Affirmed and Memorandum Opinion filed August 17, 2017.

In The

Fourteenth Court of Appeals

NO. 14-17-00136-CV

IN THE INTEREST OF W.T., III, A CHILD

On Appeal from the 314th District Court
Harris County, Texas
Trial Court Cause No. 2016-00500J

M E M O R A N D U M O P I N I O N

The trial court terminated the parental rights of S.L.K. (Mother) and W.T., Jr. (Father) with respect to their son, Wesley,[1] and appointed the Texas Department of Family and Protective Services (the Department) to be Wesley's managing conservator. On appeal, the parents assert the trial court abused its discretion in admitting certain evidence, and they appear to challenge the sufficiency of the evidence to support certain of the trial court's findings underlying the termination. Neither parent challenges the Department's appointment as managing conservator. We affirm.

[1] Wesley is a pseudonym. *See* Tex. R. App. P. 9.8(b)(2).

BACKGROUND

A. Removal

The Department received a report on January 11, 2016, alleging Mother and Father were drug addicts and were negligently supervising and medically and physically neglecting Wesley. The following facts are taken from the removal affidavit prepared during the Department's investigation of those allegations.

Following a three-day drug binge by both Mother and Father, Father was rushed to the hospital by ambulance on January 10, for a suspected heart attack. Mother left nine-month-old Wesley with Justin, the parents' friend and alleged drug dealer. She then went to the hospital to be with Father. Hospital staff determined Father's chest pain was due to his drug use, not a heart attack.

The next morning, Mother's sister, Holly, learned Wesley was with Justin. Holly went to Justin's house to pick up Wesley. Justin appeared to be high on drugs. Wesley was wearing only a diaper, which was leaking urine and feces. He had sores all over his genital area and between his toes. His diaper bag was covered with vomit; his parents and Justin had reportedly been vomiting from their drug use. No baby food or formula could be found in the house. Wesley was filthy, hungry, and possibly feverish. Holly took Wesley to her home.

On January 12, Department caseworker Pamela McClain interviewed Mother and Father. Both parents admitted using methamphetamine a few times a year, including the day Father went to the hospital. Mother denied regular drug use. Drug tests performed that day revealed Mother and Father were positive for amphetamine and methamphetamine, and Father was also positive for opiates. Both parents said they were willing to be treated in an inpatient rehabilitation facility and to complete other services required by the Department. Both Mother and Father agreed Holly could serve as a Parental Child Safety Placement (PCSP) for Wesley.

McClain then went to Holly's house to see Wesley. McClain described Wesley as appearing in "overall good condition." She did not see sores between his toes. Holly had formula, baby food, clothes, diapers, and a playpen, which she said Mother had provided. Holly agreed to serve as a PCSP for Wesley pending approval of Wesley's maternal grandmother as such a placement. Grandmother was drug-tested that day and later found to be positive for cocaine, which eliminated her as a possible placement for Wesley.

On January 20, after learning Grandmother failed her drug test, Holly told McClain she would not be able to serve as a long-term placement for Wesley. Two days later, McClain secured a rare spot for Wesley in a group home for children. Mother said she and Father had not decided how they wanted to proceed and needed time to decide whether to place Wesley in the group home. McClain informed Mother the group home was unlikely to hold the spot.

In the early days of the investigation, before receiving the parents' and Grandmother's drug test results, McClain had referred the case to the Department's Family Based Safety Services (FBSS) section. According to FBSS caseworker Janelle Gibbs, Mother and Father were initially hesitant about completing the services required by FBSS. Gibbs wrote in an email to McClain:

> I went out to do the assessment last week and the parents stated that they wanted to decide if they wanted to work services or if they would rather take their chances in court. I went over with them in detail what their options were and let them know that FBSS is voluntary and if they weren't committed to completing drug treatment and other services it was best to say it now. . . .

Mother called Gibbs on January 26 to ask if she and Father could complete their classes and other services on weekends to accommodate Father's work schedule. Gibbs explained that probably would not be possible because many service providers

are not open for business on the weekend. Based on her conversation with Mother, Gibbs believed the parents were not willing to commit to FBSS:

> I again reminded [Mother] that the outpatient program would probably be [three] times a week. They do not want to work services. It appeared [Mother] was under the influence when I spoke to her tonight. She was crying and belligerent when I spoke to her.

Mother later disagreed with Gibbs' characterization of their conversation.

Also on January 26, Holly called McClain to say she could not keep Wesley past January 29. McClain once again spoke to Mother to get names of possible placements for Wesley. Mother eventually identified one person, but that person had a criminal history and could not be approved.

