, only some of which were admitted as exhibits at trial. The reporter's transcript in these appeals is 1,460 pages long.

The mother's argument on the hearsay issue, in contrast, is approximately one-page long and does not specify what factual information contained in those exhibits was hearsay and what might have been either (1) nonhearsay or (2) cumulative of the testimony of DHR's various witnesses admitted without objection. See L.A.C., 890 So. 2d at 1035 (explaining that the admission of a report containing hearsay "was harmless in view of the fact that [its maker] testified, without objection, to everything that was included in the written report"). The mother's objection at trial, which was made to both Exhibits 3 and 4 as a unit, also did not sufficiently apprise the juvenile court of what portions of

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the records she considered to contain hearsay. As noted above, Exhibits 3 and 4, in total, comprise 605 pages of the record in this case. The mother's general objection to those exhibits as a whole was therefore not sufficient to "adequately apprise[]" the juvenile court of what portions of the voluminous records should be excluded. Fleming v. State, 625 So. 2d 1195, 1198 (Ala. Crim. App. 1993) (concluding that the failure to specify what particular portions of a 44-page report were inadmissible hearsay waived the objection). As the Court of Criminal Appeals explained:

"When a party objects to a document as a unit that contains admissible as well as inadmissible matter, the trial court is justified in overruling the objection.' Smith v. State, 354 So. 2d 1167, 1172 (Ala. Cr. App. 1977), cert. denied, 354 So. 2d 1172 (Ala. 1978). 'It is not for the trial court to separate the admissible from the inadmissible.' Tomlin v. State, 601 So. 2d 130, 131 (Ala. Cr. App. 1991) (quoting Pickett v. State, 456 So. 2d 330, 334 (Ala. Cr. App. 1982). 'The objection should separate the good from the bad.' Id."

Fleming, 625 So. 2d at 1198. Thus, we reject the mother's hearsay argument.

We next address the mother's argument that the evidence does not support a conclusion that she is "unable or unwilling to discharge [her] responsibilities to and for the child[ren],

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or that the conduct or condition of the [mother] renders [her] unable to properly care for the child[ren] and that the conduct or condition is unlikely to change in the foreseeable future." § 12-15-319(a). As recounted above, the reporter's transcript in the present appeals is 1,460 pages. The evidence indicated that, at the time DHR became involved with the family in June 2013, and at the time the children were removed from the custody of the mother after attempts to prevent removal of the children failed in December 2013, the mother was admittedly overwhelmed by her four children and unable to consistently control their behavior. The older children had been hospitalized at Laurel Oaks for treatment of their behavior, and both of those children were lagging behind in school. The mother's participation and progress in the four interventions made by FOCUS was less than consistent and resulted in little sustained progress on the part of the mother. Not one witness testified at any point during the lengthy trial that the mother could at that time parent all four of her children without intervention and support from DHR, despite the fact that DHR had been providing assistance to the mother and attempting reunification of the family for

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five years at the time of the entry of the termination-of-parental-rights judgment in August 2018.

The mother specifically challenges the juvenile court's conclusion that the mother's mental illness prevented her from being a suitable parent. See Ala. Code 1975, § 12-15-319(a)(2) (indicating that a juvenile court considering the termination of parental rights "shall consider" whether the "mental illness ... of the parent ... [is] of a duration or nature as to render the parent unable to care for needs of the child"). She contends that the medical professionals who testified about her mental health, i.e., Thomas and Bent, testified that she was capable of parenting her children and that she had been compliant with her mental-health regimen. She also complains that the evidence at trial indicated that "Dr." Eslami had determined that she no longer needed her mental-health medications. Thus, she says, the juvenile court's judgment is not supported by clear and convincing evidence that she is unable to parent her children as a result of her mental illness.

