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# ALABAMA COURT OF CIVIL APPEALS

OCTOBER TERM, 2021-2022

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2200507

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K.R.

v.

Houston County Department of Human Resources

Appeal from Houston Circuit Court  
(JU-18-337.04)

EDWARDS, Judge.

In January 2020, the Houston County Department of Human Resources ("DHR") filed a petition in the Houston Juvenile Court ("the juvenile court") seeking to terminate the parental rights of K.R. ("the

2200507

mother") and of T.L. ("the father") to Ty.L. ("the child"). After a trial, the juvenile court entered a judgment terminating the parental rights of both the mother and the father. After postjudgment practice was completed, the mother filed a notice of appeal to this court; her appeal was assigned case number 2190770. Upon discovering that a portion of the testimony at the trial was not recorded, this court determined that the record of the juvenile-court proceedings was not adequate for appeal to this court. See Rule 28(A)(1)(c), Ala. R. Juv. P. (requiring an adequate record for a direct appeal to this court). Accordingly, on November 18, 2020, we transferred the appeal to the Houston Circuit Court ("the circuit court") for a trial de novo.<sup>1</sup>

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<sup>1</sup>The mother has four children, of which the child is the eldest. One of her children, M.R., is in the custody of his paternal grandmother. The mother's other two children, K.M. and L.M., are in foster care. DHR had also filed petitions seeking the termination of the parental rights of the mother to both K.M. and L.M., and the juvenile court entered judgments terminating the mother's parental rights to K.M. and L.M. This court also transferred the mother's appeals challenging those judgments to the circuit court for a trial de novo, but the circuit court declined to proceed with a trial on those petitions because the petitions had errors that the circuit court deemed too significant to overlook.

2200507

The circuit court held a trial on February 17, 2021, after which it entered a judgment terminating the parental rights of the mother to the child. After the mother's postjudgment motion, as amended, was denied, she again filed a notice of appeal to this court. We reverse the circuit court's judgment.

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

"(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 a hearing on a petition for termination of parental rights, the court shall consider the best interests of the child. 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:

"(1) That the parent[] ha[s] abandoned the child, provided that in these cases, proof shall not be required of reasonable efforts to prevent removal or reunite the child with the parent[].

"(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 the 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.

"....

"(9) Failure by the parent[] to provide for the material needs of the child or to pay a reasonable portion of support of the child where the parent is able to do so.

"(10) Failure by the parent[] to maintain regular visits with the child in accordance with a plan devised by the Department of Human Resources, or any public or licensed private child care agency, and agreed to by the parent.

"(11) Failure by the parent[] to maintain consistent contact or communication with the child.

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

2200507

"(13) The existence of any significant emotional ties that have developed between the child and his or her current foster parent or parents, with additional consideration given to the following factors:

"a. The length of time that the child has lived in a stable and satisfactory environment.

"b. Whether severing the ties between the child and his or her current foster parent or parents is contrary to the best interest of the child.

"c. Whether the juvenile court has found at least one other ground for termination of parental rights.

"....

"(d) A rebuttable presumption that the parent[] [is] unable or unwilling to act as parent[] exists in any case where the parent[] ha[s] abandoned a child and this abandonment continues for a period of four months next preceding the filing of the petition. Nothing in this subsection is intended to prevent the filing of a petition in an abandonment case prior to the end of the four-month period."

§ 12-15-319.

The test a trial court must apply in a termination-of-parental-rights action is well settled:

2200507

"A [trial] 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; 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 trial court's judgment terminating parental rights must be supported by clear and convincing evidence. P.S. v. Jefferson Cnty. Dep't of Hum. 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)). Although a trial court's factual findings in a judgment terminating parental rights based on evidence presented ore tenus are presumed correct, K.P. v. Etowah Cnty. Dep't of Hum. Res., 43 So. 3d 602, 605 (Ala. Civ. App. 2010), "[t]his court does not reweigh the evidence but, rather, determines whether the findings of fact made by the [trial] court are supported by evidence that

2200507

the [trial] court could have found to be clear and convincing." K.S.B. v. M.C.B., 219 So. 3d 650, 653 (Ala. Civ. App. 2016). That is, this court

"'must ... look through ["the prism of the substantive evidentiary burden," Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 254 (1986),] to determine whether there was substantial evidence before the trial court to support a factual finding, based upon the trial court's weighing of the evidence, that would "produce in the mind [of the trial court] a firm conviction as to each element of the claim and a high probability as to the correctness of the conclusion." "'

K.S.B., 219 So. 3d at 653 (quoting Ex parte McInish, 47 So. 3d 767, 778 (Ala. 2008), quoting in turn Ala. Code 1975, § 25-5-81(c)).