With time running out, the Department filed this lawsuit on January 28 seeking to take immediate possession of Wesley and be named his temporary managing conservator. The trial court granted the Department's request for possession the same day and set a full adversary hearing to be held on February 11. Following the full adversary hearing, the court appointed the Department to be Wesley's temporary managing conservator.

B. Family service plans

The trial court signed an order requiring both parents to comply with any family service plan by the Department. Each service plan identified the tasks and services the parent needed to complete before Wesley could be returned to his or her care. Both parents' plans required them to: complete a parenting class; obtain and maintain suitable employment and stable housing; complete a substance abuse assessment and follow the assessor's recommendations; submit to random drug testing; complete a psychosocial evaluation and follow the evaluator's recommendations; maintain regular contact with the caseworker; and make

reasonable efforts to attend and participate in all hearings, permanency conferences, scheduled visitations, and requested meetings.

C. Trial

Trial was held in January 2017. The caseworker, an employee of a drug testing facility, and Wesley's guardian ad litem testified for the Department. Mother, Father, Holly, Grandmother, and Mother's Alcoholics Anonymous / Narcotics Anonymous (AA/NA) sponsor testified on the parents' behalf. Wesley's attorney ad litem presented testimony from Wesley's foster father.

The Department offered into evidence the parents' service plans, positive drug test results for both parents, judgments of criminal convictions for both parents, and medical records of Father and Wesley. All of the Department's evidence was admitted without objection. The parents offered negative drug test results and documentation establishing they attended AA/NA meetings and counseling sessions. The trial court admitted all the parents' evidence over the Department's hearsay objection to most of the documents.

1. Evidence about Wesley

There was some dispute about Wesley's condition at the beginning of this case. Holly testified Wesley's diaper was wet and he had a mild diaper rash, but otherwise he was "fine" when she picked him up from Justin's house on January 11. Likewise, though they were not present when Wesley was picked up, Mother and Father contended he was not in the deplorable condition described in the removal affidavit. Caseworker Sylvanna Johnson testified Wesley was speech-delayed and behind on his immunizations when he came into care. Mother and Father both disagreed and testified Wesley was not delayed. According to the foster father, Wesley was suffering from bronchitis, an eye infection, and an ear infection when he was placed in the foster home near the end of January. Medical records described

Wesley as underweight and suggested he was exposed to drugs in utero.

By contrast, the evidence was undisputed that Wesley had improved over the year. He was no longer delayed in speech, and he was very verbal. Johnson, the foster father, and guardian ad litem Traci Jensen each testified Wesley was healthy, happy, thriving, and very bonded with his foster parents. The foster parents were able to provide for Wesley and planned to adopt him if given the opportunity.

2. Evidence about Mother and Father

Mother and Father completed some of the required services over the course of the eleven months before trial began. They both attended parenting classes and substance abuse therapy. Both participated in either individual or group counseling. The parents visited Wesley weekly. They had stable housing and employment and attended court hearings.

Despite their progress, both parents continued to struggled with substance abuse. Mother tested negative for drugs through November but tested positive for cocaine in December. At trial, Mother disputed the result in two ways. First, she denied taking cocaine. She testified, "Really, all I can say is that all I have is my word and I did not do that." Second, she contended her level of 377 picograms per milligram (pg/mg) should have registered as a negative result because any number less than 500 pg/mg was supposed to be reported as a negative result according to that test's parameters. Bruce Jefferies, an employee of a drug-testing facility who has twenty-five years of experience in the field, testified a level of 377 pg/mg shows Mother used cocaine, regardless of how that number would be classified under a particular test's parameters.

Father was positive for amphetamine, methamphetamine, and alcohol in mid-February. Less than two weeks later, Father was arrested and charged with driving while intoxicated as a second offender. His blood alcohol content level was greater

than .15, nearly twice the legal limit. He pleaded guilty to that offense and was convicted in June. Near the end of March, Father was again positive for methamphetamine and alcohol. He tested negative for drugs for the remainder of the case.

Chuck Walker, Mother's AA/NA sponsor, testified he ran a nightly meeting, which Mother and Father began attending two to four months before trial. Walker opined that Mother had made very good progress but still had "an extremely long way to go." She was on the third of twelve steps of the AA/NA program. He knew Father attended the meetings with Mother but could not speak to his progress. Walker knew Mother tested positive for cocaine in December.