However, the mother views the evidence in the light most favorable to her argument. As is evident from the recounting

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of the testimony and the summary of some of the documentary evidence set out above, the record does not clearly support the conclusion that the mother's mental-health practitioner decided that she no longer needed her medications to address her mental illness. Although Dr. Hammack was disinclined to diagnose the mother with bipolar disorder because he had seen the mother solely for the purpose of her two psychological evaluations, the mother's mental-health records indicate that she was, indeed, diagnosed with that disorder by some medical professional. The mother's records indicate that the mother reported to personnel at SCMHC that she had stopped taking some of her medications and that she had requested that her medications be discontinued, which request the CRNP apparently honored. Notably, the records reflect that the mother informed personnel at SCMHC that Dr. Hammack had evaluated her and determined that "nothing was wrong with her," a statement that is not borne out by Dr. Hammack's psychological evaluations or his testimony, which, interestingly, indicated that the mother's personality might make her less receptive to continuing her treatment regimen. Thus, the juvenile court, considering the evidence as a whole, could have determined

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that the mother chose to discontinue her medications, that the mother had requested that she no longer be prescribed her medications, that, because the mother could not be forced to take her medications, the CRNP honored that request, and that the mother was not "cured" of her mental illness such that she no longer needed her prescribed medications. See, generally, Ex parte State Dep't of Human Res., 834 So. 2d 117, 122 (Ala. 2002) (requiring this court "to apply a presumption of correctness to [a juvenile] court's finding[s]" based on conflicting ore tenus testimony).

Furthermore, although the mother is correct that her counselors indicated that the mother was doing well off of her medications, other testimony indicated otherwise. For example, Freeman testified that the mother had reported that she was no longer taking her medications and that the mother's self-report coincided with the mother's less-than-cooperative attitude and lack of participation in FOCUS services in spring 2016. Foreman also testified that the mother had become increasingly agitated and less receptive to services in March and April 2016. Thus, despite the mother's contention to the contrary, the record contains evidence from which the juvenile

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court could have concluded that the mother's mental illness had not resolved and that her decision to stop taking her medications served as a continued impediment to the ability of the mother to resume her parental duties.

The mother next contends that the juvenile court placed too much emphasis on the mother's housing issues and not enough emphasis on the improvements the mother had made in her lifestyle. Certainly, as the mother notes, DHR had not placed significant emphasis on the issues that plagued the mother's housing choices.⁹ The juvenile court found that the mother had not been able to maintain stable housing, noting that the mother was planning another move at the time of the last date of trial; however, it noted specifically in its judgment that "housing was not the crux of this case." The juvenile court found the housing issues to be "another issue of instability that supports the finding that the mother is unable to

⁹Strangely, although DHR witnesses testified that the mother's trailer home had soft spots in the floors, issues with the stove and sink, and electrical issues that, before C.G. (who is not a certified electrician) repaired them, had led to one electrician declaring the trailer in which the mother lived to be a fire hazard, DHR did not require the mother to move and, in fact, attempted reunification with the mother, including unsupervised weekend visitation, while she was living in that same residence.

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discharge her responsibility to and for the children." Based on those statements in the juvenile court's judgment, we cannot agree with the mother that the "issue of housing" played an "outsized" role in the juvenile court's decision-making process. Moreover, the mother fails to provide authority for her argument that the juvenile court was precluded from considering all the facts in these cases in reaching its conclusion that the mother was not able to parent the children. See White Sands Grp., L.L.C. v. PRS II, LLC, 998 So. 2d 1042, 1058 (Ala. 2008). Thus, we cannot reverse the juvenile court's judgment based on the mother's unsupported argument that the juvenile court improperly considered the evidence of the mother's housing issues.

We come to a similar conclusion regarding the mother's arguments that the juvenile court did not properly consider the improvements in the mother's personal life, "the important ways in which the mother has never been undependable or her life unstable," the improvement in the relationships between her and the children, or her improvement in managing the children during the period when the children were in foster care. Again, the mother, in contravention of Rule 28(a)(10),

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Ala. R. App. P., cites no authority to develop or support her arguments on these grounds. See White Sands Grp., 998 So. 2d at 1058. However, we also note that the mother's improvements in managing the children or regarding those skills that she has always possessed, like her ability to stretch her resources, are not alone sufficient to prevent termination of her parental rights.

