

MEMORANDUM DECISION

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IN THE
Court of Appeals of Indiana

In the Termination of the Parent-Child Relationship of:

L.C. (Minor Child) and B.C. (Mother),

Appellant-Respondent,

v.

Indiana Department of Child Services,

Appellee-Petitioner

March 27, 2024

Court of Appeals Case No.

23A-JT-2051

Appeal from the Johnson Circuit Court

The Honorable Michael T. Bohn, Judge

Trial Court Cause No.

41C01-2211-JT-000026

Memorandum Decision by Judge Felix
Chief Judge Altice and Judge Bradford concur.

Felix, Judge.

Statement of the Case

[1] B.C. (“Mother”) is the biological mother of L.C. (the “Child”). In 2021, the Indiana Department of Child Services (“DCS”) removed the Child from Mother’s care due to reported allegations of deplorable home conditions, instability, and mental health concerns. Based upon Mother’s admission, the trial court determined that the Child was a child in need of services (“CHINS”). DCS could not identify Child’s biological father. Ultimately, the trial court terminated Mother’s and unknown father’s parental rights to the Child. Mother now challenges that termination and presents four issues for our review, which we revise and restate as the following two issues:

1. Whether the trial court abused its discretion by denying Mother’s motion to continue the termination hearing; and
2. Whether the trial court’s decision to terminate Mother’s parental rights was clearly erroneous.

[2] We affirm.

Facts and Procedural History

[3] The Child was born to Mother on October 31, 2019. Mother has two other children who are the Child’s half-siblings. On October 30, 2021, Mother was arrested and was unable to locate or provide an appropriate caregiver for the Child and at least one of the Child’s half-siblings, so DCS took custody of them. On November 2, 2021, DCS filed a petition alleging that the Child was a CHINS, in which DCS alleged that (1) Mother was arrested and unable to care

or provide care for Child; (2) Mother had two pending assessments with DCS when she was arrested; (3) Mother's home was in "deplorable condition" and did not have an operable furnace, refrigerator, or oven; (4) DCS offered voluntary services to Mother, none of which helped Mother progress prior to her arrest; (5) the children appeared "dirty and unkempt"; and (6) law enforcement had been called to Mother's home many times, including three times in the 24-hours prior to her arrest. Tr. Vol. III at 13, 15.

[4] On November 2, 2021, the trial court held an initial hearing and detention hearing on DCS's CHINS petition. In its subsequent order, the trial court ordered the Child to be placed with her half-siblings' father. The trial court granted Mother supervised parenting time with the Child. On December 7, 2021, Mother participated in court-ordered facilitation with DCS. As a result of that facilitation, Mother and DCS entered an agreed order in which Mother admitted the Child was a CHINS due to "concerns with [Mother's] mental health and her inability to provide appropriate housing." Tr. Vol. III at 33.

[5] Also as a part of the agreed order, Mother agreed to the following dispositional goals, among others: maintain appropriate housing; provide proof of adequate and stable financial resources; allow a representative of DCS or CASA to visit her in her home; remain in weekly contact with the family case manager; establish the Child's paternity; pay court-ordered child support; demonstrate the ability to meet the Child's physical, supervisory, medical, mental health, and educational needs; participate in parenting time; obey the law and notify DCS within five days of being arrested; meet her own personal, medical, and mental

health needs in a timely manner and follow the reasonable recommendations of service providers; participate in a mental health evaluation and follow all reasonable recommendations stemming therefrom; participate in individual therapy; participate in child and family team meetings or case planning conferences, home-based case management, and medication management; and submit to random drug screens.

[6] On January 13, 2022, the trial court adjudicated the Child a CHINS based on Mother's admission. On March 10, 2022, the trial court held the first review hearing in this case, after which it found that Mother was compliant with the Child's case plan and had obtained employment; however, the trial court also found that Mother "struggles with providing for the [Child's] needs at [supervised] visits," Tr. Vol. III at 39, and "need[ed] to completely engage in services and establish stable housing, income, stability in her mental health, maintain sobriety, and engage in medication management," *id.* at 41. After the next review hearing on June 29, 2022, the trial court found that Mother had not complied with the Child's case plan and "failed to make meaningful progress in services." *Id.* at 42. In particular, Mother "remained unemployed throughout the reporting period" despite participating in home-based case management, "continued to struggle with her mental health," and "demonstrated a lack of understanding on the importance of addressing all of her mental health needs." *Id.* The trial court also noted that Mother admitted to not taking her prescription medications since before the Child was born, which were prescribed for prior mental health diagnoses.