At trial, DHR presented the testimony of the mother; Andrea Zavitz, the child's former counselor; Kelsey Ristau, an employee of the court-appointed special advocate ("CASA") office; and three of the mother's caseworkers: Hope Nolen, Beth Lee Wilson, and Sheila Baltimore. Nolen became the mother's caseworker only two weeks before the trial. She testified that DHR's case filed indicated that the mother had not contacted DHR in the previous year and that the child had had no contact with the mother for two years. She also testified that the mother had not apprised

2200507

DHR of where she was living. Nolen admitted that she had not attempted to contact the mother.

The mother testified that her involvement with DHR began in 2017 when "a neighbor called DHR on her." At that time, she said, she was living in "McRae Homes," where, she said, she had lived for five years before she "caught a charge." The mother explained that, pursuant to a safety plan, the child was placed with her godmother, M.C. ("the godmother"), which was disrupted because the godmother refused to "cut her hair" for a hair-follicle drug test. The mother explained that, pursuant to another safety plan, the child was then placed with the mother's sister, Z.R. ("the maternal aunt"), which was disrupted when DHR learned that the maternal aunt was allowing the godmother to transport the child and her siblings.

According to the mother, she was able to secure a safe residence and the child was returned to her custody. However, the mother admitted that the child was again removed from her custody in August 2018, after the mother tested positive for cocaine. The mother denied having a substance-abuse issue, admitting that she "had popped a bean. I did. I was

2200507

stressed," but stating that "I wasn't doing cocaine. I popped a bean. It's a difference." She said that, when she "popped a bean," the child was not at home but was at the movies with one of the mother's sisters.

The mother testified that DHR had required her to complete parenting classes, anger-management classes, a substance-abuse assessment, and a psychological evaluation. She said that she was also required to undergo regular drug screening, which, she said, occurred on Tuesdays and Thursdays. According to the mother, she had completed parenting classes, anger-management classes, two psychological evaluations, and at least two substance-abuse assessments at a facility operated by an entity referred to in the record as SpectraCare.

Although the mother testified that she had submitted to all drug screens and that, as far as she was aware, they had been negative, she admitted that she had not complied with the recommendations in her substance-abuse assessments, one of which was to attend outpatient treatment. She said that SpectraCare had never contacted her with a date to enter treatment. She later testified that, after her second assessment, at which she admitted to testing positive for marijuana,

2200507

someone working for SpectraCare informed her that "they didn't want me to come back." The mother also admitted that she had not informed SpectraCare about her cocaine use because, she said, "it's not an issue." She also testified that DHR had not asked her to submit to a drug screen in "over a year" but later recalled that her last drug tests had been in March and April 2020.

Regarding any recommendations that might have resulted from her psychological evaluations, the mother testified that she had never been provided the evaluations and that no one working for DHR had informed her that she needed any follow-up or additional treatment. She mentioned that she had "talked to the lady" at a facility referred to in the record as the Exchange Center who had taught her parenting classes and that she had undergone an evaluation for counseling services. According to the mother, "the lady" at the Exchange Center had informed her that she did not need to return because counseling at the Exchange Center was for domestic-abuse victims and the mother did not qualify. The mother later testified that DHR had not asked her to complete any counseling; when confronted with a January 2020 individualized service plan ("ISP")

2200507

indicating that the mother had agreed to pursue counseling, she pointed out that DHR had been required to provide a referral, which, she said, DHR had not done.

The mother testified that she had lived in at least six residences during her involvement with DHR, not including her McRae Homes residence. She explained that, after she lost custody of the child, she first lived at a residence on Walnut Street, after which she moved to an unsuitable residence on Blackshear Street. She said that she then resided at a residence on South Saint Andrews Street for six months, then at a hotel for six months, and then in a mobile home on Harper Joy Road for another six-month period. At the time of the trial, the mother was residing in an apartment on Bell Street, but, she said, she often stayed in hotels because she did not like staying alone.<sup>2</sup>

The mother testified that she was employed and had two full-time jobs. She said that she worked the overnight shift at Wayne Farms and

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<sup>2</sup>When asked about whether she was alone when she stayed at a hotel, the mother denied staying at a hotel with other persons; she indicated that she preferred staying in a hotel because she preferred being in one room.