As the children have aged and been successfully treated through counseling and, in the case of the older children, the intervention of therapeutic foster parents or even residential-treatment facilities, their behavior has somewhat improved. The mother's interactions with the children during most visitations was noted to be appropriate; however, the mother was not able to successfully reunify with C.A. or with the younger children. Significant testimony from Pinson indicated that the mother had successfully managed the children's behavior in a variety of visitation settings, including in parks and in stores; however, other testimony indicated that the mother could become frustrated at visitations when the children would not conform to the mother's directives or plans.

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According to some witnesses, at times, the mother spoke to the children inappropriately, even telling the younger children that they had to "behave" or that DHR would come in the night and take them away. She also continued to demonstrate frustration with certain aspects of the children's behavior, going so far as to call them "hyper" and to call R.A. a "spoiled brat." Such interactions do not support a conclusion that the mother has learned to manage the children's behaviors, which, at most, she was faced with for only a weekend at a time.

Nor does the mother's decision to marry C.G. negate the other evidence indicating that the mother is not a suitable parent. Certain testimony indicated that C.G. does provide some stability to the mother; based on his testimony at trial, during which he explained that he had recently become regularly employed, he is also able to provide income for the family. However, other testimony indicated that, although C.G. served to stabilize the mother, he would not engage with the mother in situations when the mother was stressed or overwhelmed, deciding instead to withdraw from those situations. C.G. also opined that the mother's mental-health

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issues had resulted from DHR's involvement with the family, indicating that he did not believe that the mother needed mental-health treatment or medications.

A juvenile court must look to the totality of the circumstances in making the difficult decision to terminate parental rights. As we explained in L.M. v. Shelby County Department of Human Resources, 86 So. 3d 377, 384 (Ala. Civ. App. 2011), a juvenile court is to "weigh[] all the existing evidence" when determining whether clear and convincing evidence supporting a termination of parental rights exists, because

"[s]uch a conclusion finds support in our caselaw regarding termination of parental rights, such as the well settled principle that, 'when deciding whether grounds to terminate parental rights exist, the juvenile court is not limited to evidence of current conditions; it may also consider the past history of a parent.' R.L.M.S. v. Etowah Cnty. Dep't of Human Res., 37 So. 3d 805, 808 (Ala. Civ. App. 2009). This court has also recognized that a finding of dependency may be based on the totality of the circumstances. See V.G. v. Madison Cnty. Dep't of Human Res., 989 So. 2d 550, 554 (Ala. Civ. App. 2008); J.W. v. C.H., 963 So. 2d 114, 120 (Ala. Civ. App. 2007); and R.G. v. Calhoun Cnty. Dep't of Human Res., 716 So. 2d 219, 221-22 (Ala. Civ. App. 1998)."

86 So. 3d at 384 n.4. Improvements in certain areas, although certainly to be lauded, cannot offset continued issues in

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other areas of a parent's life. The totality of the evidence presented to the juvenile court supports its conclusion that the mother is not able to properly discharge her responsibilities to and for the children and, therefore, that DHR established grounds for the termination of the mother's parental rights.

Finally, the mother argues that the juvenile court erred in concluding that termination of the mother's parental rights was in the best interest of the children. The sole citation in support of this particular argument in the mother's brief is to R.K. v. State Department of Human Resources, 577 So. 2d 466 (Ala. Civ. App. 1990), in which this court affirmed the termination of a mother's parental rights. We presume that the mother is relying on the following statement from R.K., 577 So. 2d at 467: "[A]lthough a parent has a prima facie right to custody of his or her child, clear and convincing evidence that termination is in the child's best interests can overcome that presumption."

Although the mother is correct that the record contains some evidence that termination of the mother's parental rights and the accompanying termination of the children's contact

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with and relationship to the mother might not serve the best interests of the children, and most particularly those of C.A., the mother ignores the testimony indicating that continued foster care without any real hope for reunification could also be harmful to the children. Although the mother fails to cite those cases from this court determining that termination of parental rights was unwarranted in the face of evidence that continued contact with a parent was in the best interest of child, we have, in fact, reversed judgments terminating parental rights in those rare cases containing such evidence.