3. Trial court's findings

The trial court found termination of Mother's and Father's parental rights was in the children's best interest and was justified under subsections D and E (both concerning endangerment) and O (failure to comply with a court-ordered service plan) of Family Code section 161.001(b)(1). The trial court appointed the Department to be Wesley's managing conservator. Mother and Father timely appealed.

ANALYSIS

I. Burden of proof and standards of review

Involuntary termination of parental rights is a serious matter implicating fundamental constitutional rights. *See In re G.M.*, 596 S.W.2d 846, 846 (Tex. 1980); *In re S.R.*, 452 S.W.3d 351, 357 (Tex. App.—Houston [14th Dist.] 2014, pet. denied). Although parental rights are of constitutional magnitude, they are not absolute. The child's emotional and physical interests must not be sacrificed merely to preserve the parent's rights. *In re C.H.*, 89 S.W.3d 17, 26 (Tex. 2002).

Due to the severity and permanency of the termination of parental rights, the burden of proof is heightened to clear and convincing evidence. *See* Tex. Fam. Code Ann. § 161.001; *In re J.F.C.*, 96 S.W.3d 256, 265–66 (Tex. 2002). "'Clear and convincing evidence' means the measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established." Tex. Fam. Code Ann. § 101.007 (West 2014); *accord J.F.C.*, 96 S.W.3d at 264. This heightened burden of proof results in a heightened standard of review. *S.R.*, 452 S.W.3d at 358.

Parental rights can be terminated upon clear and convincing evidence that (1) the parent has committed an act described in section 161.001(b)(1) of the Family Code, and (2) termination is in the best interest of the child. Tex. Fam. Code Ann. § 161.001(b). Only one predicate finding under section 161.001(b)(1) is necessary to support a decree of termination when there is also a finding that termination is in the child's best interest. *In re A.V.*, 113 S.W.3d 355, 362 (Tex. 2003).

In reviewing the legal sufficiency of the evidence in a termination case, we must consider all the evidence in the light most favorable to the finding to determine whether a reasonable fact finder could have formed a firm belief or conviction that its finding was true. *See In re J.O.A.*, 283 S.W.3d 336, 344 (Tex. 2009); *J.F.C.*, 96 S.W.3d at 266; *C.H.*, 89 S.W.3d at 25. We assume the fact finder resolved disputed facts in favor of its finding if a reasonable fact finder could do so, and we disregard all evidence a reasonable fact finder could disbelieve. *J.O.A.*, 283 S.W.3d at 344; *J.F.C.*, 96 S.W.3d at 266.

In reviewing the factual sufficiency of the evidence, we consider and weigh all the evidence, including disputed or conflicting evidence. *See J.O.A.*, 283 S.W.3d at 345. "If, in light of the entire record, the disputed evidence that a reasonable fact finder could not have credited in favor of the finding is so significant that a fact

finder could not reasonably have formed a firm belief or conviction, then the evidence is factually insufficient." *J.F.C.*, 96 S.W.3d at 266. We give due deference to the fact finder's findings, and we cannot substitute our own judgment for that of the fact finder. *In re H.R.M.*, 209 S.W.3d 105, 108 (Tex. 2006) (per curiam). The fact finder is the sole arbiter when assessing the credibility and demeanor of witnesses. *Id.* at 109. We are not to "second-guess the trial court's resolution of a factual dispute by relying on evidence that is either disputed, or that the court could easily have rejected as not credible." *In re L.M.I.*, 119 S.W.3d 707, 712 (Tex. 2003).

II. Admission and consideration of evidence

In their first issue, appellants complain about the trial court's admission and consideration of the December drug test for which Mother was positive for cocaine. They contend the trial court abused its discretion and violated their right to due process in terminating their parental rights based on disputed evidence. Similarly, in their third issue, appellants assert the trial court should not have relied on evidence of their criminal histories, because "a parent should not be judged on past transgressions" and to do so would "suggest that the State can pre-determine who may be allowed to have and keep children based on their criminal history prior to conception."

A. Admission

To preserve a complaint for appellate review, an appellant must show (1) he made the complaint to the trial court by a timely request, objection, or motion, and (2) the trial court ruled on the request or refused to rule on the request and appellant objected to the refusal. *See* Tex. R. App. P. 33.1(a); *In re A.L.H.*, 515 S.W.3d 60, 82 (Tex. App.—Houston [14th Dist.] 2017, pet. denied).