2200507

that she also worked 38-40 hours per week at a fast-food restaurant. Despite working two jobs, the mother admitted that she had not paid child support for the benefit of the child, stating that "they haven't reached out to me." The mother said that she did not have reliable transportation and that she took a cab to travel to and from work and appointments.

According to the mother, her visitation had been suspended after "[Wilson] and the supervisor at DHR lied on me and said that I swung on them in front of the camera and in front of my children." The mother was then questioned about the contents of the motion to suspend visitation, which had been filed by the child's guardian ad litem and which indicated that the basis for the suspension included the mother's bringing the godmother to visitation after being instructed that the godmother should not be present. Regarding that allegation, the mother explained that the godmother had driven her to the visit and that it was the security guard and not the mother that had opened the door and allowed the godmother to enter the premises.

Baltimore testified that her involvement with the mother began in 2017 and ended in August 2018, after the child was removed from the

2200507

mother's custody. She explained that DHR had been contacted because the mother was being evicted from her residence after she had allegedly assaulted a woman by throwing a glass jar at her head. According to Baltimore, DHR and the mother had entered into a safety plan with the godmother and the mother began receiving services. Like the mother, Baltimore testified that the safety plan with the godmother had been disrupted because the godmother had refused to take a hair-follicle drug test and that the child had then been placed in a safety plan with the maternal aunt, which, she said, also had been disrupted as the mother had explained. Baltimore said that, pursuant to a short-term safety plan, the child had then been placed with Z.H., the mother's aunt, so that the mother could secure a residence and reassume custody of the child.

Baltimore said that, in early summer 2018, DHR returned the child to the mother's custody. Although Baltimore explained that she had had no issues with the mother's residence, she had performed random visits to monitor the safety of the child. Baltimore testified that she had been concerned in August 2018 when she arrived to find the mother asleep and the child and her siblings absent from the home. Baltimore said that the

2200507

mother had first indicated that the child and her siblings, who would have been approximately 9, 4, and almost 3 years old, respectively, were playing outside, but they were not. According to Baltimore, the mother then said that the child and her siblings were with one of the mother's sisters, but a telephone call to that sister revealed that the child and her siblings were not with her. Baltimore said that, finally, she had located the child and her siblings at a neighbor's house.

Baltimore testified that, within the week of her August 2018 in-home visit, the mother tested positive for cocaine and the child and her siblings were again removed from the mother's custody and, pursuant to a safety plan, placed in a safety plan with A.R. for the weekend and then in foster care when a more permanent safety-plan provider could not be located and after the mother had taken the child and her siblings from A.R.'s residence without DHR's knowledge or approval. Baltimore testified that, during her tenure as caseworker, the mother had not completed the follow-up treatment recommended in her SpectraCare substance-abuse assessments despite Baltimore's having discussed the treatment with her several times and having informed her that DHR

2200507

would pay for treatment. She also said that, after the child and her siblings were removed from A.R.'s custody, an ISP meeting was held, after which her involvement in the case concluded.

Wilson testified that she had become the mother's caseworker in August 2018. She said that inadequate housing and substance-abuse issues had been the identified issues when the child entered foster care. Wilson said that she had visited the mother's residence on Blackshear Street and had found it to be unsuitable for the child and her siblings. According to Wilson, despite the fact that the home evaluation had been set up with the mother two weeks in advance, the house had no bed for the child, had broken glass, had a refrigerator with a sticky substance on the door and a stench emanating from within, had no food, and had no heat.

Like Baltimore, Wilson testified that the mother had not completed the treatment recommended in the substance-abuse assessments. She admitted that the mother had completed "counseling" at the Exchange Center, which, as noted above, encompassed the mother's parenting and anger-management classes. Wilson also stated that the mother had had

2200507

four addresses during her tenure as caseworker, which was between August 2018 and December 20, 2019.

