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**IN THE
COURT OF APPEALS OF INDIANA**

PAMELA FIELDS a/k/a PAMELA FOX,)

Appellant-Respondent,)

vs.)

No. 03A01-0605-JV-179

BARTHOLOMEW COUNTY DEPARTMENT)
OF CHILD SERVICES,)

Appellee-Petitioner.)

APPEAL FROM THE BARTHOLOMEW CIRCUIT AND JUVENILE COURT
The Honorable Stephen R. Heimann, Judge
Cause No. 03C01-0504-JT-837

October 31, 2006

MEMORANDUM DECISION - NOT FOR PUBLICATION

FRIEDLANDER, Judge

Pamela Fields¹ appeals the trial court’s order terminating her parental rights to N.O.,² and raises the following restated issue: Was there sufficient evidence to prove that the conditions that resulted in the termination of her parental rights would not be remedied?

We affirm.

The facts favorable to the judgment are that N.O. was born on August 18, 1993 to Fields.³ On February 6, 2004, Deputy Jimmy Green of the Bartholomew County Sheriff’s Department (the Sheriff’s Department) contacted the Bartholomew County Department of Child Services (the BCDCS) and reported that Fields contacted the Sheriff’s Department “because she was fighting with Jerry Fields, her husband.^[4] [Fields] wanted to leave the home and Jerry wouldn’t let her.” *Transcript* at 123 (footnote supplied). When the Sheriff’s Department arrived, “the front door had been busted out. There was glass . . . outside and inside the house. The home was a mess. There were clothes and trash everywhere. . . . [Fields] and Jerry were continuing to fight.” *Id.* Prior to going to Fields’s home, the BCDCS received six complaints between January 9, 2004 and February 6, 2004 from professionals concerned about the condition of and activities in Fields’s home.

¹ Fields is referred to in the record as Pamela Fields, Pamela Fox, and Pamela Oakes. We refer to her as Fields throughout this opinion.

² Fields’s parental rights to her two sons, J.F. and J.F., were also terminated. She does not challenge those determinations.

³ N.O.’s biological father is deceased.

⁴ Fields and Jerry are now separated. It is unclear whether they are divorced.

The broken glass inside of Fields's home remained on the floor from February 3 to at least February 6. This was particularly disconcerting because both of Fields's sons were blind and could not see the glass to avoid it. Further, "[t]here was a blanket hanging [over the door] because it was cold out [and] there was snow on the ground . . . , but cold air still got in." *Id.* at 125. Fields was using prescription drugs and Jerry was an alcoholic. "[N.O.] wasn't going to school, [and] hadn't been to school since . . . Christmas break and this was February. Allegedly, she hadn't been to school because of head lice." *Id.* at 124.

Thereafter, N.O. was placed in a foster home. On March 9, 2004, the BCDCS filed a petition alleging N.O. to be a Child in Need of Services (CHINS), to which Fields admitted on July 14, 2004. Deanna Gamroth, a family case manager with BCDCS, held a case conference which Fields attended. During the conference, Fields admitted using prescription medication and stated the medication rendered her temporarily delusional and unable to function. Fields also completed a psychiatric evaluation that indicated she suffered from anxiety and depression. On August 16, 2004, "Peggy Jo Bowman from Fresh Start called to tell [Gamroth] that [N.O.] had been making . . . disclosure[s], some very explicit disclosures regarding multiple instances of sexual contact between herself and other children, both in and outside of the family and that this occurred a lot of the time when [Fields] was usually high. It was a pretty extensive level of sexual contact between the children in the family and other children she came into contact with." *Id.* at 55. N.O. also disclosed that Jerry molested her. Fields finally accepted N.O.'s allegations of sexual abuse as true three months after Gamroth informed her of them.

“A[t] that time, [Fields] stated that she dropped the ball on the condition of the house, and she made a statement that we, meaning the [BCDCS], didn’t know the half of what went on in [Fields’s] home at the time.” *Id.* at 49-50.

In June 2004, Fields lived with her parents. In early August 2004, Fields told Pat Corbin that Fields’s “mother had a personality disorder and there were substance abuse issues in her parents[’] home and that, at that point, [Fields] had stopped keeping her appointments with [Corbin].” *Id.* at 54. Fields consistently complained about her parents’ drug and alcohol use and cited such as a major obstacle to her own inability to stop using drugs and alcohol. Despite her persistent complaints and her parents’ continued use, “[Fields] continued to return to her parent[s’] home, although she knew that her parents were drug abusers and wanted to keep her involved in their drug use” *Id.* at 57.

Sobriety was Fields’s primary concern. Corbin met with Fields approximately fifteen times between June 2, 2004 and early-August 2004. Corbin “had high hopes for a while there[, but] realized afterwards that sobriety was still a major issue and obviously you can’t get ahead in therapy without sobriety.” *Id.* at 28. In June 2004, Fields “disclosed to George Willette that she had been drinking” *Id.* at 51. In late July or early August 2004, Fields tested positive for Benzodiazepines, for which Fields did not produce a prescription. In early August 2004, Fields was admitted to Harbor Light, a residential substance abuse treatment program, where she stayed until November 2004.