Appellants did not object to the admission of the drug test results or their previous convictions. To the contrary, their lawyer affirmatively said he had no

objection to the admission of any of the Department's documentary evidence. Accordingly, appellants have not preserved error regarding admission of the drug test results or evidence of criminal history. *A.L.H.*, 515 S.W.3d at 82.

B. Consideration

Appellants' complaint that the trial court should not have considered the drug test results or their criminal histories amounts to a challenge to the factual sufficiency of the evidence to support the findings on which the trial court based termination. We will address all of appellants' challenges to the sufficiency of the evidence in the next part of this opinion.

We overrule appellants' first and third issues.

III. Grounds for termination

A. Statutory predicate: Endangerment

Appellants do not explicitly challenge the trial court's findings regarding the statutory predicate bases for termination (subsections D, E, and O of section 161.001(b)(1) of the Family Code). As stated above, however, we construe their complaints about the trial court's consideration of the December 2016 positive drug test result and their criminal histories as challenges to the factual sufficiency of the evidence to support those findings.

1. Law on endangerment

Subsection E requires clear and convincing evidence that the parent "engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangers the physical or emotional well-being of the child." Tex. Fam. Code Ann. § 161.001(b)(1)(E). "To endanger" means to expose a child to loss or injury or to jeopardize a child's emotional or physical health. *See In re M.C.*, 917 S.W.2d 268,

269 (Tex. 1996); *S.R.*, 452 S.W.3d at 360. "Conduct" includes acts and failures to act. *See In re J.T.G.*, 121 S.W.3d 117, 125 (Tex. App.—Fort Worth 2003, no pet.).

A finding of endangerment under subsection E requires evidence the endangerment was the result of the parent's conduct, including acts, omissions, or failures to act. *Id.* Termination under subsection E must be based on more than a single act or omission; the statute requires a voluntary, deliberate, and conscious course of conduct by the parent. *Id.* A court properly may consider actions and inactions occurring both before and after a child's birth to establish a "course of conduct." *In re S.M.*, 389 S.W.3d 483, 491–92 (Tex. App.—El Paso 2012, no pet.). While endangerment often involves physical endangerment, the statute does not require that conduct be directed at a child or that the child actually suffer injury. Rather, the specific danger to the child's well-being may be inferred from the parent's misconduct alone. *Tex. Dep't of Human Servs. v. Boyd*, 727 S.W.2d 531, 533 (Tex. 1987); *In re R.W.*, 129 S.W.3d 732, 738–39 (Tex. App.—Fort Worth 2004, pet. denied). A parent's conduct that subjects a child to a life of uncertainty and instability endangers the child's physical and emotional well-being. *In re A.B.*, 412 S.W.3d 588, 599 (Tex. App.—Fort Worth 2013), *aff'd*, 437 S.W.3d 498 (Tex. 2014).

The parent's conduct both before and after the Department removed the child from the home is relevant to a finding under subsection E. *See Avery v. State*, 963 S.W.2d 550, 553 (Tex. App.—Houston [1st Dist.] 1997, no writ) (considering persistence of endangering conduct up to time of trial); *In re A.R.M.*, No. 14-13-01039-CV, 2014 WL 1390285, at *7 (Tex. App.—Houston [14th Dist.] Apr. 8, 2014, no pet.) (mem. op.) (considering criminal behavior and imprisonment through trial).

2. Application

Substance abuse. A parent's continuing substance abuse can qualify as a voluntary, deliberate, and conscious course of conduct endangering the child's well-

being. *See J.O.A.*, 283 S.W.3d at 345; *In re L.G.R.*, 498 S.W.3d 195, 204 (Tex. App.—Houston [14th Dist.] 2016, pet. denied); *S.R.*, 452 S.W.3d at 361–62. By using drugs, the parent exposes the child to the possibility that the parent may be impaired or imprisoned and, therefore, unable to take care of the child. *See Walker v. Tex. Dep't of Family & Protective Servs.*, 312 S.W.3d 608, 617–18 (Tex. App.—Houston [1st Dist.] 2009, pet. denied). Continued illegal drug use after a child's removal is conduct that jeopardizes parental rights and may be considered as establishing an endangering course of conduct. *Cervantes-Peterson v. Tex. Dep't of Family & Protective Servs.*, 221 S.W.3d 244, 253–54 (Tex. App.—Houston [1st Dist.] 2006, no pet.) (en banc).

Mother may have used drugs while she was pregnant with Wesley. Documentary evidence showed Wesley suffered severe and unexpected negative effects from anesthesia administered during a surgical procedure to place tubes in his ears and remove his adenoids. His reaction was thought to be a result of having been exposed to drugs in utero.