Wilson testified that the mother had identified several people as potential relative resources but that none of those people were suitable. She explained that DHR considered A.R., the godmother, and the maternal aunt to be unsuitable because of the failed safety plans with each of those individuals. In addition, Wilson explained that DHR had rejected the mother's mother, Ku.R., who was incarcerated, the mother's father, S.S., who was incarcerated, and another sister of the mother, I.R., who had a current open matter with DHR. Although Wilson admitted that the mother had provided the name of another sister, T.S., Wilson said that the mother had not provided contact information for T.S. and that T.S. had never contacted DHR. Interestingly, the August 2018 ISP indicated that DHR would initiate a home study pursuant to the Interstate Compact for the Placement of Children ("ICPC") on T.S.; DHR presented no evidence regarding whether any home study through the ICPC had been instituted or completed.

2200507

Wilson testified regarding the suspension of the mother's visitation, which occurred in January 2019. She explained that the issues began at a visit at the DHR offices, during which the mother had "FaceTimed," or conducted a videoconference with, the godmother despite having been instructed not to do so. Wilson said that DHR supervisor Lynn Bennett had told the mother that if she did not end the "call" the visit would be terminated. According to Wilson, the mother became very angry and a security guard was called to escort the mother from the building. Wilson said that the mother "was trying to punch Lynn and all that kind of stuff in the face."

Wilson said that the altercation at that visitation was discussed in court and that a decision was made to move the mother's visits to the CASA offices. However, Wilson testified that the first visit at the CASA offices had not gone smoothly. Instead, Wilson recalled that the mother had been angered by a haircut given to her youngest child, L.M., and that she had told the child and her siblings that, if they had not been there, "she could be going off on DHR and CASA workers and the foster parent." Wilson described the mother as having been clearly upset and as having

2200507

an attitude. After the visit, Wilson said, CASA staff declined to supervise further visits. As a result, the mother's visitation was suspended by the juvenile court.

At some point, Wilson said, the juvenile court lifted its no-contact order and ordered that visitation would be permitted at the discretion of the ISP team. Wilson testified that the issue of visitation was discussed at an ISP meeting and that Zavitz and an unnamed counselor for K.M., another child of the mother, had expressed their opinions that resuming visitation with the mother would not be in the best interest of either the child or K.M. Wilson admitted that the mother had repeatedly asked her about resuming visitation and that she had responded that the issue would have to be addressed by the ISP team.

Ristau testified regarding the visitation held at the CASA offices, which, she testified, occurred in December 2018. Like Wilson, Ristau indicated that the issues with the visitation began with the mother's becoming upset about L.M.'s haircut. Ristau described the mother as having been "very angry" and said that the mother had stated that she did not want L.M.'s hair touched. In addition, Ristau said, the mother had

2200507

told the child and her siblings that "if there were no one else in the office, she would have issues with the people there because she was very angry."

Ristau also recalled the ISP meeting at which the ISP team determined that resuming visitation would not be in the best interest of the child and her siblings; she said that the ISP team had "made some services to get [the mother] into doing substance-abuse [classes] and counseling and things of that nature before allowing [the mother] to have visits."

Ristau also testified about the mother's failure to attend a December 2018 ISP meeting. According to Ristau, the mother had not answered telephone calls from others attending the meeting, but, she said, the CASA director had been able to reach the mother by telephone. Ristau said that the mother was hostile, that her attorney had had to step outside the meeting to try to calm the mother down, and that the mother had made threats and had also made an untoward comment about a foster parent's biological children.

Zavitz testified that she had been the child's counselor from October 2018 to October 2020. She described the child as mature for her age and said that the child loved and missed her mother but that the child was

2200507

afraid to visit with the mother and did not think it would be safe to return to her custody. According to Zavitz, the child had told her that they had never had any food in the house and had had to rely on neighbors for food; that the places in which they had lived had been dirty, with garbage up to their knees; that she had had to take care of her younger siblings; and that "there was a lot of yelling and hitting." Zavitz said that, over the course of the counseling relationship, the child had expressed to her that she had used to feel angry at her siblings for getting in trouble so much but that the child had since realized that her siblings' behavior was normal "kid stuff" and had expressed fear of watching her siblings be hit or fear of being hit herself. Zavitz described the child as having "done a lot of parenting to prevent [her siblings] from getting into trouble" and as being concerned that she had not done a better job of protecting her siblings. Zavitz said that, when she had broached the subject of including the mother in their counseling sessions, the child had started crying and stated that she was afraid; thus, Zavitz testified, the child had never reached a point at which it would be appropriate to incorporate the mother into counseling. Zavitz testified that she had written a letter in

2200507

September 2019 explaining that resuming visitation would result in "a significant setback" for the child and that, despite having not counseled the child for several months, she still believed that contact with the mother would be detrimental to the child.

