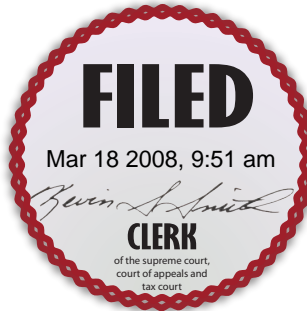


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE  
COURT OF APPEALS OF INDIANA**

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IN RE: THE TERMINATION OF THE PARENT )  
-CHILD RELATIONSHIP OF M.H., and )  
DEBORAH SCHMIDT, MOTHER, and )  
BENJAMIN HICKS, father, )  
 )  
Appellants, )  
 )  
vs. )  
 )  
ALLEN COUNTY DEPARTMENT OF )  
CHILD SERVICES, )  
 )  
Appellee. )

No. 02A03-0710-JV-489

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APPEAL FROM THE ALLEN SUPERIOR COURT  
The Honorable Charles F. Pratt, Judge  
Cause No. 02D07-0610-JT-200

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**March 18, 2008**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**FRIEDLANDER, Judge**

Benjamin Hicks (Father) and Deborah Schmidt (Mother) appeal the trial court's termination of the parent-child relationship with their son, M.H., upon the petition of the Allen County Department of Child Services (the DCS). They present the following issue for review: Did the trial court err in terminating the parent-child relationship?

We affirm.

M.H. was born on May 27, 2000. His parents separated two years later. In October 2005, Mother was incarcerated. She asked her sister to take care of five-year-old M.H. for ninety days. Mother's sister took M.H. to the DCS, which placed him in foster care. M.H. was adjudicated to be a Child in Need of Services in January 2006. The court ordered Mother and Father to comply with the following requirements in a parental participation plan: 1) Refrain from all criminal activity; 2) maintain appropriate and independent housing at all times; 3) provide M.H. with clean, appropriate clothing at all times; 4) obtain employment; 5) submit to random urine drug screens; 6) refrain from the use of alcohol and drugs; 7) obtain a psychological assessment; 8) enroll in parenting classes; 9) attend all visits with M.H.; and 10) pay support as directed.

When neither parent complied with any of the court-ordered terms of the parental participation plan, the DCS filed a petition to terminate their parental relationship with M.H. At the time of the hearing, Mother was incarcerated and had not seen M.H. in seven months. She was not employed, had not completed the psychological assessment, and had failed urine drug screens. Father was also incarcerated and had not completed the psychological assessment, enrolled in parenting classes, or paid child support. In addition, he had provided positive urine drug screens and had not seen M.H. for over a year. Following the hearing, the

trial court entered an order terminating the parental rights of both Mother and Father. They both appeal.

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 (Ind. Ct. App. 2004), *trans. denied*. Although parental rights are of a constitutional dimension, 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 the trial court's judgment terminating a parent-child relationship unless the judgment is clearly erroneous. *In re R.S.*, 774 N.E.2d 927 (Ind. Ct. App. 2002), *trans. denied*. When reviewing the sufficiency of the evidence to support a judgment of involuntary termination of a parent-child relationship, this court neither reweighs the evidence nor judges the credibility of the witnesses. *Id.* We consider only the evidence that supports the judgment and the reasonable inferences to be drawn therefrom. *Id.*

Indiana Code Section 31-35-2-4(b) sets out the following relevant elements that a department of family and 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 months under a dispositional decree:

\* \* \* \* \*

(A) 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;

- (B) termination is in the best interests of the child; and
- (C) 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. *In re R.S.*, 774 N.E.2d 927. 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 and Father contend that there is insufficient evidence to support the termination of the parent-child relationship. Specifically, their sole contention is that there is insufficient evidence that termination of the parent-child relationship is in the best interests of M.H. 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. *Matter of A.N.J.*, 690 N.E.2d 716 (Ind. Ct. App. 1997). Both Mother and Father historically have been unable to provide adequate housing, stability, and supervision. Evidence adduced at the termination hearing indicates they currently are unable to do so. Their argument therefore fails. *See also In re A.A.C.*, 682 N.E.2d 542 (Ind. Ct. App. 1997) (hold that termination was in the child's best interests where there was overwhelming evidence of father's: (1) criminal activities; (2) drug and alcohol use; (3) inability to maintain stable housing; (4) inability to maintain steady employment; and (5) refusal to provide support for his son).

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.” *Egley v. Blackford County DPW*, 592 N.E.2d 1232 (Ind. 1992). We find no such error here, and therefore affirm the trial court.

Affirmed.

ROBB, J., and MATHIAS, J., concur.