Mother admitted she took part in the multi-day drug binge that began this case. A drug test two days after the binge ended revealed she was positive for amphetamine and methamphetamine. At the time of trial, she had been attending AA/NA meetings for two to four months. She was on step three of twelve. Her sponsor testified she had made "very good progress" but still had "an extremely long way to go."

Finally, Mother was positive for cocaine in December 2016, about six weeks before trial. Bruce Jefferies, a twenty-five year veteran in the drug-testing field, testified that Mother's result of 377 pg/mg of cocaine meant Mother used cocaine. Mother simply denied using it. The trial court was free to disbelieve Mother's self-serving testimony. *S.R.*, 452 S.W.3d at 365. The fact finder is the sole arbiter when

assessing the credibility and demeanor of witnesses. *H.R.M.*, 209 S.W.3d at 109. We must defer to the trial court's finding, and we may not substitute our own judgment for that of the trial court. *Id.* at 108.

Criminal history. Evidence of criminal conduct, convictions, or imprisonment is relevant to a review of whether a parent engaged in a course of conduct that endangered the well-being of the child. *S.R.*, 452 S.W.3d at 360–61; *A.S. v. Tex. Dep't of Family & Protective Servs.*, 394 S.W.3d 703, 712–13 (Tex. App.—El Paso 2012, no pet.). Imprisonment alone does not constitute an endangering course of conduct but is a fact properly considered on the endangerment issue. *Boyd*, 727 S.W.2d at 533–34. Routinely subjecting a child to the probability that he will be left alone because his parent is in jail endangers the child's physical and emotional well-being. *S.M.*, 389 S.W.3d at 492.

A parent's criminal history before a child is born is widely held to be relevant in parental termination cases, regarding allegations both that the parent has endangered the child and that termination is in the child's best interest. *E.g.*, *C.H.*, 89 S.W.3d at 27–28 (considering evidence of parent's convictions before child was born); *A.L.H.*, 515 S.W.3d at 91 (same); *In re A.J.M.*, 375 S.W.3d 599, 607 (Tex. App.—Fort Worth 2012, pet. denied) (same). Despite appellants' contention that considering such history violates public policy, the trial court could properly consider appellants' criminal activities before Wesley was born.

Mother was convicted at least twice before Wesley was born. In June 2014, she pleaded guilty to theft of property valued between $50 and $500, and she was adjudicated guilty of failure to identify herself to a peace officer. She was sentenced to twenty days' confinement in county jail for each offense.

Father's criminal history before Wesley was born was more extensive than Mother's. He pleaded guilty in August 2005 to possession of less than two ounces

of marijuana and was sentenced to serve ten days in jail. In August 2007, he was charged with robbery and pleaded guilty under a plea-bargain agreement to the lesser offense of theft. He was sentenced to confinement for sixty days in county jail. Father pleaded guilty again in June 2008 to possession of a controlled substance, this time alprazolam (Xanax), and was sentenced to serve ten days in jail. In October 2012, Father was convicted of driving while intoxicated. The record does not reflect his sentence for that offense.

Father also engaged in criminal activity after Wesley was born. Less than a month after Wesley was removed, Father was arrested and charged with driving while intoxicated as a second offender. He pleaded guilty to that charge in June 2016 and was sentenced to one year's confinement in county jail. The criminal court suspended his sentence and placed him on community supervision for two years. If Father violates the terms of his community supervision before his term expires in June 2018, he may be jailed, and therefore away from Wesley, for a year.

3. Conclusion on endangerment

Evidence is factually insufficient if "in light of the entire record, the disputed evidence that a reasonable fact finder could not have credited in favor of the finding is so significant that a fact finder could not reasonably have formed a firm belief or conviction . . . ." *J.F.C.*, 96 S.W.3d at 266. We conclude factually sufficient evidence supports the trial court's finding of endangerment under subsection E. Accordingly, we do not review the findings under subsections D or O. *A.V.*, 113 S.W.3d at 362.

B. Best interest

In their second issue, appellants contend the trial court abused its discretion by finding that termination of their parental rights was in Wesley's best interest. Again, we construe that challenge as one to the sufficiency of the evidence supporting that finding.

1. Legal standards

Termination must be in the child's best interest. Tex. Fam. Code Ann. § 161.001(b)(2). Prompt, permanent placement of the child in a safe environment is presumed to be in the child's best interest. *Id.* § 263.307(a). There is a strong presumption that the best interest of a child is served by keeping the child with the child's parent. *In re R.R.*, 209 S.W.3d 112, 116 (Tex. 2006) (per curiam).