On appeal, the mother first argues that DHR failed to meet its burden of presenting clear and convincing evidence indicating that she is "unable or unwilling to discharge [her] responsibilities to and for the child." § 12-15-319(a). She points out that she works two jobs and has housing that DHR had yet to inspect. In addition, she notes that DHR had not required her to take a drug test since her last negative tests in March and April 2020, nearly a year before the termination-of-parental-rights trial.

This court has explained that DHR must establish that, at the time of the termination-of-parental-rights trial, a parent's conduct or condition negatively impacts his or her ability to parent in order to prove that termination of parental rights is warranted. See, e.g., J.C. v. Madison Cnty. Dep't of Hum. Res., 293 So. 3d 901, 909 (Ala. Civ. App. 2019); M.G. v. Etowah Cnty. Dep't of Hum. Res., 26 So. 3d 436, 442 (Ala. Civ. App.

2200507

2009) (explaining that, to succeed on a termination-of-parental-rights petition, DHR must "present[] clear and convincing evidence demonstrating that the parental conduct or condition currently persists to such a degree as to continue to prevent the parent from properly caring for the child"); see also S.K. v. Madison Cnty. Dep't of Hum. Res., 990 So. 2d 887, 899 (Ala. Civ. App. 2008) (explaining that, when DHR does not present certain evidence relating to a parent's conduct or condition, "it is difficult to assess whether the [parent's] noncompliance [with DHR's recommendations or requirements] constitutes a ground for termination of his [or her] rights"). In addition,

"'[t]his court has consistently held that the existence of evidence of current conditions or conduct relating to a parent's inability or unwillingness to care for his or her children is implicit in the requirement that termination of parental rights be based on clear and convincing evidence.' D.O. v. Calhoun County Dep't of Human Res., 859 So. 2d 439, 444 (Ala. Civ. App. 2003)."

A.R. v. State Dep't of Hum. Res., 992 So. 2d 748, 760 (Ala. Civ. App. 2008).

In its judgment, the circuit court did not specifically state on what ground or grounds it based its decision to terminate the mother's parental rights to the child. However, in its petition, DHR averred that reasonable

2200507

efforts leading toward rehabilitation of the mother had failed (§ 12-15-319(a)(7)), that the mother had failed to maintain regular visits with the child (§ 12-15-319(a)(10)), that the mother had failed to maintain communication and contact with the child (§ 12-14-319(a)(11)), and that the mother had abandoned the child based on her conduct in the four months preceding the filing of the petition to terminate her parental rights (§ 12-15-319(a)(1) & (d)).

We find DHR's reliance on the mother's failure to visit or contact the child extremely disingenuous in this particular case. The juvenile court entered an order terminating the mother's right to visit and to contact the child in early 2019, and, although that order was reportedly amended to permit DHR and the ISP team to determine when, and apparently if, the mother could resume contact with and visitation with the child, the ISP team declined to permit any contact between the mother and the child. The mother was prohibited from contacting or visiting with the child, and she therefore did not fail to do so.

Insofar as DHR relied on abandonment as a ground to terminate the mother's parental rights, we are similarly unpersuaded that the evidence

2200507

would support such a conclusion. The mother's failure to maintain contact with the child and to visit her was due not to the mother's disinclination but, instead, to the juvenile court's orders suspending the mother's visitation and permitting DHR and the ISP team complete discretion regarding the mother's contact with the child. Furthermore, Wilson testified that the mother had asked her repeatedly when her visitation might be reinstated, so the evidence reflects that the mother continued to express interest in maintaining a relationship with the child. See Ex parte J.E., 1 So. 3d 1002, 1010 (Ala. 2008) (explaining that a parent's failure to seek reestablishment of suspended visitation rights is not sufficient to amount to abandonment unless it is "accompanied with evidence of an intent to surrender [parental] rights"). Although the mother had not paid child support or provided other support for the child, and although the record reflects that she is employed at two jobs, the evidence does not indicate the mother's income or her expenses. Thus, there is a lack of evidence to support a finding that the mother abandoned the child because she failed to pay a reasonable amount for the support of

2200507

the child despite being able to do so. See J.Y. v. Geneva Cnty. Dep't of Hum. Res., 293 So. 3d 919, 926 (Ala. Civ. App. 2019).