In D.M.P. v. State Department of Human Resources, 871 So. 2d 77 (Ala. Civ. App. 2003), a plurality of this court explained that, in certain circumstances, termination of parental rights might not be warranted if a child's bond with a parent were significant. The plurality opinion explained that

"if, notwithstanding the unfitness of a parent, there remains a significant emotional bond between a child and an unfit parent, and it has been demonstrated that some alternative-placement resource would allow the child to visit periodically with the unfit parent so as to reap the benefit of partially preserving that relationship without incurring the harm of the child being raised on a

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day-to-day basis by an unfit parent, the court would be required to weigh the advantage of that arrangement against the advantage of termination and placement for adoption with permanent fit parents, and to decide which of these alternatives would be in the child's best interest."

D.M.P., 871 So. 2d at 95 n.17; see also Dallas Cty. Dep't of Human Res. v. A.S., 212 So. 3d 959, 962 (Ala. Civ. App. 2016) (relying, in part, on D.M.P. to affirm a juvenile court's judgment declining to terminate the parental rights of a mother and a father based on the positive benefits of maintaining visitation between the parents and the child). We have applied this principle to reverse judgments terminating parental rights in two case since D.M.P. was decided.

In C.M. v. Tuscaloosa County Department of Human Resources, 81 So. 3d 391, 395 (Ala. Civ. App. 2011), this court reversed a judgment terminating a mother's parental rights when the evidence demonstrated that the children's best interests would be served by their continued contact with the mother. The children in C.M., like the older children in the present case, had "disorders that ... require [the Department of Human Resources] to find adoptive parents who can maintain the children in a structured environment." C.M., 81 So. 3d at 398. Based on the fact that visitation with the mother was in

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the children's best interest and the fact that the Department of Human Resources had not provided evidence indicating that the children would likely attain permanency if the mother's parental rights were terminated, we reversed the judgment in C.M. terminating the mother's parental rights. Id.

Similarly in B.A.M. v. Cullman County Department of Human Resources, 150 So. 3d 782 (Ala. Civ. App. 2014), this court reversed a judgment terminating a mother's parental rights because the evidence indicated that the best interests of the child in that case would best be served by continued contact with the mother, did not indicate that continued visitation would be harmful to the child, indicated that the child would need continued care of the state to address his low intellectual functioning and his behaviors, and indicated that the child's likelihood for permanency was very low. As we explained, termination of parental rights is not required "when some less drastic measure might be employed to preserve the parental relationship without harming the interests of the child." B.A.M., 150 So. 3d at 785. We opined:

"Given the almost total uncertainty as to whether the child will ever receive any stability or permanency if the judgment stands, and the almost total certainty that he will suffer serious

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emotional turmoil if it does, we can perceive no advantage to the child in disturbing the status quo. Our supreme court has held that a juvenile court should maintain foster care or another third-party custodial arrangement without terminating parental rights when a child shares a beneficial emotional bond with a parent and the custodial arrangement ameliorates any threat of harm presented by the parent."

Id. at 786.

In the present case, Cosby testified that the older children, and particularly C.A., would suffer emotionally if the mother's rights were terminated. Other evidence, adduced after Cosby testified, indicated that R.A. was more attached to her foster parents and was perhaps more emotionally detached from the mother. Barton testified that the foster parents of the younger children desired to adopt them and that R.A.'s foster parents had begun discussing the possibility of pursuing adoption of her if the mother's rights were terminated. Thus, the facts of these appeals, at least regarding R.A. and the younger children, appear to diverge from the facts of C.M. and B.A.M., indicating that the juvenile court's decision to terminate the mother's parental rights is in those children's best interests and that revisiting that decision is not warranted. Accordingly, we

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affirm the judgments terminating the parental rights of the mother to R.A., L.N., and S.N. in appeal numbers 2180047, 2180049, and 2180050, respectively.

