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IN THE COURT OF APPEALS OF INDIANA

IN THE MATTER OF THE TERMINATION OF A.A.C., minor child,	)	
CYNTHIA R., mother, CHALMOS M., father,	)	
Appellants-Respondents,	)	
vs.	)	No. 20A03-0703-JV-107
ELKHART OFFICE OF FAMILY AND CHILDREN,	)	
Appellee-Petitioner.	)	

APPEAL FROM THE ELKHART CIRCUIT COURT
The Honorable Terry C. Shewmaker, Judge
The Honorable Deborah A. Domine, Magistrate
Cause No. 20C01-0608-JT-20

December 12, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

VAIDIK, Judge

Case Summary

Cynthia R. ("Mother") and Chalmos M. ("Father") appeal the involuntary termination of their parental rights to their son, A.A.C. Concluding that the trial court's judgment terminating Mother's and Father's parental rights is not clearly erroneous, we affirm.

Facts and Procedural History

In early November of 2004, eight-year-old A.A.C. took a knife into school and threatened to kill his fellow second graders and a teacher on the playground. On November 16, 2004, A.A.C. was removed from Mother's care following a Detention Hearing resulting from the delinquency allegations. A.A.C. was not returned to Mother's home because the family had a history of substance abuse and domestic violence.[1] At the time of A.A.C.'s removal, Father was incarcerated. A.A.C. was adjudicated a delinquent because of the pocketknife incident. On August 23, 2006, a petition for the involuntary termination of both parents' parental rights to A.A.C. was filed.

An evidentiary hearing on the termination petition was held on February 2, 2007. On February 5, 2007, the trial court terminated both Mother's and Father's parental rights to A.A.C. In so doing, the trial court made the following pertinent findings and conclusions:

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[1] We note that all parties agree that A.A.C. was not returned to the care of Mother and Father due to substance and physical abuse in the home. Moreover, Appellants state that a CHINS petition was filed. See Appellant's Br. p. 12. However, a copy of the CHINS petition was not included in the Appellant's Appendix. Ind. Appellate Rule 22(C) states that "[a]ny record material cited in an appellate brief must be reproduced in an Appendix or the Transcript or exhibits."

Findings of Fact and Conclusions of Law

* * *

3. It was established by clear and convincing evidence that the allegations of the petition are true in that:

* * *

b. There is a reasonable probability that the conditions that resulted in the child's removal have not been remedied, nor that they will be remedied in the near future.

* * *

ii. Here, there is no doubt that the parents . . . love their son . . . but the conditions most dangerous to the child remain.

iii. Dr. Jay Shetler, PsyD, HSPP, completed a Psychological Assessment of [Mother], under [A.A.C.'s] delinquency case. The doctor testified at trial. When asked if [Mother] could keep [A.A.C.] safe today, the answer was "no." Dr. Shetler indicated that he made the conclusion based upon [Mother's] pattern of relationships, and the fact that her four older children were raised out of [Mother's] home. Of particular note, Dr. Shetler testified as to [Mother's] history of being the victim of domestic violence, her history of substance abuse and her current behaviors of minimizing, denying, and being defensive regarding the use of drugs and her victimization.

iv. A similar conclusion was testified to by [Mother's] therapist Robin Ebright-Zehr. Ms. Ebright-Zehr noted that [Mother] has a difficult time making judgements (sic) in the interest of her own safety, which strongly suggests that [Mother] would have trouble making decisions that would keep a child safe. When asked directly by defense counsel if [Mother] could keep [A.A.C.] safe, Ms. Ebright-Zehr stated that she had seen no evidence of an ability to keep her child safe and noted that [Mother's] history of bad [judgment] supported the conclusion that she, in fact, could not provide for the safety of her child.

v. [Mother] has a history of being the victim of domestic violence. [A.A.C.'s] older sisters . . . testified along with [Mother]. All three, in their testimony, described a series of relationships going back to 1972 in which [Mother] was

involved with men who physically abused her. With respect to [Mother's] most recent relationship, [K.G.] stated that her mother had told her that [Father] had "put her in the hospital two or three times." [K.G.] went to the hospital to pick her mother up on one of those occasions and observed first hand bruises and swelling. According to [K.G.], [Mother] went so far as to obtain a Protective Order against [Father] on one occasion, but soon went back to him. That despite the fact that [Mother] herself testified that [Father's] abuse resulted in her being taken to the hospital on two occasions. In addition, [Father] was convicted on a charge of domestic battery perpetrated against [Mother] and was sent to prison on the charge.