Courts may consider the following non-exclusive factors in reviewing the sufficiency of the evidence to support the best-interest finding: the desires of the child; the physical and emotional needs of the child now and in the future; the emotional and physical danger to the child now and in the future; the parental abilities of the persons seeking custody; the programs available to assist those persons seeking custody in promoting the best interest of the child; the plans for the child by the individuals or agency seeking custody; the stability of the home or proposed placement; acts or omissions of the parent that may indicate the existing parent-child relationship is not appropriate; and any excuse for the parent's acts or omissions. *Holley v. Adams*, 544 S.W.2d 367, 371–72 (Tex. 1976). As noted, this list of factors is not exhaustive, and evidence is not required on all the factors to support a finding that termination is in the child's best interest. *In re D.R.A.*, 374 S.W.3d 528, 533 (Tex. App.—Houston [14th Dist.] 2012, no pet.); *see also* Tex. Fam. Code Ann. § 263.307(b) (setting out factors to be considered in evaluating a parent's willingness and ability to provide the child with a safe environment).

C. Application

1. Wesley

Wesley was underweight, speech-delayed, and behind on his immunizations when he came into care. He also had bronchitis, an eye infection, and an ear infection. All of those problems had been resolved at the time of trial. He was

reported to be very verbal and developmentally on track.

When a child is too young to express his desires, the fact finder may consider that the child has bonded with the foster family, is well cared for by them, and has spent minimal time with a parent. *L.G.R.*, 498 S.W.3d at 205; *In re J.D.*, 436 S.W.3d 105, 118 (Tex. App.—Houston [14th Dist.] 2014, no pet.). The undisputed evidence shows Wesley was healthy, happy, thriving, and very bonded with his foster parents. The foster parents were able to provide for Wesley and planned to adopt him if given the opportunity.

2. Mother and Father

Mother and Father endangered Wesley by using drugs both before and after he was born. Further, Father faces up to a year in jail and away from Wesley if he violates the terms of his community supervision for his conviction for driving while intoxicated as a second offender. That endangerment is relevant to Wesley's best interest. *See S.R.*, 452 S.W.3d at 366.

Appellants point to the progress they made toward sobriety and their intent to continue with substance abuse treatment as evidence that undermines the trial court's best-interest finding. The trial court was free to discredit their self-serving testimony. *See H.R.M.*, 209 S.W.3d at 109 (fact finder is sole arbiter when assessing credibility and demeanor of witnesses). Moreover, abuse of drugs is "hard to escape," and the fact finder is "not required to ignore a long history of dependency . . . merely because it abates as trial approaches." *In re M.G.D.*, 108 S.W.3d 508, 513–14 (Tex. App.—Houston [14th Dist.] 2003, pet. denied). The trial court may reasonably determine that a parent's changes before trial are too late to impact the best-interest decision. *See In re Z.C.*, 280 S.W.3d 470, 476 (Tex. App.—Fort Worth 2009, pet. denied).

Although a reasonable fact finder could look at Mother's and Father's progress and decide it justified the risk of keeping them as parents, we cannot say

the trial court acted unreasonably in finding Wesley's best interest lay elsewhere. *M.G.D.*, 108 S.W.3d at 514. It is not our role to reweigh the evidence on appeal, and we may not substitute our judgment of Wesley's best interest for the considered judgment of the fact finder. *See id.* at 531 (Frost, J., concurring in judgment).

3. Conclusion on best interest

Considering all the evidence in the light most favorable to the best-interest finding, we conclude the trial court reasonably could have formed a firm belief or conviction that termination of Mother's and Father's parental rights was in Wesley's best interest. *See J.O.A.*, 283 S.W.3d at 344; *J.F.C.*, 96 S.W.3d at 266; *C.H.*, 89 S.W.3d at 25. Further, in light of the entire record, we conclude the disputed evidence the trial court could not reasonably have credited in favor of its best-interest finding is not so significant that the court could not reasonably have formed a firm belief or conviction that termination of both parents' rights was in Wesley's best interest. Accordingly, the evidence is legally and factually sufficient to support the trial court's finding that termination of Mother's and Father's parental rights is in Wesley's best interest.

We overrule appellants' second issue.

CONCLUSION

We affirm the trial court's judgment.

/s/ Ken Wise
Justice

Panel consists of Justices Christopher, Brown, and Wise.