C.A., of course, presents the dilemma. She has not been able to maintain a foster placement and was placed in two residential mental-health treatment facilities during the pendency of the extended trial. Counseling and medication have not solved her continued erratic, sometimes violent, and off-putting behavior. The testimony of several witnesses noted that C.A.'s bond with the mother was the most significant bond the mother had with any of the children. Although Cosby indicated that the older children would be most impacted by termination of the mother's parental rights, she clearly testified that the impact on C.A. would be the most potentially damaging. Thus, we must conclude, based on C.M. and B.A.M., that the juvenile court erred by terminating the parental rights of the mother respecting C.A., who, based on the testimony at trial and current circumstances, suffers from mental illnesses and behavioral issues that will likely serve as a significant impediment to permanency and would suffer significant emotional turmoil upon the permanent destruction

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of her bond with the mother.¹⁰ We therefore reverse the judgment terminating the mother's rights to C.A. in appeal number 2180048, and we remand that cause for the entry of a judgment consistent with this opinion.

2180047, 2180049, and 2180050 -- AFFIRMED.

Thompson, P.J., and Moore, Donaldson, and Hanson, JJ., concur.

2180048 -- REVERSED AND REMANDED.

Thompson, P.J., and Moore, J., concur.

Donaldson, J., dissents, with writing, which Hanson, J., joins.

¹⁰We note that, if the mother's or C.A.'s circumstances change and if other evidence develops regarding C.A.'s best interests, DHR may petition for, and the juvenile court may consider, termination of the mother's parental rights upon that new evidence. See L.M. v. Shelby Cty. Dep't of Human Res., 86 So. 3d 377, 381-84 (Ala. Civ. App. 2011) (explaining that consideration of evidence existing at the time an initial petition for a termination of parental rights is denied is not barred by the doctrine of res judicata so long as the subsequent termination-of-parental-rights action is also based on new evidence of changes, or a lack thereof, in circumstances).

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DONALDSON, Judge, concurring in appeal nos. 2180047, 2180049, and 2180050 and dissenting in appeal no. 2180048.

I concur with the main opinion to affirm the judgment in appeal nos. 2180047, 2180049, and 2180050. I dissent from the main opinion insofar as it reverses the judgment in appeal no. 2180048.

After personally hearing the presentation of evidence over 8 days of trial, the juvenile court entered a comprehensive, detailed 12-page consolidated judgment containing extensive findings of fact and conclusions of law on the issues presented in these termination-of-parental-rights cases. The judgment indicates that the juvenile court recognized the relationship between C.A. and her mother and carefully and thoughtfully considered the possible effect upon C.A. if the mother's parental rights were terminated. The record also reflects that, at times, the juvenile court questioned witnesses to obtain more information. I note that there was testimony presented indicating that, because the prospect of reunification with the mother was not likely, continuing to have visitation with the mother could leave a child with "false hope." Ultimately, after hearing the

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testimony and considering the evidence, the juvenile court concluded that termination of the mother's parental rights was the appropriate outcome. Although C.A.'s case is similar to other cases, I do not think those other cases require us to reverse the decision of the juvenile court because the facts are not the same. For example, in C.M. v. Tuscaloosa County Department of Human Resources, 81 So. 3d 391 (Ala. Civ. App. 2011), which this court described as an "exceptional case," 81 So. 3d at 398, the mother had been an "active part of the children's lives" and "talk[ed] to the children at least once a day." 81 So. 3d at 397. In B.A.M. v. Cullman County Department of Human Resources, 150 So. 3d 782, 785 (Ala. Civ. App. 2014), the mother had

"maintained constant contact and communication with the child while he ha[d] been in the care of others. Multiple witnesses agreed that it would be in the child's best interest and necessary for his mental health that he and the mother continue to maintain their relationship and communication, even if he is not in her primary custody or care. Multiple witnesses further testified that the child suffer[ed] significant emotional distress when his visits with the mother end[ed]."

The facts of this case are markedly different. I think the decision of the juvenile court to terminate the mother's parental rights to C.A. is subject to disagreement, but is not

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reversible. Therefore, as to appeal no. 2180048, I respectfully dissent.

Hanson, J., concurs.