vi. Beth Floyd, operates a support group for the victims of domestic violence, a group that [Mother] was court ordered to attend. Ms. Floyd testified. In so doing, she expressed concerns over [Mother's] continued relationship with [Father]. During support group sessions, [Mother] acknowledged that [Father] was verbally and emotionally abusive and yet she continues the relationship with [Father] to this day.

vii. The visitor log from the Indiana State Prison documents that [Mother] has visited [Father] fifty-two [52] times since he was placed back in the Indiana Department of Corrections in March of 2005. Her most recent visit occurred on January 27, 2007. In addition, [Mother's] recent involvement in relationships described by treatment providers as "unhealthy" is not limited to her involvement with [Father]; [Mother] accepted a ride during the week of trial from a man with whom she had lived, and whom [Mother] had expressed to her therapist had been stalking her. All of this supports the conclusion of treatment providers that [Mother] cannot make the judgements (sic) necessary to keep herself or her child safe.

viii. [Mother] has a history of choosing unhealthy relationships with abusive men over her children. [Mother's] four older children were raised outside of her home. Child Protective Services were involved with the oldest three daughters . . . [Mother] was ordered to make sure there was no contact between [K.G.] and her step-father, nonetheless the step-father was always present when [K.G.] visited her mother.

ix. For more than a year after his removal from his mother's home because of the knife incident, the case plan called for

[A.A.C.] being returned to his mother's home. [Mother] was making progress toward that end. Then on September 15, 2005, [Father] was released from the Indiana Department of Corrections. [Mother] allowed him to move back into her home. [Mother] stayed with [Father] despite subsequent reports to treatment providers that he had been abusive. Soon after [Father's] return to the home, both parents had positive drug screens and [Father] was sent back to the Indiana Department of Corrections.

x. [A.A.C.'s] therapist, Andrew Leichty, related that [A.A.C.] remembers the drugs and violence in his parents[']home. [A.A.C.] told his therapist of one occasion when he was four or five years old and had to call police because his mother had suffered domestic violence at the hands of his father. [A.A.C.] recalls drugs in the home. The therapist testified that [A.A.C.] needs permanency now in order to maintain the tremendous progress that he has made since the removal from his parents[']home. His parents have not made the changes demanded for [A.A.C.'s] well-being, nor do they have the skills to provide the child with what he needs.

xi. [Father] remains incarcerated today. According to State records he will be released early next year, according to [Father's] records he will be released in May of this year. Either way, one of the conditions that prevented [A.A.C.] from being placed in his father's care on November 16, 2004, has not changed; the father is incarcerated and is not presently available to care for the child; thus, that condition has not been remedied.

xii. In addition, [Father], while designated in the Termination Petition as "father", has never established paternity with respect to [A.A.C.]. [Father's] name is not on the birth certificate and he was never married to [A.A.C.'s] mother. [Father] has no legal right to the care and custody of the child. [Father] remains married to another woman who was also the victim of domestic violence perpetrated by [Father]. He is presently seeking legal action to obtain a divorce, but is not taking legal action to establish paternity of his child.

xiii. [Father] has never been involved in classes to address domestic violence. Instead, he testified he has been involved in substance abuse classes while incarcerated and those classes have addressed anger. More important[ly][,] [Father's] testimony suggested that he minimizes the acts of domestic violence that have occurred. He denied that he ever

struck [Mother]. He makes this claim despite the fact that [Mother] testified under oath that she went to hospital on two occasions for injuries inflicted by [Father] through acts of abuse, despite testimony from [Mother's] daughter that she saw her mother's injuries, and despite [Father] having been convicted for domestic battery.

xiv. The CASA, Reva Noel, testified that [A.A.C.] is wise beyond his years and wants permanency. Moreover, she stated that [A.A.C.] has told her that he does not want to live with his parents. Specifically, she stated, "he does not believe mom will stay away from drugs and he is tired of her letting men beat on her." The parents' habitual patterns of behavior have had a disastrous impact on [A.A.C.]; he was removed from the home because of serious behaviors that jeopardized [A.A.C.] and others on a second grade playground . . . . Since his removal [A.A.C.] has never displayed violence, and is now on the honor roll in a gifted and talented program. The parents' testimony and behaviors suggest a lack of understanding or minimization of their role in [A.A.C.] becoming involved in the system and being removed from the home. The parents' behaviors have not changed to date, and their testimony suggests it is not likely to change in the near future.