[7] Mother was scheduled to attend a psychological evaluation on July 6, 2022, but she left before completing the intake process. At the next review hearing on August 25, 2022, the trial court found that Mother was “not fully engaging with providers to assist her to obtain stable housing, reliable income, stability in mental health, and medication management.” Tr. Vol. III at 46–47. The trial court found Mother was not compliant with the Child’s case plan, was not compliant with home-based case management services, and refused to work with the service provider to find housing and employment. At that time, Mother was unemployed and had moved into her father’s home. The trial court also found that Mother had only met with her therapist twice since the last review hearing and was not consistent with her therapy services, Mother’s therapist had concerns about Mother’s mental health, and Mother’s therapist reported not being able to make progress in therapy with Mother because of Mother’s mental health needs.

[8] On September 9, 2022, Mother was arrested for failing to appear for hearings in two of her pending criminal cases. On October 27, 2022, while Mother remained in custody, the trial court conducted a permanency/review hearing. In its subsequent order, the trial found in relevant part as follows:

[Mother] is not in compliance with her case plan. Mother met with her home-based case manager one (1) time before becoming incarcerated and during that meeting Mother comp[li]eted a nurturing parent inventory but declined to complete a home inventory or budget. She attended three appointments in August and canceled two. However, the therapist reports that she was defensive, uncooperative, inconsistent, argumentative, and not

able to work on any goals during those sessions. . . . [Mother] is being discharged from therapy at this time due to lack of cooperation and progress. Mother did not complete her psychological evaluation. . . . Mother visited with child prior to her incarceration. However, placement reports that at one visit, Mother refused to give Child back to the provider until provider provided placement's address

Tr. Vol. III at 49. The trial court also changed the Child's permanency plan to "reunification with a concurrent plan of adoption." Appellant's App. Vol. II at 12. On November 16, 2022, DCS filed a petition to terminate Mother's parental rights to Child.

[9] Thereafter, Mother participated in a psychological evaluation with Dr. Amanda Pfeffer. About three hours into the clinical interview portion of the evaluation, Mother became agitated and eventually irate. Mother repeatedly yelled at and threatened Dr. Pfeffer, including asking for her home address, stating she "was in 'big trouble,'" "this building will not be standing by the end of the day," and that she would not "have a job after today." Tr. Vol. III at 108. Mother remained hostile and paranoid throughout the rest of the evaluation despite taking two breaks. Mother refused to answer questions regarding her relationships, parenting, legal history, substance use history, previous treatment history, family psychiatric history, and medical history. Mother also did not complete at least one of the objective tests because she was too agitated to do so, and Dr. Pfeffer did not administer at least one other objective test due to Mother's behavior. Based on the information available to Dr. Pfeffer, including records from DCS and service providers, Dr. Pfeffer determined Mother had

generalized anxiety disorder and posttraumatic stress disorder with dissociative symptoms. Dr. Pfeffer recommended that Mother’s parenting time remain supervised until she progressed in therapy because “it is unknown if [Mother] is equipped to effectively manage [her] behavior in the presence of her child consistently.” *Id.* at 122.

[10] On February 2, 2023, the trial court held a periodic case review and started a bifurcated evidentiary hearing on DCS’s termination petition. In its order on the periodic case review, the trial court found Mother had “minimally complied with the Child’s case plan” and had failed to meaningfully engage in her court-ordered services after being released from incarceration. Tr. Vol. III at 51. The trial court also found that “Mother has been inconsistent in her parenting time with the child and struggled to behave appropriately during visits,” including confrontational behavior that “required intervention” during two separate visits. *Id.*

[11] On April 14, 2023, DCS filed a motion to suspend Mother’s parenting time with the Child because Mother’s behavior during multiple visits with the Child placed the Child’s safety at risk and Mother had “little to no understanding of Child’s development level,” which led to “additional inappropriate behavior.” Tr. Vol. III at 53.¹ The trial court granted this motion.

¹ Neither party included this affidavit in the record.

