

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

In the Matter of the Termination
of the Parent-Child Relationship
of A.G. (Minor Child),

and

S.G. (Mother),

Appellant-Respondent,

v.

Indiana Department of Child
Services,

Appellee-Petitioner.

October 25, 2022

Court of Appeals Cause No.
22A-JT-1163

Appeal from the Knox Superior
Court

The Honorable Gara U. Lee, Judge

Trial Court Cause No.
42D01-2104-JT-20

Bradford, Chief Judge.

Case Summary

[1] Mother is the biological mother of A.G. (“Child”), who was born in January of 2020. Prior to and during her hospital stay at the time of Child’s birth, Mother suffered from numerous mental-health issues and severe mental impairment. Consequently, the Department of Child Services (“DCS”) filed a petition alleging that Child was a child in need of services (“CHINS”). In July of 2020, the juvenile court determined Child to be a CHINS based on Mother’s admission that she was still suffering from mental-health issues and could not care for Child, her housing instability, and her lack of employment and transportation. After Mother failed to successfully complete reunification services, DCS eventually petitioned to terminate Mother’s parental rights to Child (“the TPR Petition”). Following a factfinding hearing, the juvenile court granted DCS’s petition. Mother contends that DCS failed to prove that the juvenile court’s termination of her parental rights was in Child’s best interests. We affirm.

Facts and Procedural History

[2] Mother¹ gave birth to Child on January 28, 2020. Two days later, DCS filed a petition to declare Child a CHINS based on Mother’s “severe mental impairment, her inability to control her emotions, and a fear that [Mother]

¹ Child’s biological father does not participate in this appeal.

might be a danger to her child.” Ex. Vol. I p. 18. DCS noted that Mother has several mental-health diagnoses, including anxiety disorder, emotional disturbance, reactive-attachment disorder, personality disorder, mood disorder, attention-deficit and disruptive-behavior disorder, oppositional-defiant disorder, and a psychosocial history. Mother has also been diagnosed with a traumatic brain injury caused by childhood abuse, major-depressive disorder, anorexia, borderline intellectual functioning, specific learning disabilities, poor adaptive skills, issues from being a drug-exposed infant, inability to complete tasks, low IQ, self-injurious behaviors, and inappropriate and intense behavior. As a result, Child was placed into foster care where she has been doing well and has become “extremely bonded” to her foster parents. Ex. Vol. I p. 55.

[3] On July 1, 2020, the juvenile court declared Child to be a CHINS based on Mother’s stipulation to her mental-health concerns and lack of parenting skills. A few weeks later, the juvenile court issued a dispositional order which included numerous required reunification services for Mother. However, Mother’s housing instability and frequent moves disrupted her ability to get consistent care and to engage with the required DCS services.

[4] After a hearing on January 25, 2021, the juvenile court approved a concurrent permanency plan and adoption plan for Child. In April of 2021, DCS filed the TPR Petition. At the hearing on DCS’s petition, Mother admitted that she is “not able to provide what [Child] needs.” Tr. Vol. II p. 35. Mother also testified that she believed additional time would allow her to participate in DCS reunification services and to control her mental health issues; however, Family

Case Manager Crystal Mefford (“FCM Mefford”), Court-Appointed Special Advocate Kenna Ralston (“CASA Ralston”), and other service providers testified that termination of Mother’s parental rights was in Child’s best interests.

[5] In April of 2022, the juvenile court ordered that Mother’s parental rights to Child be terminated. The juvenile court found that there was a reasonable probability that the conditions prompting Child’s removal would not be remedied, continuing the parent-child relationship threatened Child’s well-being, and termination of the relationship would serve Child’s best interests.

Discussion and Decision

[6] The federal Constitution protects parents’ right to raise their children; however, that right “may be terminated when parents are unable or unwilling to meet their parental responsibilities.” *In re N.G.*, 51 N.E.3d 1167, 1169 (Ind. 2016) (citing *Bester v. Lake Cnty. Office of Family & Children*, 839 N.E.2d 143, 147 (Ind. 2005)). In other words, parental rights, when necessary, must be subordinate to the child’s best interests. *In re A.B.*, 887 N.E.2d 158, 164 (Ind. Ct. App. 2008). The termination of parental rights is appropriate “where the [child]’s emotional and physical development is threatened.” *In re T.F.*, 743 N.E.2d 766, 773 (Ind. Ct. App. 2001), *trans. denied*. However, juvenile courts “need not wait until the [child is] irreversibly harmed [...] before terminating the parent-child relationship.” *Id.*

[7] When reviewing the termination of a parental relationship,

[w]e do not reweigh the evidence or determine the credibility of witnesses, but consider only the evidence that supports the judgment and the reasonable inferences to be drawn from the evidence. We confine our review to two steps: whether the evidence clearly and convincingly supports the findings, and then whether the findings clearly and convincingly support the judgment.