* * *

d. It is in the best interest of [A.A.C.] that parental rights be terminated . . . . In the instant case, [A.A.C.] has told his CASA that he does not want to live with his parents. [A.A.C.] told his therapist that he wishes his father would remain incarcerated, and described his father as an abuser. [A.A.C.] told his Probation Officer that he loves his mother, but does not trust her, and has expressed that he just wants a stable place to live. The therapist opined that the parents cannot provide the stability [A.A.C.] wants and needs to thrive . . . . The Court has considered, but is unpersuaded by defense counsel's argument that the child is only asking that he not return to his parents['] home because the foster parents are better able to provide for the child's material needs. [A.A.C.] was ready to go home, in fact his suit case was packed, after living in the foster home for nearly a year, until his mother relapsed and his father was sent back to prison. The CASA testified that [A.A.C.] was devastated by the behaviors of the parents, he felt they let him down. Thus, the weight of evidence supports the conclusion that it was the parents['] recent

> actions, and the parents[’] history that has lead [A.A.C.] to his present request, and not a consideration of what one family can provide him when compared to another.

Appellant’s App. pp. 10-15. This appeal ensued.

Discussion and Decision

Standard of Review

This court has long had a highly deferential standard of review in cases concerning the termination of parental rights. *In re K.S.*, 750 N.E.2d 832, 836 (Ind. Ct. App. 2001). Thus, when reviewing the termination of parental rights, we will not reweigh the evidence or judge the credibility of the witnesses. *In re D.D.*, 804 N.E.2d 258, 264 (Ind. Ct. App. 2004), *trans. denied*. We consider only the evidence and reasonable inferences that are most favorable to the judgment. *Id*.

Here, the trial court made specific findings in granting the termination of Mother’s and Father’s parental rights. Where the trial court enters specific findings of fact, we must first determine whether the evidence supports the findings, and second we determine whether the findings support the judgment. *Bester v. Lake County Office of Family & Children*, 839 N.E.2d 143, 147 (Ind. 2005). We will set aside the trial court’s judgment terminating parental rights only if it is clearly erroneous. *Id.* A finding is clearly erroneous when there are no facts or inferences drawn therefrom that support it. *In re D.D.*, 804 N.E.2d at 264. A judgment is clearly erroneous only if the findings do not support the trial court’s conclusions or the conclusions do not support the judgment thereon. *Quillen v. Quillen*, 671 N.E.2d 98, 102 (Ind. 1996).

"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*. However, these parental interests are not absolute and must be subordinated to the child's interests when determining the proper disposition of a petition to terminate parental rights. *Id.* Parental rights may be terminated when the parents are unable or unwilling to meet their parental responsibilities. *In re K.S.*, 750 N.E.2d at 836.

In order to terminate a parent-child relationship, the State is required to allege and prove by clear and convincing evidence that:

> (A) [o]ne (1) of the following exists:
>
> (i) the child has been removed from the parent for at least six (6) months under a dispositional decree;
>
> * * *
>
> (B) there is a reasonable probability that:
>
> (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) termination is in the best interests of the child; and
>
> (D) there is a satisfactory plan for the care and treatment of the child.

Ind. Code § 31-35-2-4(b). The State must establish each of these allegations by clear and convincing evidence. *Egly v. Blackford County Dep.'t of Pub. Welfare*, 592 N.E.2d 1232, 1234 (Ind. 1992).

The parents do not challenge the trial court's finding that A.A.C. had been removed for more than six months under a dispositional decree. Rather, they challenge the sufficiency of the evidence supporting all the remaining elements of Indiana Code § 31-35-2-4(b). We address each argument separately.

I. Conditions Will Not Be Remedied or Relationship Poses a Threat

Mother and Father first assert that the Elkhart Office of Family and Children ("EOFC") failed to present sufficient evidence that there was a reasonable probability that the conditions that resulted in A.A.C.'s removal would not be remedied and that a continuation of the parent-child relationship posed a threat to A.A.C.'s well-being. Specifically, the parents assert, "[n]one of the opinions [of the therapists and other service providers] was based on current information . . . or [F]ather's progress in overcoming abusiveness." Appellant's Br. p. 27.

