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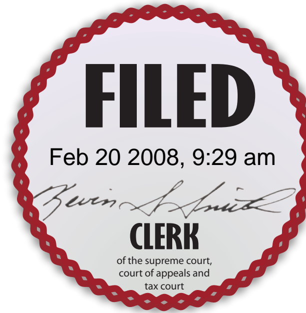


ATTORNEY FOR APPELLANT:

**DEIDRE L. MONROE**
Public Defender's Office
Gary, Indiana

ATTORNEYS FOR APPELLEES:

Attorney for Lake County Dept. of Family & Children:
**YOLANDA HOLDEN**
Robert L. Lewis & Assoc.
Gary, Indiana

Attorney for CASA:
**DONALD WRUCK, III**
Dyer, Indiana

# IN THE COURT OF APPEALS OF INDIANA

IN RE THE MATTER OF: L.R.,

DOROTHY ROBINSON,

Appellant-Respondent,

vs.

LAKE COUNTY OFFICE OF FAMILY AND CHILDREN,

Appellee-Petitioner,

LAKE COUNTY COURT APPOINTED SPECIAL ADVOCATE (CASA),

Appellee.

No. 45A03-0709-JV-438

APPEAL FROM THE LAKE SUPERIOR COURT
The Honorable Mary Beth Bonaventura, Judge
Cause No. 45D06-0512-JT-160

**February 20, 2008**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**MAY, Judge**

Dorothy Robinson ("Mother") appeals the termination of the parent-child relationship with her daughter L.R. We affirm.

## FACTS AND PROCEDURAL HISTORY

Three of Mother's children were removed from her care in 1998. When L.R. was born on January 3, 1999, she was placed with her paternal grandmother. Three years later, L.R. was placed with Mother for the first time.

In February 2003, the Lake County Department of Child Services ("DCS") received a report that Mother was leaving her children unattended. Shortly thereafter, DCS received a report that the children were living in deplorable conditions. A search of the residence revealed holes in the windows, mattresses on the floor, and no food in the house. Mother was about to be evicted. L.R. was removed from the home on March 4, 2003, and Mother was ordered to 1) attend individual counseling; 2) attend family counseling; 3) obtain a psychological evaluation; 4) attend parenting class; 5) obtain stable housing; and 6) attend supervised visitation with L.R.

Mother failed to complete the services after almost three years, and in December 2005 DCS petitioned to terminate the parent-child relationship. Testimony at a 2007 termination hearing revealed Mother had moved four times during the prior two years. She had not regularly attended therapy sessions and had not kept in contact with L.R.'s caseworker.

Mother had not had contact with L.R. for two years; their supervised visitation was discontinued in 2005 because of Mother's combative and aggressive behavior at the visitation site. Mother testified she had been working as a bus driver for less than a week. This was apparently her first job. She also testified she was diagnosed with a psychiatric disability in 1991, but she did not know the specific disability.

The trial court issued an order terminating the parent-child relationship.

## DISCUSSION AND DECISION

The purpose of terminating parental rights is not to punish parents but to protect their children. *In re Termination of the Parent-Child Relationship of D.D.*, 804 N.E.2d 258, 264 (Ind. Ct. App. 2004), *trans. denied.* Parental rights are of a constitutional dimension, but the law allows for the termination of those rights when parties are unable or unwilling to meet their responsibility as parents. *Id.*

This court will not set aside a judgment terminating a parent-child relationship unless it is clearly erroneous. *In re R.S.*, 774 N.E.2d 927, 929-30 (Ind. Ct. App. 2002), *trans. denied.* When reviewing the sufficiency of the evidence to support an involuntary termination of a parent-child relationship, we do not reweigh the evidence or judge the credibility of the witnesses. *Id.* at 930. We consider only the evidence that supports the judgment and the reasonable inferences to be drawn therefrom. *Id.*

Ind. Code § 31-35-2-4(b) sets out the following relevant elements a department of child services must allege and prove by clear and convincing evidence in order to terminate a parent-child relationship:

> (i) the child has been removed from the parent for at least six (6)

months under a dispositional decree;

*     *     *     *     *

(B) there is a reasonable probability that:

(i) the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied; or
(ii) the continuation of the parent-child relationship poses a threat to the well-being of the child;

(C) termination is in the best interests of the child; and
(D) there is a satisfactory plan for the care and treatment of the child.

The trial court must subordinate the interests of the parents to those of the child when evaluating the circumstances surrounding the termination. *R.S.*, 774 N.E.2d at 930. Termination of the parent-child relationship is proper where the child's emotional and physical development is threatened. *Id.* The trial court need not wait until the child is irreversibly harmed before terminating the parent-child relationship. *Id.*

Mother contends the evidence is insufficient because DCS did not prove a reasonable probability the conditions that resulted in her daughter's removal will not be remedied. To determine whether the conditions are likely to be remedied, the trial court must judge a parent's fitness to care for the child at the time of the termination hearing and take into consideration any evidence of changed conditions. *D.D.*, 804 N.E.2d at 266. The court must also evaluate the parent's habitual patterns of conduct to determine the probability of future neglect or deprivation of the child. *Id.*

After three years, Mother had failed to complete the court-ordered services. She did not regularly attend therapy sessions. She did not stay in contact with L.R.'s caseworker.

She did not have contact with L.R. for two years after their supervised visitation was discontinued in 2005 because of Mother's combative and aggressive behavior at the visitation site. During the eight years of L.R.'s life, she had spent only a few months in Mother's care.

At the time of the hearing, Mother did not have stable employment or housing. She had been driving a bus for less than a week, and this appears to be the first job she had ever had. During the two years the termination petition was pending, Mother moved four times. She was diagnosed with a mental disability in 1991, but did not know the name of the disability. This evidence supports the trial court's finding that there is a reasonable probability the conditions that resulted in L.R.'s removal will not be remedied.[1]

Mother also contends there is insufficient evidence termination of the parent-child relationship is in L.R.'s best interests. A parent's historical inability to provide adequate housing, stability, and supervision coupled with a current inability to provide the same will support a finding that the continuation of the parent-child relationship is contrary to the child's best interests. *A.N.J.*, 690 N.E.2d at 722. Mother has historically been unable to provide adequate housing, stability, and supervision, and testimony at the hearing reveals that she is currently unable to do the same.

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[1] Mother argues DCS did not prove the continuation of the parent-child relationship poses a threat to the well being of her daughter. Where the trial court finds a reasonable probability the conditions that resulted in the removal of the child will not be remedied, and there is sufficient evidence to support this finding, DCS is not obliged to prove nor is the trial court obliged to find the continuation of the parent-child relationship poses a threat to the child. *Matter of A.N.J.*, 690 N.E.2d 716, 721 n.2 (Ind. Ct. App. 1997). As we affirm the trial court's finding there is a reasonable probability the conditions that resulted in the removal of the child will not be remedied, we need not address Mother's contention the DCS failed to prove a reasonable probability the continuation of the parent-child relationship poses a threat to her daughter.

We reverse a termination of parental rights "only upon a showing of 'clear error' – that which leaves us with a definite and firm conviction that a mistake has been made." *Egly v. Blackford County DPW*, 592 N.E.2d 1232, 1235 (Ind. 1992). We find no such error here, and therefore affirm the trial court.

Affirmed.

KIRSCH, J., and RILEY, J., concur.