ATTORNEY FOR APPELLANT:

DANIEL B. SCHUETZ
Eggers Woods
Franklin, Indiana

ATTORNEYS FOR APPELLEE:

DOUGLAS J. PURDY
DCS, Bartholomew County Office
Columbus, Indiana

ROBERT J. HENKE
DCS Central Administration
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

IN THE MATTER OF THE TERMINATION OF THE PARENT-CHILD RELATIONSHIP OF: S.S. AND D.S., Minor Children,	)	
Do.S., Mother,	)	
Appellant-Respondent,	)	
vs.	)	No. 03A05-1102-JT-101
INDIANA DEPARTMENT OF CHILD SEVICES,	)	
Appellee-Petitioner.	)	

APPEAL FROM THE BARTHOLOMEW CIRCUIT COURT
The Honorable Stephen R. Heimann, Judge
The Honorable Heather M. Mollo, Magistrate
Cause Nos. 03C01-1001-JT-322, 03C01-1001-JT-323

November 10, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

BROWN, Judge

Do.S. ("Mother") appeals the involuntary termination of her parental rights to her children, S.S. and D.S. Concluding that there is sufficient evidence to support the trial court's judgment, we affirm.

Facts and Procedural History

Mother is the biological mother of S.S., born in June 2002, and D.S., born in March 2004.[1] The evidence most favorable to the trial court's judgment reveals that S.S. and D.S. were removed from Mother's care in September 2008 after the local Bartholomew County office of the Indiana Department of Child Services ("BCDCS") substantiated a report of neglect by Mother, as well as physical abuse of S.S. by Mother's live-in boyfriend, Tyler. At the time, S.S. was observed to have bruising and long marks on her "bottom and legs." Transcript at 79. When interviewed at school, S.S. informed BCDCS case workers that Tyler had struck her with a belt but that she "was very scared to tell anybody" because "Mommy" told her "not to tell." Id. In a separate interview, D.S. likewise confirmed that Tyler had stuck S.S. with a belt. Additionally, at the time of the children's removal, Mother and Tyler had been involved with BCDCS since April 2008 via an Informal Adjustment[2] after BCDCS substantiated a report that burn marks

[1] At the time of the children's removal from Mother's care, the children's biological father, C.S. ("Father"), was incarcerated. Father did not participate in the underlying CHINS and termination proceedings, and his parental rights to both children were involuntarily terminated in the trial court's January 2011 judgment. Because Father does not participate in this appeal, we limit our recitation of the facts to those pertinent solely to Mother's appeal.

[2] A program of Informal Adjustment ("IA") is a negotiated agreement between a family and a local office of the Indiana Department of Child Services whereby the family agrees to participate in various services provided by the county in an effort to prevent the child/children from being formally deemed children in need of services. See Ind. Code 31-34-8 *et seq*. Because Mother and Tyler indicated

had been observed on D.S.'s "foot and bottom." Transcript at 6. During BCDCS's investigation of this previous incident, S.S. reported that "Daddy Tyler" had burned D.S. "with the thing that he uses to light cigarettes." Id. at 7.

Following the children's removal from the family home, BCDCS filed petitions alleging both S.S. and D.S. were children in need of services ("CHINS"). During a hearing on the matter, Mother admitted to the allegations contained in the CHINS petition and the court proceeded to disposition the same day. As part of its dispositional orders, the trial court directed Mother to participate in and successfully complete a variety of tasks and services designed to improve her parenting abilities and facilitate reunification of the family. Specifically, Mother was ordered to, among other things: (1) undergo a psychiatric assessment and follow any resulting recommendations; (2) participate in individual counseling as well as family counseling with the children as directed by the children's therapists; (3) complete parenting classes and home-based services; and (4) demonstrate appropriate parenting skills while engaging in regular supervised visits with the children.

In December 2008, the trial court determined that Tyler, who is a registered sex offender and was on adult probation at the time, would no longer be allowed to participate in supervised visits with the children until such time as he completed a sexual offender evaluation and engaged in therapy with a service provider who specializes in dual diagnosis for personality disorder, mood disorder, and alcohol abuse. Tyler failed to

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they were committed to continuing their relationship and raising the children together, BCDCS agreed to allow Tyler to receive services through the IA even though he was not the children's biological father or married to Mother.

comply with the court's orders, and his visitation privileges were never reinstated. Mother, on the other hand, continued to participate in and/or complete a majority of the court-ordered reunification services. Notwithstanding her participation in these services, however, Mother was unable to consistently incorporate the new parenting techniques she was being taught during visits with the children. In addition, psychologist Jill Christopher's assessment, which indicated that Mother's "poor self-awareness could impede her ability to learn and grow from her mistakes . . . impair her ability to maintain a stable parental environment[,]" and cause her to be "quite reluctant to acknowledge her shortcomings and resist assistance from others" was confirmed throughout the CHINS case as Mother repeatedly denied that the children had ever been the victims of abuse and/or that she had any parenting deficiencies that needed to be addressed. Exhibits, Pet. Ex. 2, p.4.