Indiana Code § 31-35-2-4(b)(2)(B) is written in the disjunctive. Thus, it requires the trial court to find only one of the two requirements of subsection (B) by clear and convincing evidence. *See In re L.S.*, 717 N.E.2d 204, 209 (Ind. Ct. App. 1999), *trans. denied*. Therefore we will first review whether the trial court's determination that there was a reasonable probability that the conditions that resulted in A.A.C.'s removal would not be remedied is clearly erroneous.

Mother and Father correctly point out that when determining whether a reasonable probability exists that the conditions justifying a child's removal and continued placement outside the home will not be remedied, the trial court must judge a parent's fitness to care for his or her children at the time of the termination hearing and take into

consideration evidence of changed conditions. *In re J.T.*, 742 N.E.2d 509, 512 (Ind. Ct. App. 2001), *trans. denied*. Likewise, the court must also "evaluate the parent's habitual patterns of conduct to determine the probability of future neglect or deprivation of the child." *Id.*

With regard to Mother's habitual pattern of conduct, the record reveals that as far back as 1972, Mother has consistently involved herself with men who have physically abused her and her children. Because of these abusive relationships, A.A.C.'s four older sisters were raised outside of Mother's home. Three of Mother's daughters were removed and placed in foster care by Child Protective Services, and one was raised by her paternal grandmother. At the time of the termination proceeding, Mother was still involved with Father, despite the fact that Father had physically abused her on multiple occasions which resulted in Mother having to go to the hospital twice. In fact, Father was convicted on a charge of domestic battery and sent to prison for domestic battery against Mother, yet she maintained her relationship with Father throughout the duration of the proceedings. Additionally, Dr. Shetler, who completed a psychological assessment of Mother, also testified at the termination hearing. Dr. Shetler felt Mother was incapable of keeping A.A.C. safe in light of her history of being the victim of domestic violence, her history of substance abuse, and her current behaviors of minimizing, denying, and being defensive regarding both her use of drugs and her victimizations. Likewise, Mother's therapist, Robin Ebright-Zehr, testified that she had seen no evidence that Mother currently possessed the ability to keep A.A.C. safe. Beth Floyd, who operates a support

group for victims of domestic violence which Mother was court-ordered to attend, also testified that she had concerns over Mother's continued relationship with Father.

Mother's continued inability to exercise good judgment and to put A.A.C.'s needs and safety above her own personal relationships with abusive men was most apparent in her conduct after Father was released from prison in September 2005. Prior to Father's release, Mother had spent nearly a year working with EOFC and was making progress toward reunification with A.A.C. However, as soon as Father was released from prison, Mother allowed him to move back into her home and stay there, despite subsequent reports to treatment providers that Father had been abusive to her. Additionally, soon after Father's release from prison, both Mother and Father had positive drug screens.

While Jill Weiss, Probation Officer with the Elkhart County Juvenile Division, testified that at the time of the termination hearing, Mother was being "fairly compliant" with some of the court's orders, including submission to drug screens and attending individual counseling, Weiss further testified that she was still concerned with Mother's continuing relationship with Father. Tr. at 79. Weiss also testified that she remained concerned about Mother's ability to adequately parent and supervise A.A.C., stating, "I don't believe that there's been much improvement, or much change, in that ability at this point." *Id*. at 80. When questioned whether Probation felt the conditions which resulted in removal would likely be remedied any time soon, Weiss responded, "Probation doesn't feel that's very likely at this point in time as it has been over two years and - - and - - nothing substantially changed in the home environment." *Id*. at 81.

With regard to Father's habitual pattern of conduct, at the time of the termination hearing, Father had failed to comply with the EOFC's recommendations and was back in prison. Father argues that this Court has previously reversed a trial court's decision terminating the parental rights of a father who was incarcerated at the time of the termination hearing, but was expected to be released a few weeks after the hearing, and directs our attention to *Rowlett v. Vanderburgh County Office of Family & Children*, 841 N.E.2d 615, 620 (Ind. Ct. App. 2006), *trans. denied*. The facts of *Rowlett*, however, are easily distinguishable from the case at hand. In *Rowlett*, we recognized that the father had "made a good-faith effort to better himself as a person and as a parent" by availing himself of every opportunity for treatment. *Id.* at 623. In fact, the father, who was incarcerated throughout the entire termination proceedings and for all but two months of the CHINS proceedings, participated in a Therapeutic Community while in prison, and, as of two weeks prior to the termination hearing, the father had participated in nearly 1100 hours of individual and group services, including services in encounters, anger management and impulse control, parenting skills, domestic violence, self-esteem, self-help, and substance abuse. The father had also earned twelve hours of college credit and was enrolled in eighteen additional hours. Moreover, the father readily admitted to his criminal history and prior drug use at the termination hearing, testified that he never wanted to use drugs again because they had ruined his life, and stated that he planned on continuing counseling and other services to help him maintain his sobriety. Last, we note that the father maintained contact with his children while incarcerated by writing letters and through telephone calls.