[12] On May 5, 2023, the trial court concluded the bifurcated evidentiary hearing on DCS’s petition to terminate Mother’s parental rights. At the start of the May 5 hearing, Mother’s counsel asked for a continuance because Mother’s mother (“Grandmother”) was in the hospital after suffering a stroke and this was causing Mother “stress and emotional distress.” Tr. Vol. II at 13. DCS objected because the termination hearing needed to happen before May 15 and there would be scheduling conflicts if the hearing did not happen on May 5. The CASA objected on the same grounds as DCS and also cited “the need for a permanency plan for this child.” *Id.* at 14. The trial court denied Mother’s motion “given the time frames where we’re at on this case.” *Id.* at 14.

[13] The Child’s Court Appointed Special Advocate and Family Case Manager both testified that terminating Mother’s parental rights was in the Child’s best interests. Additionally, Rayshena Jones, Mother’s therapist from February to September 2022, testified that Mother’s attendance at therapy was inconsistent and her engagement worsened over time. Jones also testified that Mother would end sessions early, experience “lots of mood changes”; have “random outbursts of laughter”; and exhibit a disconnect between her stated mood and outward appearance, such as times when Mother “would say that she was having an anxiety attack, but just appeared very calm.” Tr. Vol. II at 52–53. Jones testified that she was not able to successfully engage Mother or work towards Mother’s goal of addressing past trauma due to Mother’s mental health. In September 2022, Jones discharged Mother from therapy unsuccessfully due to nonattendance.

- [14] Linda Mathews, Mother’s home-based case manager from June 2022 to February 2023, testified that Mother refused to sign a case plan; participated inconsistently, with Mother only attending a third of their scheduled meetings; exhibited a “lack of understanding why the services were ordered,” Tr. Vol. II at 61; and “made clear she did not want to participate in home[-]based case management services,” *id.* at 62. When Mathews subsequently discharged Mother, Mother had not made any meaningful progress toward her goals of employment and housing.
- [15] Amy Macharia, who supervised Mother’s visits with the Child from February to April 2023, testified that Mother had inappropriate expectations for the Child’s developmental age and would allow the Child to engage in inappropriate physical activities. Macharia also testified that when Mother’s emotions were “escalated” during visits, Mother would raise her voice, make repetitive sounds and movement, and become rough with the Child. Tr. Vol. II at 67. When Macharia would intervene in these situations, Mother “would escalate further” and become inconsolable, which often resulted in the Child becoming upset. *Id.* at 68. Macharia could not recommend Mother having unsupervised parenting time with the Child due to Mother’s behavior.
- [16] During the May 5 hearing, and despite several admonishments, Mother interrupted the proceedings more than 15 times, often commenting on service providers’ testimony or attempting to object to their testimony despite having counsel. Tr. Vol. II at 17, 24, 34, 35, 41, 42, 43, 47, 68, 69, 75, 78–79, 88, 90, 91. For instance, as Dr. Pfeffer was testifying about the threats Mother made

during the clinical interview, Mother interrupted her, calling Dr. Pfeffer's testimony "a lie." *Id.* at 34. Similarly, toward the end of Macharia's direct testimony, Mother repeatedly interrupted her, saying "Wow," and eventually stated, "I just – I cannot believe the outrageous – the outrageous inaccuracy and the things these individuals are testifying as." *Id.* at 69.

[17] Mother's testimony exhibited a lack of understanding of the situation, such as when she testified that she did not have an open DCS case, that the Child is not a ward of the State, and that she was in federal court. Mother testified that DCS was at her house in October 2021 because her stove and refrigerator were not working; but not because of cleanliness concerns, mental health concerns, or because she was being arrested. Mother denied law enforcement officers ever being at her house. When asked why she thought she was in court, Mother testified, "I guess I'm unaware. . . . I never filed for a termination of parental rights. I never would." *Tr.* Vol. II at 22.

[18] Mother denied ever signing an agreement concerning services and testified that the only paperwork she had ever signed was to be able to participate in parenting time with the Child. When presented with the agreed order Mother signed that included a list of dispositional goals, Mother testified, "I have never seen this document in my life." *Tr.* Vol. II at 26. Mother denied ever missing a visit with the Child. Mother testified that she participated in therapy for one and a half years, she was drug tested for two years and never failed any of those tests, and she "passed" a psychological assessment that she "was able to complete without concern," *id.* at 27. Moreover, Mother testified that the copy

of Dr. Pfeffer’s psychological evaluation report she received via email was “totally different” from the one presented to her during the hearing. *Id.* at 28; *see also id.* at 104.