In February 2010, BCDCS filed petitions under separate cause numbers seeking the involuntary termination of Mother's parental rights to both children. A consolidated evidentiary hearing on the termination petitions was held in June 2010. During the termination hearing, BCDCS presented evidence that Mother's loyalties had remained with Tyler throughout the duration of the underlying proceedings and that Mother continued to insist the children had never been victims of abuse. Additionally, it was the general consensus of BCDCS case workers and service providers that despite Mother's participation in services specifically designed to improve her parenting abilities, she never demonstrated any significant improvements in her thoughts, attitudes, or daily living skills that suggested she could now safely care for and parent the children.

As for the children, BCDCS presented evidence showing that, at the time of their removal, S.S. and D.S. were both suffering from post-traumatic stress disorder and exhibiting signs of attention deficit hyperactivity disorder. S.S. was also diagnosed with reactive attachment disorder and low ego strength, making it difficult for S.S. to determine her own likes and dislikes and/or to discriminate on her own with whom it might be safe or appropriate to bond. Additionally, S.S. was experiencing a great deal of anxiety, expressed fears of the dark and of being hit, and informed her counselor that she experienced being "locked in the basement after being beaten" while living with Mother. Transcript at 48.

D.S., on the other hand, was observed as being a very angry child upon his removal from the family home and was further diagnosed with a mixed adjustment disorder. He would scream and yell, kick doors, kick his therapists, and want to hit with a belt. By the time of the termination hearing, however, both children showed significant improvement. They were living together in a pre-adoptive foster home, had bonded to their foster family, and appeared "comfortable" and "relaxed" in their new foster home. Id. at 41. Nevertheless, both children were still struggling with emotional and behavioral issues, and S.S. remained in a fragile emotional state.

At the conclusion of the termination hearing, the trial court took the matter under advisement. In January 2011, the court entered its judgment terminating Mother's parental rights to both children. Mother now appeals.

Discussion and Decision

When reviewing the termination of parental rights, we will not reweigh the evidence or judge the credibility of the witnesses. Bester v. Lake Cnty. Office of Family & Children, 839 N.E.2d 143, 147 (Ind. 2005). Instead, we consider only the evidence and reasonable inferences that are most favorable to the judgment. Id. When, as here, the trial court makes specific findings of fact and conclusions thereon, we apply a two-tiered standard of review. First, we determine whether the evidence supports the findings, and second, we determine whether the findings support the judgment. Id. In deference to the trial court's unique position to assess the evidence, we will set aside the court's judgment terminating a parent-child relationship only if it is clearly erroneous. In re L.S., 717 N.E.2d 204, 208 (Ind. Ct. App. 1999), trans. denied; see also Bester, 839 N.E.2d at 147. Thus, if the evidence and inferences support the trial court's decision, we must affirm. Id.

"The traditional right of parents to establish a home and raise their children is protected by the Fourteenth Amendment of the United States Constitution." In re M.B., 666 N.E.2d 73, 76 (Ind. Ct. App. 1996), trans. denied. Although parental rights are of a constitutional dimension, the law provides for the termination of these rights when parents are unable or unwilling to meet their parental responsibilities. In re R.H., 892 N.E.2d 144, 149 (Ind. Ct. App. 2008). Moreover, a trial court need not wait until a child is irreversibly harmed before terminating the parent-child relationship. McBride v. Monroe Cnty. Office of Family & Children, 798 N.E.2d 185, 203 (Ind. Ct. App. 2003).

Before parental rights may be involuntarily terminated in Indiana, the State is required to allege and prove, among other things:

(B) that one (1) 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 the home of the parents will not be remedied.

(ii) There is a reasonable probability that the continuation of the parent-child relationship poses a threat to the well-being of the child.

(iii) The child has, on two (2) separate occasions, been adjudicated a child in need of services.

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

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

Ind. Code § 31-35-2-4(b)(2). The State's burden of proof for establishing these allegations in termination cases "is one of 'clear and convincing evidence.'" In re G.Y., 904 N.E.2d 1257, 1260-1261 (Ind. 2009) (quoting Ind. Code § 31-37-14-2 (2008)). "[I]f the court finds that the allegations in a petition described in section 4 of this chapter are true, the court *shall* terminate the parent-child relationship." Ind. Code § 31-35-2-8(a) (emphasis added).