The facts of this case are quite different from those in *Rowlett*. Here, unlike in *Rowlett*, Father was released from prison during the CHINS proceedings. However, Father immediately began abusing Mother and using drugs again, and was sent back to prison. Additionally, the evidence suggests that the only service Father participated in while incarcerated was substance abuse counseling, which, by his own admission, he had not completed by the time of the termination hearing. Moreover, despite his domestic battery conviction and overwhelming testimony to the contrary by Mother, her daughter K.G. and A.A.C., Father continued to assert at the termination hearing that he "never raised [his] hand and hit [Mother]." Appellee's App. p. 57. There is also no evidence that Father ever attempted to maintain any contact with A.A.C. while incarcerated or that he ever tried to establish paternity for A.A.C. Thus, *Rowlett* is not applicable to the present case.

Our review of the record leaves this Court convinced that the EOFC proved by clear and convincing evidence that there was a reasonable probability that the conditions that resulted in A.A.C.'s removal from his parents' care would not be remedied. This evidence supports the trial court's conclusion that "[t]he parents' testimony and behaviors suggest a lack of understanding or minimization of their role in [A.A.C.] becoming involved in the system and being removed from the home. The parents' behaviors have not changed to date, and their testimony suggests it is not likely to change in the near future[.]" Appellant's App. pp. 13-14. We are unwilling to put A.A.C. on a shelf until Mother and Father are capable of caring for him. More than two years without improvement is long enough. *See In re Campbell*, 534 N.E.2d 273, 275 (Ind. Ct. App.

1989) (holding that the Welfare Department "does not have to rule out any possibility of change" but just has to show that there is a reasonable probability that the parent's behavior will not change). Moreover, standing alone, this finding satisfies the requirement listed in Indiana Code § 31-35-2-4(b)(2)(B) and we need not address the parents' additional contention that the trial court erred in determining that the parent-child relationship poses a threat to A.A.C.'s well-being.

II. Best Interests of the Child

Mother and Father next assert that the evidence does not support the trial court's conclusion that termination was in A.A.C.'s best interests. In determining what is in the best interests of the child, the trial court is required to look at the totality of the evidence. *A.F. v. Marion County Office of Family & Children*, 762 N.E.2d 1244, 1253 (Ind. Ct. App. 2002), *trans. denied*. In so doing, the trial court must subordinate the interests of the parents to those of the child or children involved. *Id.*

The record reveals that Mother has a lengthy history of substance abuse and involvement with men who are both physically violent and emotionally abusive. Moreover, despite extensive services offered to Mother and a brief period of improvement, by the time of the final termination hearing, Mother had failed to adequately demonstrate that she was capable of providing a safe environment for A.A.C. Likewise, Father also has a lengthy history of substance abuse, as well as a history of physical and emotional abuse towards Mother. Neither parent availed themselves of the services offered by the EOFC and both have failed to adequately demonstrate a change in

conditions that resulted in A.A.C.'s removal in the first place, namely, a stable home free from both substance and physical abuse.

Andrew Leichty, A.A.C.'s therapist, testified that A.A.C. remembers the drugs and violence that occurred in his parents' home and even remembers having to call the police for help when he was only four or five years old because Mother had suffered domestic violence at the hands of Father. Leichty further testified that A.A.C. needed permanency to maintain the tremendous progress he had made since his removal from his parents' home. Similarly, A.A.C.'s court appointed special advocate ("CASA"), Reva Noel, also testified that termination was in A.A.C.'s best interests, stating that since his removal, A.A.C. had never displayed violence and was on the honor roll in the gifted and talented program at school. The CASA testified that A.A.C. told her that he did not want to live with his parents. She further stated that A.A.C. told her that he loved his mother, but that he did not believe that she would stay away from drugs. A.A.C. also described his Father as an "abuser." Appellant's App. p. 15.

