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IN THE COURT OF APPEALS OF INDIANA

IN THE MATTER OF THE INVOLUNTARY TERMINATION OF THE PARENT-CHILD RELATIONSHIP OF D.M.B., Child,	)	
R.M.W., Mother,	)	
Appellant-Respondent,	)	
vs.	)	No. 20A03-1004-JT-181
INDIANA DEPARTMENT OF CHILD SERVICES,	)	
Appellee-Petitioner.	)	

APPEAL FROM THE ELKHART CIRCUIT COURT
The Honorable Terry Shewmaker, Judge
The Honorable Deborah A. Domine, Magistrate
Cause No. 20C01-0911-JT-88

October 27, 2010

MEMORANDUM DECISION – NOT FOR PUBLICATION

BARNES, Judge

Case Summary

R.W. ("Mother") appeals the termination of her parental rights to her son, D.B. We affirm.

Issue

Mother raises one issue, which we restate as whether the trial court properly determined that adoption was a satisfactory plan for the care and treatment of D.B.

Facts

Six-year-old D.B. was removed from Mother's care on December 15, 2008, following allegations that there was a methamphetamine lab on the property where he lived with Mother. Upon D.B.'s removal, Mother admitted to using methamphetamine. Immediately following his removal, D.B. was placed with his maternal grandparents. D.B. was removed from their custody after D.B. and his maternal grandparents tested positive for methamphetamine. D.B. was then placed in foster care.

Following D.B.'s removal, Mother did not complete any of the services offered by the Department of Child Services ("DCS"). Mother was eventually incarcerated on drug-related charges. When D.B. was permitted to visit with his great-grandmother in 2009, he had contact with his maternal grandparents and telephone contact with his mother. Following this visit, D.B. suffered substantial setbacks in the progress he had made while in foster care.

On November 10, 2009, the DCS filed a petition to terminate Mother's parental rights. Following an evidentiary hearing, the trial court granted the DCS's petition. Mother now appeals.

Analysis

"When reviewing the termination of parental rights, we do not reweigh the evidence or judge witness credibility." Bester v. Lake County Office of Family & Children, 839 N.E.2d 143, 147 (Ind. 2005). "We consider only the evidence and reasonable inferences that are most favorable to the judgment." Id. When a trial court enters findings and conclusions granting a petition to terminate parental rights, we apply a two-tiered standard of review. Id. First, we determine whether the evidence supports the findings. Id. Then we determine whether the findings support the judgment. Id. We will set aside a judgment that is clearly erroneous. Id. A judgment is clearly erroneous when the findings do not support the trial court's conclusions or the conclusions do not support the judgment. Id.

A petition to terminate the parent-child relationship must allege:

> (A) that one (1) of the following is true:
>
> > (i) The child has been removed from the parent for at least six (6) months under a dispositional decree.
> >
> > (ii) A court has entered a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification are not required, including a description of the court's finding, the date of the finding, and the manner in which the finding was made.
> >
> > (iii) The child has been removed from the parent and has been under the supervision of a county office of

> family and children or probation department for at least fifteen (15) months of the most recent twenty-two (22) months, beginning with the date the child is removed from the home as a result of the child being alleged to be a child in need of services or a delinquent child;
>
> (B) that one (1) of the following is true:
>
> (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) 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).[1]

The DCS has the burden of proving these allegations by clear and convincing evidence. See Bester, 839 N.E.2d at 148. Clear and convincing evidence need not show that the continued custody of the parent is wholly inadequate for the child's very survival. Id. Instead, it is sufficient to show by clear and convincing evidence that the child's emotional and physical development is threatened by the parent's custody. Id.

Mother argues that the DCS did not provide clear and convincing evidence that adoption outside of the family was a satisfactory plan for the care and treatment of D.B. Mother cites to no authority for the proposition that the DCS is required to consider all of a child's family members as prospective adoptive parents before a parent's parental rights

[1] Effective March 12, 2010, this statute was amended. There is no dispute that the previous version of the statute applies.

may be terminated. To the contrary, adoption is generally considered to be a satisfactory plan under the termination of parental rights statute. See In re B.M., 913 N.E.2d 1283, 1287 (Ind. Ct. App. 2009). For a plan to be "satisfactory," it need not be detailed, so long as it offers a general sense of the direction in which the child will be going after the parent-child relationship is terminated. See Lang v. Starke County Office of Family and Children, 861 N.E.2d 366, 374 (Ind. Ct. App. 2007), trans. denied. The DCS offered evidence that its plan for D.B. was adoption and that it had a family interested in adopting D.B., but nothing "was set in stone[.]" Tr. p. 125. This plan offered the general sense of the direction D.B. would be going after termination.

Moreover, even if there was some requirement that the DCS consider adoption by family members, the DCS did so. First, the DCS placed D.B. with his maternal grandparents, and he was later removed from their care because of allegations that they were using methamphetamine. At the termination hearing, the DCS presented evidence that its biggest concern was D.B.'s "exposure to the rest of the family at this time" and that exposure to his maternal grandparents and even his Mother could be "detrimental" to him. Id. at 128, 129. Further, although D.B.'s great-grandmother had asked to be considered as a prospective adoptive parent, she had not provided the DCS with the necessary information.

Finally, Mother specifically argues that her sister-in-law was "keeping D.B.'s sister" and Mother "believed they needed each other." Appellant's Br. p. 17. There is no evidence, however, that Mother's sister-in-law was willing or able to adopt D.B. The trial court properly concluded that adoption was an adequate post-termination plan.

Conclusion

There is sufficient evidence that the DCS's plan for adoption was satisfactory. We affirm.

Affirmed.

FRIEDLANDER, J., and CRONE, J., concur.