Here, Mother does not challenge any of the trial court's findings as unsupported by the evidence. Nor does Mother argue that BCDCS failed to establish, by clear and convincing evidence, any of the statutory dictates of Ind. Code § 31-35-2-4(b)(2). Rather, Mother simply claims, without citation to authority, that the trial court committed reversible error in terminating her parental rights "when the evidence before the court supports the conclusion that [Mother] completed her case plan." Appellant's Brief at 1.

In terminating Mother's parental rights to S.S. and D.S, the trial court made numerous detailed findings regarding the myriad reunification services provided to Mother and Mother's failure to benefit from these services. Specifically, the trial court acknowledged in its findings that although Mother "did participate in services as directed," it "remained the opinion of [family case manage Massey] that [M]other never made any changes in her thoughts, attitudes, or daily living that would result in increased protection of her children." Appellee's Appendix at 3. The trial court further found that the "very root" of the problem was that Mother "did not believe that her children had been the subject of abuse," "dismissed" the children's injuries and thus "could never acknowledge any resulting harm to the children," maintained that there were no problems that she needed to address, and remained "loyal[]" to Tyler. Id. at 3-4. The court also noted that although Mother had completed parenting classes and attended individual counseling sessions, she nevertheless "reported" that the parenting classes had been "a waste of time and that she gained nothing from them." Id. at 4. Mother also "expressed" to her therapist she "had no issues or problems" that required assistance. Id.

As for Mother's behavior during visits with the children, the trial court noted that "[d]ifferential treatment of the children by [M]other was apparent" and that visit supervisors noticed Mother "tended to favor [D.S.] and had a stronger bond with him." Id. at 5. The court also found that during the CHINS case S.S. began to "exhibit signs of stress or distress in anticipation of visits with [Mother]," would "vomit in [sic] route to visitations," and experienced "difficulty sleeping prior to visitation . . . ." Id. The trial court further acknowledged that, as of August 2009, the "treatment team" no longer

supported reunification as a permanency plan for the children. Id. at 6. Additionally, the trial court found:

> 34. The children have now been in the same foster home together since December 2008. The foster parents are desirous of adopting the children. The children are very bonded to the foster family. Affection is observed[,] and the children are both comfortable and relaxed in the home.
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> 36. Termination is in the best interests of the child[ren] as to [Mother]. Despite considerable interventions and services, [M]other has failed to satisfactorily address the risk factors that resulted in the children's removal[.] [S]he had been unwilling to change her parenting, thoughts[,] or attitudes to safely meet the children's needs. To continue the parent[-]child relationship would pose a threat to the children's well-being, in that they would be placed in a situation that might again lead to physical abuse. Mother has exhibited a lack of concern for the serious abuse sustained by the children. There is a very real likelihood that if the children were to be returned to [M]other's care, they would be hesitant to report future abuse and would be subjected to re-living their past trauma.
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> 38. [BCDCS] has a satisfactory plan for the care and treatment of the child[ren], which is adoption by their current foster parents.

Id. at 6-7. A thorough review of the record reveals that abundant evidence supports the trial court's findings discussed above.

It is undisputed that Mother completed a majority, if not all, of the court-ordered reunification services including parenting classes, individual counseling, and a psychological evaluation. Extensive evidence also makes clear, however, that Mother failed to benefit from her participation in these services. During the termination hearing, it was the general consensus of BCDCS case managers Melanie Massey and Nicole

Vreeland, as well as visit supervisors Ann Moore and Cristal Nevins that Mother had failed to make any significant progress in her ability to safely parent the children. When asked if she believed that there was "any possibility" the conditions resulting in the children's removal from Mother would ever be remedied, Massey answered, "I don't feel like there is, no." Transcript at 108. Massey further explained, "[W]e've been sitting here for almost two (2) years now and we still have no reason to believe that [Mother] can acknowledge that there was something wrong in her home that needs to be fixed. If you can't acknowledge it, you can't stop it." Id. Similarly, Moore and Nevins confirmed that Mother: (1) was never able to progress to unsupervised visits; (2) continued to have problems enforcing discipline techniques with the children, such as time-outs; and (3) clearly favored and exhibited a stronger bond with D.S. during visits. Finally, during the termination hearing Mother continued to deny that the children had ever been abused or that she had any parenting deficiencies that needed addressing.

Contrary to Mother's assertion on appeal, we have previously explained that "simply going through the motions of receiving services alone is not sufficient if the services do not result in the needed change." In re J.S., 906 N.E.2d 226, 234 (Ind. Ct. App. 2009). After reviewing the record in its entirety, we conclude that abundant evidence supports the trial court's findings. These findings, in turn, clearly support the court's ultimate decision to terminate Mother's parental rights to S.S. and D.S. as well as satisfy the statutory mandates of Indiana's termination statute. See Ind. Code § 31-35-2-4(b)(2). We therefore find no error.

Affirmed.

BAKER, J., and KIRSCH, J., concur.