[19] Mother testified that she did not have any mental health concerns and that “there was never a suggestion made of medications for mental health being needed,” Tr. Vol. II at 27, *see also id.* at 104. Mother also stated that she has “never taken medication in my life. Never. Never will.” *Id.* at 104. When DCS cross-examined Mother about her mental health, Mother refused to answer DCS’s questions because she believed DCS did not have the “authority” to ask such questions, that “[t]his level of court is not a high enough court to be asking these questions,” and that she “cannot disclose this information.” *Id.* at 114–15.

[20] On August 3, 2023, the trial court terminated Mother’s parental rights.² In its well written 19-page order, the trial court incorporated the findings from its prior orders into the current order, issued factual findings based upon the testimony from several of the witnesses, and made the following findings and conclusions as to Mother:

75. The Court finds Mother’s testimony particularly compelling in that it clearly emphasizes Mother’s failure to understand, or attempt to understand, how her mental health and behavior have affected the mental, emotional, and physical health of her child.

² The trial court also terminated the parental rights of the Child’s unknown father, whom DCS was unable to identify.

Mother has shown she has no intent to change her behavior or seek treatment, adamantly denying the need for it.

* * *

4. Though Mother lives in a somewhat stable home environment, held short-term employment shortly before the hearing, and completed a psychological evaluation, her pattern of behavior shows a lack of commitment to addressing her mental health concerns or achieving long-term stability.

* * *

9. Mother has engaged in ongoing destructive behavior throughout the case, but most recently during several incidents that occurred during Mother's parenting time as well as during her psychological evaluation. Mother's hostile, erratic, and threatening behaviors occur suddenly, making it difficult to protect Child's well-being. Furthermore, it is clear Mother has no insight into her triggers or how to avoid them and has no intent to meaningfully participate in the mental health treatment that could improve her ability to appropriately parent Child.

10. Mother's untreated PTSD and dissociative symptoms are a threat to Child's well-being due to Mother's resulting hostile, erratic, and aggressive behavior and paranoia in the presence of Child, who, at the age of three, is unable to ensure the safety of her own physical, mental, and emotional well-being.

* * *

12. . . . Here, when Child is present during Mother's outbursts, she becomes distressed, crying and screaming. This is likely to have long-term adverse effects on Child's psyche.

* * *

20. While it is clear Mother loves Child, she has not taken the necessary steps to progress in her mental health treatment and stability or ability to appropriately and safely care for Child. She has, over the course of the case, refused to take accountability for her behavior or recognize her mental health needs or her need for treatment and services. Unfortunately, Mother’s love for Child is not enough to sustain the parent-child relationship.

21. Mother lacks the important qualities of judgment and foresight that are integral to successful and responsible parenting. She never stepped down from supervised parenting time with Child and had her visits suspended prior to the fact-finding hearing.

22. It is fair to conclude that Mother is not any closer to unsupervised parenting time with Child than she was at the beginning of the CHINS case.

Appellant’s App. Vol. II at 66–70. Mother now appeals.

Discussion and Decision

1. The Trial Court Did Not Abuse Its Discretion When It Denied Mother’s Motion to Continue

[21] Mother claims the trial court abused its discretion by denying her motion to continue the termination hearing. Typically,

a trial court’s decision to grant or deny a motion to continue is subject to abuse of discretion review. *See Rowlett v. Vanderburgh Cnty. Office of Family & Children*, 841 N.E.2d 615, 619 (Ind. Ct. App. 2006), *trans. denied*. “An abuse of discretion may be found

in the denial of a motion for a continuance when the moving party has shown good cause for granting the motion,” but “no abuse of discretion will be found when the moving party has not demonstrated that he or she was prejudiced by the denial.” *Id.*

In re K.W., 12 N.E.3d 241, 243–44 (Ind. 2014).

[22] Mother argues she showed good cause for the trial court to grant her motion because she told the trial court Grandmother was in the hospital after suffering a stroke, which was causing Mother stress and emotional distress. Mother further argues that the trial court’s denial of her motion prejudiced her because Grandmother was no longer able to testify on Mother’s behalf. Assuming for the sake of argument that Mother showed good cause for granting the motion, Mother has not demonstrated she was prejudiced by Grandmother’s inability to testify. Mother claims only that Grandmother “was a necessary witness” but does not explain why she was “necessary.” Appellant’s Br. at 28. Without more, such as an offer of proof explaining what Grandmother’s testimony would have been, we cannot say that the trial court abused its discretion in denying Mother’s motion to continue.

