

MEMORANDUM DECISION

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IN THE
Court of Appeals of Indiana

In re the Involuntary Termination of the Parent-Child
Relationship of R.D.T. (Minor Child) and

R.T. (Father),

Appellant-Respondent

v.

Indiana Department of Child Services,

Appellee-Petitioner

Lake County CASA,

Appellee-Guardian ad Litem



April 1, 2024

Court of Appeals Case No.
23A-JT-2679

Appeal from the Lake Superior Court

The Honorable Thomas P. Stefaniak, Judge

Trial Court Cause No.
45D06-2301-JT-000007

Memorandum Decision by Judge Felix
Chief Judge Altice and Judge Bradford concur.

Felix, Judge.

Statement of the Case

[1] R.D.T. (the “Child”) is the biological child of R.T. (“Father”) and J.U. (“Mother”). Days after his birth in spring 2018, the Indiana Department of Child Services (“DCS”) removed the Child from Mother’s care and filed a petition alleging the Child was a child in need of services (“CHINS”) due to concerns about Mother’s substance abuse and suicidal ideations. Shortly thereafter, Mother committed suicide. After DCS established paternity in Father, the trial court adjudicated the Child a CHINS and ordered Father to participate in certain services, which he generally refused to do. The trial court ultimately terminated Father’s parental rights to the Child. Father now challenges that termination and presents three issues for our review, which we revise and restate as the following single issue: Whether the trial court’s decision to terminate Father’s parental rights was clearly erroneous.

[2] We affirm.

Facts and Procedural History

[3] On March 30, 2018, Mother gave birth to the Child at Methodist Hospital Southlake in Lake County, Indiana. At that time, Mother was homeless and had untreated mental health issues, including schizophrenia and bipolar

disorder. Seven days before the Child's birth, Mother had tested positive for cocaine, as she had done several times while pregnant with the Child. Between June 2017 and late March 2018, Mother was admitted to Methodist Hospital Southlake approximately 19 times for hunger, homelessness, mental health issues, positive cocaine screens, suicidal ideations, and domestic violence.

[4] On April 2, 2018, due to the Child's age and Mother's history of substance abuse, mental health concerns, and homelessness, DCS removed the Child from Mother's care and placed the Child in foster care. The next day, DCS filed a CHINS petition. On April 30, 2018, Mother died of suicide. On June 4, 2018, the Child was placed with his maternal grandparents.

[5] At the time of the Child's removal from her care, Mother believed a man other than Father was the Child's father. In late July 2018, genetic testing revealed that Father is the Child's biological father. Thereafter, DCS explored placing the Child with Father but could not do so because Father's drug screen tested positive for cocaine. On August 27, 2018, after a hearing, the trial court adjudicated the Child a CHINS and entered a dispositional order that required Father to complete certain services, including (1) participating in supervised visitation; (2) completing substance abuse, parenting, and initial clinical assessments; (3) following all recommendations from the latter two assessments; and (4) participating in Fatherhood Initiative Services.

[6] Father regularly participated in twice-weekly visitation with the Child, but that visitation remained fully supervised throughout the CHINS and TPR

proceedings. Father would often fall asleep during visits; refuse to take redirection from visit supervisors; and become combative, irate, or argumentative with visit supervisors. By September 2023, the Child was using foul language and having outbursts after visiting with Father.

[7] Father refused to complete the initial clinical assessment and the substance abuse assessment. Between November 2019 and early September 2023, Father completed 92 drug screens, and 77 of those screens were positive for cocaine or cocaine metabolites.

[8] On January 10, 2023, DCS filed a petition to involuntarily terminate Father's parental rights to the Child. After several continuances, the trial court held an evidentiary hearing on the petition on September 20, 2023. At that hearing, among other testimony, Titoria Battle, the DCS Family Case Manager assigned to this case since 2019, testified that DCS's plan for the Child's maternal grandparents to adopt him was in the Child's best interests.

[9] On October 13, 2023, the trial court terminated Father's parental rights to the Child. In its termination order, the trial court entered the following relevant findings and conclusions:

After five years of services, [F]ather is not closer to reunification with his child than he was in 2018 when the CHINS case first began.

Father was offered numerous services over the years and continues to think that everyone is out to get him. Father was appointed counsel for the termination proceedings and wanted

to represent himself. Father is aggressive, intimidating and disrespectful to all parties. Father was unable to comply with any providers due to being unable to take any direction from anyone.