Upon discharge from Harbor Light, Gamroth suggested to Fields that she stay at a shelter in downtown Columbus, Indiana. Fields frequently complained of the difficulty

she had with transportation due to the unreliability of her car. Fields frequently missed N.O.'s therapy sessions and meetings with case workers because of an alleged difficulty obtaining transportation. Gamroth informed Fields the shelter would allow her convenient access to visit with her children, attend her children's therapy sessions, and meet with Gamroth. Fields refused to live in downtown Columbus and chose instead to live in Indianapolis.

By early or mid-January 2005, Fields completed an addiction program, rented an apartment, and was making regular contact with caseworkers.

Less than a month later, February 3, 2005, one of [BCDCS's] intake caseworkers received a complaint, an anonymous complaint that [Fields] was smoking a hundred dollars [] worth of crack cocaine a day, she was lying to the staff at Harbor Light, she was using somebody else's urine for drug tests and basically, just [] strung out. It's not uncommon for [BCDCS] to get anonymous complaints about clients who are doing these things.

Id. at 62.

One week later, Fields went to Fresh Start and met with Willette, Bowman, and Arian Custer.

When [Fields] came in, [Willette, Bowman, Custer, and Gamroth] knew something was wrong. [Fields's] appearance had changed dramatically. She'd lost weight. She was disheveled. Throughout the meeting, she was really tearful, real emotional. She was kind of agitated. . . . She kind of rambled throughout th[e] [meeting]. . . . At that point, [Fields] said she couldn't remember when the last time was she'd had a drug test but she hadn't had one since she left Harbor Light in November of 2004. . . . Finally, [Gamroth] . . . confronted [Fields] with the allegations that [they] had received about her using. [Gamroth] told her [they] were going to need her to submit to a drug test before she could visit with [N.O.] . . . [Fields] finally admitted that she couldn't give [Gamroth] a clean test, that she'd been using.

Id. at 63-64. Fields tested positive for cocaine and opiates.

N.O. indicated she knew when Fields was using drugs and alcohol and reacted negatively to Fields's use. N.O. frequently would have severe outbursts of anger and threatened several people with physical violence. N.O. underwent extensive therapy in an effort to deal with her anger and frequent fits of rage. Caseworkers encouraged Fields to participate in N.O.'s therapy. Fields would attend N.O.'s therapy sessions "for periods of time . . . very regular[ly, but] [t]hen [there were] periods of time when" she would not attend. *Id.* at 10.

N.O. reacted adversely to her mother not appearing at therapy sessions.

[O]nce it had been a period of time and [N.O.] realized that [Fields] hadn't been here, she would have some anger. [N.O.] would get defiant and not want to follow the rules. When [they] would finally get her to sit down and talk, [N.O.] would usually let [them] know that she was mad about what was going on with [Fields] and [was] really afraid that [Fields] wasn't going to do what she needed to do.

* * *

When [N.O.] first came to the program, [Fields] ended up going into a residential treatment program herself, so . . . [they] had weekly visits through that whole [time]. . . . And, that was regular. . . . Once [Fields] was discharged from her residential treatment program, [there were] regular visitations. [There were] three [] or four [], that's it. Then, we didn't see [Fields] for a while.

Id. at 10-11. Fields attended only thirty to forty percent of N.O.'s therapy sessions.

In mid-February 2005, Bowman recommended to Fields that she seek treatment at Amethyst House, an abuse treatment program, and offered to assist Fields in completing the necessary application materials, but Fields resisted. Fields later reported to Bowman that she completed her application for entrance into Amethyst House. On April 11, 2005,

Bowman contacted personnel at Amethyst House who informed Bowman that, contrary to Fields's assertions, Fields never completed the necessary application and had not contacted Amethyst House since February 23. During this time, Fields reported contemplating suicide. By late-April, early-May 2005, Fields once again began living with her parents.

On May 24, 2005, Amethyst House received Fields's completed application and other necessary information and interviewed her. Amethyst House did not admit Fields, but recommended her to the Phoenix Program, a ninety-day program capable of treating Fields's drug abuse problems and mental and emotional disorders. The Phoenix Program was free to Fields. After signing the necessary paperwork to allow Amethyst House to release information to the Phoenix Program, Fields was arrested on June 12, 2005 for operating a vehicle while intoxicated. Fields had a blood alcohol level of .172.

In the meantime, on April 28, 2005, the BCDCS filed a petition to terminate the parent-child relationship of Fields and N.O., J.F., and J.F. On June 21, 2005, the trial court ordered Fields to enter the Phoenix Program, but Fields refused because she wanted to choose her own treatment. By mid-August 2005, Fields acknowledged she needed more help, and requested admittance into the Phoenix Program. A termination hearing was held on September 20, 2005, at which time Fields had not complied with the trial court's order to enter the Phoenix Program. On April 13, 2006, the trial court terminated Fields's parent-child relationship with N.O. Fields now appeals.