Insofar as DHR relied on the failure of reasonable efforts as a ground for termination of the mother's parental rights, we cannot agree that the evidence supports that reasonable efforts aimed at rehabilitating the mother had failed. DHR must typically exert reasonable efforts aimed at addressing the shortcomings of a parent before termination of parental rights is appropriate, and we have explained DHR's duty in the recent past:

"That DHR is generally required to make reasonable efforts to rehabilitate parents of dependent children cannot be questioned. See T.B. v. Cullman Cty. Dep't of Human Res., 6 So. 3d 1195, 1198 (Ala. Civ. App. 2008). That is, DHR must make an effort to tailor services to best address the shortcomings of and the issues facing the parents. See H.H. v. Baldwin Cty. Dep't of Human Res., 989 So. 2d 1094, 1105 (Ala. Civ. App. 2007) (opinion on return to remand)(per Moore, J., with two Judges concurring in the result). However, we have clearly stated that the law requires reasonable efforts, not maximal ones. M.A.J. v. S.F., 994 So. 2d 280, 291 (Ala. Civ. App. 2008)."

Montgomery Cnty. Dep't of Hum. Res. v. A.S.N., 206 So. 3d 661, 672 (Ala. Civ. App. 2016).

2200507

Wilson testified that the issues DHR had identified as barriers to reunification of the mother and the child were "inadequate housing" and "substance-abuse issues." The evidence presented to the circuit court indicated that the mother had tested positive for cocaine in August 2018, that she admittedly had tested positive for marijuana in February or March 2018, and that she had tested positive for marijuana at some other unspecified occasion between August 2018 and December 2019. The testimony of Wilson and Baltimore indicated that DHR had provided the mother with substance-abuse assessments and that she had not completed any substance-abuse classes or treatment. However, neither Baltimore nor Wilson testified regarding specific positive drug tests, other than the August 2018 drug test and some unspecified test between August 2018 and December 2019, that would lead to a conclusion that the mother had a pervasive substance-abuse problem. DHR had last required the mother to take drug tests in March and April 2020, and the results of those tests were apparently negative. DHR presented no evidence indicating that the mother continued to use any illegal substance, much less that she continued to abuse illegal substances to such a degree that her ability to

2200507

parent the child would be negatively impacted. As a result, the record contains no evidence to support the conclusion that the mother's failure to complete substance-abuse classes or outpatient treatment prevented her rehabilitation or that the mother continues to suffer from substance-abuse issues that prevent her from being able to discharge her parental responsibilities to the child.

We reach a similar conclusion regarding the mother's alleged lack of adequate housing. Wilson's testimony regarding the mother's inadequate housing was the sole information indicating that the mother had been living in housing that was not suitable for the child and her siblings. Wilson did not specify the date on which she had assessed the mother's residence, but it had to have been at some point between August 2018 and December 2019. The mother admitted that the residence that Wilson had visited was not appropriate, but she said that she had lived in three other residences and a hotel after that residence. Furthermore, the mother testified that she was currently living in an apartment and that DHR had not visited that apartment. Therefore, the record lacks evidence from which the circuit court could have concluded that DHR's

2200507

rehabilitation efforts, whatever they might have been, had failed and that the mother's inadequate-housing issues had not been resolved.<sup>3</sup>

To succeed on its petition to terminate the parental rights of the mother, DHR was required to present clear and convincing evidence demonstrating that termination was warranted. To satisfy the clear-and-convincing standard, evidence at a termination-of-parental-rights trial must include evidence relating to the current conditions of the parent. DHR's failure to present such evidence in the present case requires reversal of the circuit court's judgment terminating the mother's parental rights to the child.

**REVERSED AND REMANDED.**

Thompson, P.J., and Hanson and Fridy, JJ., concur.

Moore, J., concurs in the result, without writing.

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<sup>3</sup>We note that the evidence before the circuit court does not indicate that DHR offered the mother any services aimed at assisting her with her issues with inadequate housing and that Baltimore specifically testified that she had had no issues with the mother's housing when she was the caseworker.