Termination of a parent-child relationship is proper where the child's emotional and physical development is threatened. *In re R.S.*, 774 N.E.2d 927, 930 (Ind. Ct. App. 2002), *trans. denied*. The trial court need not wait until the child is irreversibly harmed such that his physical, mental, and social development is permanently impaired before terminating the parent-child relationship. *Id.* Moreover, we have previously recognized that a trial court may consider a child's wishes as one of many factors to consider when determining whether involuntary termination of parental rights is in the best interests of the child. *Stone v. Daviess County Div. of Children & Family Services*, 656 N.E.2d 824,

832 (Ind. Ct. App. 1995), *trans. denied*. Based on the totality of evidence, we conclude that the EOFC proved by clear and convincing evidence that termination of the parent-child relationships between the parents and A.A.C. is in A.A.C.'s best interests. *See McBride v. Monroe County Office of Family & Children*, 798 N.E.2d 185, 203 (Ind. Ct. App. 2003) (concluding that testimony regarding a child's need for permanency supports a finding that termination is in the child's best interests); *see also In re D.V.H.*, 604 N.E.2d 634, 638 (Ind. Ct. App. 1993) (concluding that a parent's historical inability to provide adequate stability and supervision, coupled with a current inability to provide the same supports a finding that continuation of the parent-child relationship is contrary to the child's best interest), *trans. denied, superceded by rule on other grounds*.

III. Satisfactory Plan for Care

Mother and Father also contend that there was insufficient evidence supporting the trial court's finding that the EOFC had a suitable plan for the care and treatment of A.A.C. In order for the trial court to terminate the parent-child relationship, the trial court must find that there is a satisfactory plan for the care and treatment of the child. *In re B.J.D.*, 728 N.E.2d 195, 204 (Ind. Ct. App. 2000). This plan 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. *Id.* Here, the EOFC's plan was for A.A.C. to be adopted by his current foster parents. Thus, the evidence supports the trial court's finding that the EOFC had a satisfactory plan for the care and treatment of A.A.C. *See In re D.D.*, 804 N.E.2d at 268 (concluding that the State's plan for D.D. to be adopted by the current foster parents or another family constituted a suitable plan for D.D.'s future care).

The parents counter, however, that "[s]ince the foster family is willing to adopt [A.A.C.], his situation is similar to the children's situation in *Rowlett*, and there would be little harm, as the court found in *Rowlett*, if [Father] and [Mother] were given the chance to prove themselves fit parents for [A.A.C.]" Appellant's Br. pp. 30-31. We disagree.

In *Rowlett*, the State's plan was for the children to be adopted by their maternal grandmother if the father's parental rights were terminated. In light of the extraordinary efforts the Father had made to improve himself and his parenting ability while incarcerated, this Court found that there would have been little immediate effect on the children, who had been placed with their maternal grandmother since the time they had been determined to be CHINS, if the trial court would have granted the father's motion to continue the dispositional hearing until some reasonable time following his release so that he could demonstrate his willingness and ability to assume his parental duties.

In the present case, the facts are quite different. Father had an opportunity to demonstrate his willingness and ability to resume his parental duties when he was released from prison in September 2005. Instead, Father chose to resume his substance abuse and physical abuse of Mother, and was returned to prison. Moreover, Father's participation in services while incarcerated was nominal at best. Father admitted that he did not even complete the substance abuse services offered, and there is no evidence that Father maintained any contact with A.A.C. while incarcerated. Additionally, A.A.C. was not residing with a family member, but had been living in foster care for over two years. Thus, we find that *Rowlett* is not controlling under the facts of this case.

The purpose behind the time constraints in Indiana's parental rights termination statute is to ensure that children do not spend long periods of their childhoods in foster care or other settings designed to be temporary. *Phelps v. Sybinsky*, 736 N.E.2d 809, 813 (Ind. Ct. App. 2000), *trans. denied*; *see also Rowlett*, 841 N.E.2d at 619. Here, A.A.C. had been placed in foster care for over two years. The EOFC's plan for A.A.C.'s care after termination of Mother's and Father's parental rights was adoption by the foster family with whom he had been living and thriving. Thus, the evidence supports the trial court's finding that the EOFC had a satisfactory plan for the care and treatment of A.A.C. *See In re A.N.J.*, 690 N.E.2d 716, 722 (Ind. Ct. App. 1997) (concluding that when parental rights are terminated adoption is a satisfactory plan for the care and treatment of the child).

For all these reasons, we conclude that the trial court's judgment terminating Mother's and Father's parental rights to A.A.C. is not clearly erroneous.

Affirmed.

BAKER, C.J., and BAILEY, J., concur.