In re N.G., 51 N.E.3d at 1170. Given the juvenile court’s proximity to the evidence and witnesses, we will reverse its decision to terminate a parent-child relationship only if the decision is clearly erroneous. *In re E.M.*, 4 N.E.3d 636, 642 (Ind. 2014). “A finding is clearly erroneous when there are no facts or inferences drawn therefrom that support it. A judgment is clearly erroneous only if the findings of fact do not support the [juvenile] court’s conclusions thereon, or the conclusions thereon do not support the judgment.” *In re A.B.*, 887 N.E.2d at 164 (internal citations omitted).

[8] To support the termination of Mother’s parental rights to Child, DCS needed to prove the following:

(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) 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). Mother argues only that DCS failed to establish that termination of her parental rights was in Child’s best interests. Specifically, Mother argues that, despite her mental health, she “never gave up on trying to overcome her mental health issues, she was motivated to complete [DCS reunification] services [...], and she had developed a strong and loving bond with the child.” Appellant’s Br. p. 7.

[9] When considering whether termination of parental rights is in a child’s best interests, we look at “the totality of the evidence.” *Matter of Ma.H.*, 134 N.E.3d 41, 49 (Ind. 2019). Here, the totality of the evidence supports the juvenile

court's conclusion that termination of the parent-child relationship was in Child's best interests. The juvenile court's unchallenged findings explain that

Mother admitted that the Child was removed due to her mental health issues and that those issues still exist. She admitted that those issues make it difficult for her to parent. She further admitted that the Child was still a CHINS at this time. She has no income or transportation. She lives with her grandfather now and was previously on the street. There is no room for the Child at her grandfather's home. The Mother loves her daughter but admittedly cannot provide for her.

Appellant's App. Vol. II pp. 95–96. Additionally, the juvenile court determined that it would harm “Child to be placed with either parent because the Child has been in the current [foster] home for over two years” and is “thriving.”

Appellant's App. Vol. II p. 96, 95.

[10] Further, the service providers working with Mother and Child recommended termination. For instance, FCM Mefford testified that Mother “has severe mental health that affects everything she does. [...] Sometimes there's a concern for just being able to care for herself.” Tr. Vol. II p. 86. Not only that, but “sometimes [Mother] puts herself into very risky situations that are not safe for her let alone a child.” Tr. Vol. II p. 87. Even when Mother was willing to get mental-health treatment, FCM Mefford testified that she could not organize care because “[s]ince the end of 2020, [Mother]'s moved 22 times.” Tr. Vol. II p. 88. According to FCM Mefford, Mother's “actions and choices have proven that time and time again [...] that she cannot care for herself[,]” much less a child. Tr. Vol. II p. 90. FCM Mefford explained that these concerns “will not

be remedied,” and, in fact, “more concerns and more issues have developed over the [last] two years.” Tr. Vol. II p. 93. Put simply, these ongoing problems pose “a threat to the wellbeing of [Child]” and “it’s in the best interest of [Child] for the parent-child relationship to be terminated.” Tr. Vol. II p. 93.

[11] Additionally, CASA Ralston testified that termination served Child’s best interests. According to CASA Ralston, Mother has “shown that [she] cannot provide consistency for [her] daughter,” she has “not had stable housing or employment,” and she has “not met the goals that were set for ... [her] home based case work” or therapy. Tr. Vol. II p. 11. In other words, CASA Ralston believes that Mother simply cannot provide the day-to-day care that Child needs. Importantly, CASA Ralston noted that Child is “very well bonded to her placement. She fits in well with her family and they treat her as if she is their biological child.” Tr. Vol. II p. 11. Therefore, while Mother loves Child, “it is in [Child’s] best interest for [parental] rights to be terminated.” Tr. Vol. II p. 11.

[12] The evidence supporting the juvenile court’s conclusion that termination was in Child’s best interests overwhelms Mother’s argument. For instance, the Indiana Supreme Court has routinely relied on the recommendation of family case managers, court-appointed special advocates, guardians ad litem, and other service providers when considering whether “a reasonable finder of fact could conclude based on clear and convincing evidence” that “the termination is in the best interests of” a child. *In re N.G.*, 51 N.E.3d at 1173; *see also K.T.K v. Ind. Dept. of Child Servs., Dearborn Cnty. Off.*, 989 N.E.2d 1225, 1235–36 (Ind.

2013) (relying on testimony from the family case manager, guardian ad litem, and court-appointed special advocate to determine that termination of parental rights served the children’s best interests).

[13] Despite Mother’s apparent good intentions in wanting to work towards reunification, she has consistently struggled to show that she can provide the care Child needs. We cannot make children “wait indefinitely for their parents to work toward preservation or reunification.” *In re E.M.*, 4 N.E.3d at 648. Further, “children have an interest in terminating parental rights that prevent adoption and inhibit establishing secure, stable, long-term, continuous relationships.” *K.T.K.*, 989 N.E.2d at 1230. Consequently, we cannot agree with Mother that the juvenile court’s decision was clearly erroneous.

[14] The judgment of the juvenile court is affirmed.

Pyle, J., and Altice, J., concur.