Father continues to point fingers and indicate that the whole system is against him. Father accuses providers [of] tampering with drug screens, visitation facilitators [of] lying, case managers [of] hating him and on and on. . . . Father cannot be truthful or take accountability for his actions. He continues to blame others and has such distrust for the system that everything seems tainted to [F]ather. All efforts to help [F]ather obtain reunification with his child have failed.

* * *

Father is not providing any emotional or financial support for the [C]hild. Father has not completed any case plan for reunification. . . . Father is not in a position to properly parent this child. The [C]hild is in relative placement and is bonded and thriving.

. . . Father has not demonstrated an ability to independently parent the [C]hild and provide the necessary care, support and supervision. Even considering the [F]ather's continued involvement in services, there is no basis for assuming he will complete the necessary services and find himself in a position to receive the child back into the home. . . .

The [C]hild has been in placement with the grandparents since the onset of the CHINS case in 2018 when the [C]hild was born. The [C]hild is bonded and thriving in the home. The [C]hild continues to reside in relative placement which has indicated both a willingness and ability to adopt . . . the [C]hild. It would be unfair to the [C]hild to delay such permanency on the very

remote likelihood of the [F]ather committing to and completing services.

Appellant's App. Vol. II at 13–14. Father now appeals.

Discussion and Decision

[10] Father challenges the trial court's termination of his parental rights over the Child. "Parents have a fundamental right to raise their children—but this right is not absolute. When parents are unwilling to meet their parental responsibilities, their parental rights may be terminated." *In re Ma.H.*, 134 N.E.3d 41, 45–46 (Ind. 2019) (internal citations omitted) (citing *In re K.T.K.*, 989 N.E.2d 1225, 1230 (Ind. 2013)), *cert. denied*.

[11] To terminate Father's parental rights, DCS had to prove by clear and convincing evidence, that, among other things,

(B) one of the following is true:

- (i) there is a reasonable probability that the conditions that resulted in the Child's removal or the reasons for placement outside Father's home will not be remedied,
- (ii) there is a reasonable probability that the continuation of Father's relationship with the Child poses a threat to the well-being of the Child, or
- (iii) the Child has, on two separate occasions, been adjudicated a child in need of services;

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

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

See Ind. Code § 31-35-2-4(b)(2) (2023); *id.* § 31-37-14-2.

[12] We will affirm a trial court’s termination of parental rights unless that decision is clearly erroneous. *Ma.H.*, 134 N.E.3d at 45 (citing *In re E.M.*, 4 N.E.3d 636, 642 (Ind. 2014)). A trial court’s termination decision is clearly erroneous if the court’s findings of fact do not support its legal conclusions or if the legal conclusions do not support its ultimate decision. *Id.* (citing *E.M.*, 4 N.E.3d at 642). We will not reweigh the evidence or judge witness credibility, and we consider only the evidence and reasonable inferences that support the court’s decision. *Id.* (citing *In re K.E.*, 39 N.E.3d 641, 646 (Ind. 2015)). Furthermore, we accept as true any findings which Father does not challenge on appeal. *See R.M. v. Ind. Dep’t of Child Servs.*, 203 N.E.3d 559, 564 (Ind. Ct. App. 2023) (citing *Madlem v. Arko*, 592 N.E.2d 686, 687 (Ind. 1992)), *trans. not sought*.

The Trial Court’s Decision to Terminate Father’s Parental Rights to the Child Was Not Clearly Erroneous

Remediation of Reasons for Removal or Placement

[13] Father first challenges the trial court’s conclusion that there is a reasonable probability that the conditions that resulted in the Child’s removal or the reasons for placement outside Father’s home will not be remedied. However, Father does not challenge the trial court’s conclusion that there is a reasonable probability the continuation of Father’s relationship with the Child poses a threat to the well-being of the Child. The trial court was required to find only

that one prong of Indiana Code section 31-35-2-4(b)(2)(B) (2023) has been established. *In re A.K.*, 924 N.E.2d 212, 220 (Ind. Ct. App. 2010), *trans. dismissed*. Because we take unchallenged findings and conclusions as true, we must conclude that DCS proved the continuation of the parent-child relationship between Father and the Child posed a threat to the Child’s well-being. *See R.M.*, 203 N.E.3d at 564 (citing *Madlem*, 592 N.E.2d at 687). Therefore, we need not address Father’s argument directed at the “remediation” prong of Section 31-35-2-4(b)(2)(B) (2023). *See A.K.*, 924 N.E.2d at 220.

[14] Nevertheless, Father’s argument on this issue is relevant to our discussion below concerning the Child’s best interests, so we choose to address it. In reviewing the trial court’s findings regarding whether Father has or will remedy the conditions resulting in the Child’s removal from Father or the reasons the Child were placed outside Father’s home, we first “identify the conditions that led to removal” and then “determine whether there is a reasonable probability that those conditions will not be remedied.” *In re J.S.*, 133 N.E.3d 707, 715 (Ind. Ct. App. 2019) (citing *E.M.*, 4 N.E.3d at 643).