2. The Trial Court Did Not Clearly Err When It Terminated Mother’s Parental Rights to the Child

[23] Mother also argues that the trial court clearly erred by terminating her parental rights to the Child. “Parents have a fundamental right to raise their children—but this right is not absolute. When parents are unwilling to meet their parental responsibilities, their parental rights may be terminated.” *In re Ma.H.*, 134

N.E.3d 41, 45–46 (Ind. 2019) (internal citations omitted) (citing *In re K. T.K.*, 989 N.E.2d 1225, 1230 (Ind. 2013)), *cert. denied*.

[24] To terminate Mother’s parental rights, DCS had to prove by clear and convincing evidence, that, among other things,

(B) one 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 Mother’s home will not be remedied,

(ii) there is a reasonable probability that the continuation of Mother’s relationship with the Child poses a threat to the well-being of the Child, or

(iii) the Child has, on two separate occasions, been adjudicated a child in need of services;

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

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

See Ind. Code §§ 31-35-2-4(b)(2) (2023), 31-37-14-2.

[25] We will affirm a trial court’s termination of parental rights unless that decision is clearly erroneous. *Ma.H.*, 134 N.E.3d at 45 (citing *In re E.M.*, 4 N.E.3d 636, 642 (Ind. 2014)). A trial court’s termination decision is clearly erroneous if the court’s findings of fact do not support its legal conclusions or if the legal

conclusions do not support its ultimate decision. *Id.* (citing *E.M.*, 4 N.E.3d at 642). We will not reweigh the evidence or judge witness credibility, and we consider only the evidence and reasonable inferences that support the court's decision. *Id.* (citing *In re K.E.*, 39 N.E.3d 641, 646 (Ind. 2015)). Furthermore, we accept as true any findings that Mother does not challenge on appeal. *See R.M. v. Ind. Dep't of Child Servs.*, 203 N.E.3d 559, 564 (Ind. Ct. App. 2023) (citing *Madlem v. Arko*, 592 N.E.2d 686, 687 (Ind. 1992)), *trans. not sought*.

[26] Mother challenges the trial court's conclusions that she has not remedied the reasons for the Child's removal from her care, that the continuation of her relationship with the Child is a threat to the Child's well-being, and that termination of the parent-child relationship is in the Child's best interests. Notably, however, Mother does not expressly challenge any of the trial court's findings, including those underpinning the challenged conclusions.³ *See* Appellant's Br. at 15–27.

[27] To the extent Mother's arguments can be read to challenge particular findings, those arguments are merely invitations for us to reweigh the evidence and reassess witness credibility, which we cannot do. *See Ma.H.*, 134 N.E.3d at 45 (citing *E.M.*, 4 N.E.3d at 642). Therefore, considering only the evidence and reasonable inferences that support the trial court's decision, we cannot say that

³ In challenging the trial court's conclusions, Mother fails to provide citations to the record for dozens of statements of fact. Appellant's Br. at 17–18, 20–22, 24–26. Mother's failure to specify which findings she believes are unsupported by the evidence and her failure to support statements of fact with citations to the record make our review difficult.

the trial court clearly erred in concluding that Mother has not and likely will not remedy the reasons for the Child's removal and that terminating the parent-child relationship is in the Child's best interests.⁴

Conclusion

[28] In sum, Mother has not shown that the trial court abused its discretion when it denied her motion to continue the termination hearing, and Mother has not shown that the trial court clearly erred when it terminated her parental rights to the Child. We therefore affirm the trial court on all issues raised.

[29] Affirmed.

Altice, C.J., and Bradford, J., concur.

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⁴ Mother also argues that the trial court erred by concluding that there was a reasonable probability that the continuation of the parent-child relationship posed a threat to the Child's well-being. See I.C. § 31-35-2-4(b)(2)(B)(ii) (2023). The trial court was required to find only that one prong of Indiana Code section 31-35-2-4(b)(2)(B) (2023) has been established. *In re A.K.*, 924 N.E.2d 212, 220 (Ind. Ct. App. 2010), *trans. dismissed*. Because we have concluded that DCS proved that there was a reasonable probability that the conditions that resulted in the Child's removal from Mother's care would not be remedied, we need not address her argument directed at the "threat" prong of Section 31-35-2-4(b)(2)(B) (2023). See *A.K.*, 924 N.E. 2d at 220.

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