Fields contends there is insufficient evidence that the conditions that resulted in the termination of her parental rights would not be remedied. The Fourteenth

Amendment to the U.S. Constitution protects a parent's right to establish a home and raise her child. *Bester v. Lake County Office of Family & Children*, 839 N.E.2d 143 (Ind. 2005). A parent has a fundamental liberty interest in the care, custody, and control of her child, and the parent-child relationship is "one of the most valued relationships in our culture." *Id.* at 147. Parental interests, however, are not absolute, and are subordinated to the child's interests when determining the proper disposition of a petition to terminate parental rights. *Bester v. Lake County Office of Family & Children*, 839 N.E.2d 143. Parental rights, therefore, may be terminated when a parent is unable or unwilling to meet her parental responsibilities. *Id.*

We will not set aside a trial court's order terminating a parent-child relationship unless it is clearly erroneous. *Castro v. State Office of Family & Children*, 842 N.E.2d 367 (Ind. Ct. App. 2006), *trans. denied*. We neither reweigh the evidence nor judge the witnesses' credibility. *Id.* Rather, we consider only the evidence most favorable to the judgment and any reasonable inferences drawn therefrom. *Id.* Ind. Code Ann. § 31-35-2-4(b)(2)(B) (West, PREMISE through 2006 2nd Regular Sess.) requires that a petition to terminate a parent-child relationship involving a CHINS allege either that "there is a reasonable probability that . . . 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 that "the continuation of the parent-child relationship poses a threat to the well-being of the child[.]" The BCDCS bears the burden of proving these statutory criteria by clear and convincing evidence. *Bester v. Lake County Office of Family & Children*, 839 N.E.2d 143. We note that I.C. § 31-35-2-4(b)(2)(B) is written in the disjunctive. The trial court,

therefore, was required to find only one of the two requirements of subparagraph (B) by clear and convincing evidence. *In re L.V.N.*, 799 N.E.2d 63 (Ind. Ct. App. 2003). In this case, the trial court found that the continuation of the parent-child relationship posed a threat to N.O.'s well-being, and Fields does not challenge this finding. Standing alone, this finding satisfied the requirements of subparagraph (B).

Nevertheless, we observe that there is sufficient evidence in the record to support the trial court's determination that a reasonable probability existed that the conditions resulting in the removal of N.O. were unlikely to be remedied. In order to determine whether conditions are likely to be remedied, the trial court must examine Fields's fitness to care for N.O. as of the time of the termination hearing and take into account any evidence of changed conditions. *In re S.P.H.*, 806 N.E.2d 874 (Ind. Ct. App. 2004). The trial court must also evaluate Fields's patterns of conduct in order to determine whether there is a substantial probability of future neglect or deprivation. *Id.*

N.O. was removed from Fields's custody and placed into foster care primarily because of Fields's drug and alcohol abuse. After N.O.'s removal, Fields moved into her parents' home, whom she knew used drugs and would influence her to do the same. The BCDCS recommended and the trial court ordered Fields to attend and successfully complete drug and alcohol abuse programs. Fields completed one of these programs. She did not, however, comply with the trial court's order to attend the Phoenix Program. Upon completing Harbor Light, Fields returned to her parents' home.

Fields would go significant amounts of time without attending N.O.'s therapy sessions. After she completed Harbor Light, Fields refused to live in downtown

Columbus which would have alleviated her transportation problems and afforded increased contact with N.O., regularized and frequent attendance at N.O.'s therapy session, and increased meetings with her case workers. After the BCDCS received an anonymous call in February 2005, three months after completing a substance abuse treatment program, that Fields used cocaine daily, Fields admitted she could not provide a drug-free urine sample, and tested positive for cocaine and opiates. At the time of the termination hearing, Fields had not yet enrolled in the Phoenix Program.

Despite completing a drug treatment program, Fields returned to using a significant amount of drugs, tested positive for cocaine and opiates, moved back into her parents' home, and violated the trial court's order to enroll in another drug treatment program. Fields was also arrested for operating a vehicle while intoxicated and had a blood alcohol level of .172, more than two times the legal limit. Fields continued to use drugs after the BCDCS removed N.O. from her custody, and was informed that continued use could cause her to lose her parental rights. Although Fields completed some counseling sessions, she failed to take the necessary steps to defeat, or attempt to defeat, her drug and alcohol addiction. Fields also demonstrated an unwillingness to meet N.O.'s emotional and therapeutic needs by failing to regularly attend her sessions and by refusing to live in downtown Columbus. There was no evidence to show that Fields successfully treated her drug abuse or addressed her parenting problems. The trial court, therefore, did not err in determining the conditions that led to N.O.'s removal would not be remedied.

Judgment affirmed.

DARDEN, J., and NAJAM, J., concur.