In the second step, the trial court must judge parental fitness as of the time of the termination hearing, taking into consideration the evidence of changed conditions. The trial court is entrusted with balancing a parent’s recent improvements against habitual patterns of conduct. The trial court has discretion to weigh a parent’s prior history more heavily than efforts made only shortly before termination. Requiring trial courts to give due regard to changed conditions does not preclude them from finding that

parents' past behavior is the best predictor of their future behavior.

J.S., 133 N.E.3d at 715 (internal quotation marks and citations omitted) (quoting and citing *E.M.*, 4 N.E.3d at 643).

- [15] Father specifically contends that the trial court failed to consider testimony of certain witnesses in making findings regarding Father's substance abuse and behavior at visitation. Father's arguments are merely an invitation for us to reweigh the evidence and reassess witness credibility, which we cannot do. *See Ma.H.*, 134 N.E.3d at 45 (citing *E.M.*, 4 N.E.3d at 642). Considering only the evidence and reasonable inferences that support the trial court's decision, we cannot say that the trial court clearly erred in concluding that Father has not and likely will not remedy the reasons for the Child's removal or placement outside of Father's care.

Best Interests of the Child

- [16] Father also challenges the trial court's conclusion that termination of his parental rights over the Child is in the Child's best interests. To determine the best interests of a child, a trial court looks at the totality of the evidence and subordinates the interests of the parents to those of the child. *In re P.B.*, 199 N.E.3d 790, 799 (Ind. Ct. App. 2022) (citing *In re A.B.*, 887 N.E.2d 158, 167–68 (Ind. Ct. App. 2008)), *reh'g denied* (Jan. 25, 2023), *trans. denied sub nom. A.B. v. Ind. Dep't of Child Servs.*, 209 N.E.3d 1168 (Ind. 2023). A central consideration in this determination is the child's need for permanency. *Id.* (citing *In re K.T.K.*,

989 N.E.2d 1225, 1235 (Ind. 2013)). The trial court also considers whether a child's emotional and physical development is threatened by the parent-child relationship. *Id.* (citing *K.T.K.*, 989 N.E.2d at 1235). Permanent impairment of physical, mental, or social development is not necessary before a trial court may terminate the parent-child relationship. *Id.* (citing *K.T.K.*, 989 N.E.2d at 1235).

[17] Father essentially argues that the trial court gave too much weight to Battle's opinion about the Child's best interests and did not give enough weight to testimony Father believes cuts in his favor. Again, this court neither reweighs evidence nor reassesses witness credibility. *See Ma.H.*, 134 N.E.3d at 45 (citing *E.M.*, 4 N.E.3d at 642). Considering only the evidence and reasonable inferences that support the trial court's decision, we cannot say that the trial court clearly erred in concluding that termination is in the Child's best interests, so the trial court did not clearly err in reaching this conclusion.

Satisfactory Plan

[18] Finally, Father challenges the trial court's conclusion that adoption is a satisfactory plan for the care and treatment of the Child. Father specifically argues that guardianship, not adoption, is "the best permanency plan option for the child." Appellant's Br. at 19. However, Section 31-35-4-2(b)(2)(D) (2023) does not require DCS to present and prove a particular plan is the "best" plan; instead, that provision requires only that DCS present and prove a particular plan is "satisfactory." In fact, DCS's plan does not even need to "be detailed, so long as it offers a *general sense* of the direction in which the child will be going after the parent-child relationship is terminated." *In re C.D.*, 141 N.E.3d 845,

854 (Ind. Ct. App. 2020) (emphasis added) (citing *In re A.S.*, 17 N.E.3d 994, 1007 (Ind. Ct. App. 2014), *trans. denied*), *trans. denied*. Because Father does not contend that the plan for the care and treatment of the Child is unsatisfactory, we cannot say that the trial court's conclusion that DCS has a satisfactory plan for the Child is clearly erroneous.

Conclusion

[19] In sum, DCS proved by clear and convincing evidence that Father is unlikely to remediate the conditions that led to the Child's removal from Father's care or placement outside of Father's home, termination of Father's parental rights is in the Child's best interest, and adoption is a satisfactory plan for the Child's care and treatment. Therefore, the trial court did not clearly err in terminating Father's parental rights to the Child, and we affirm that decision.

[20] Affirmed.

Altice, C.J., and Bradford, J., concur.

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