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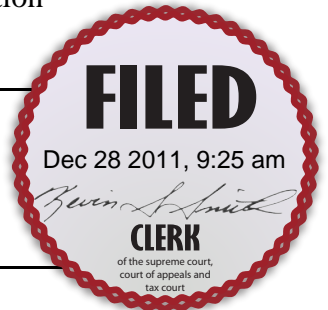
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**IN THE  
COURT OF APPEALS OF INDIANA**

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IN RE: The Termination of the Parent-Child Relationship of: )  
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 )  
D.H.H. & A.M.H., (Minor Children) )  
 )  
and )  
 )  
Carrie Crawford, (Mother) )  
 )  
Appellant-Respondent, )  
 )  
vs. )  
 )  
INDIANA DEPARTMENT OF CHILD )  
SERVICES, )  
 )  
Appellee-Petitioner. )

No. 71A03-1107-JT-322

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APPEAL FROM THE ST. JOSEPH PROBATE COURT  
The Honorable Peter J. Nemeth, Judge

**December 28, 2011**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**BAKER, Judge**

Appellant-respondent Carrie Crawford appeals the probate court's order involuntarily terminating her parental rights to her minor children, D.H.H. and A.M.H. Specifically, Crawford argues that the evidence is insufficient to support the termination order because appellee-petitioner Department of Child Services (DCS) failed to prove that continuation of the parent-child relationship poses a threat to the well being of the children and that termination is in the children's best interests. Finding the evidence sufficient, we affirm.

FACTS

Crawford gave birth to D.H.H. on November 3, 2005, and to A.M.H. on March 10, 2007. In January 2009, Crawford and both of the children resided at the Julian Center, a domestic abuse shelter in Marion County. On January 12, 2009, Marion County DCS received a report alleging that Crawford used excessive discipline on the children. Upon investigation, DCS determined that the children appeared healthy and free of noticeable signs of abuse and neglect, and it classified the report as unsubstantiated. Prior to moving to the Julian Center, Crawford and the children had been residents at the Salvation Army Domestic Violence Shelter, but they were evicted following a

disagreement Crawford had with the staff and her non-compliance with the shelter's rules.

On January 22, 2009, Crawford was arrested at the Julian Center for battering another resident. Unable to locate any relatives in Indianapolis, the police called the DCS, who placed the children in foster care. As a result of the battery charge, Crawford was incarcerated for forty-five days in the Marion County Jail. DCS initiated proceedings to have both children declared Children in Need of Services (CHINS) and had the children placed in foster care.

In February 2009, Crawford bonded out of jail, and she secured and furnished an apartment. DCS, having determined that her housing was clean and appropriate, returned the children to Crawford. Crawford agreed to an Informal Adjustment (IA) plan, and DCS dismissed the CHINS case.

In contravention of the IA plan, Crawford failed to attend appointments with DCS and did not engage in home based services. Also, on May 12, 2009, she informed family case manager, Cortney Owens, that she had taken the children to South Bend. The IA agreement required that Crawford first notify DCS before traveling outside of Marion County for more than seventy-two hours. Crawford acknowledged that she needed to return to Marion County with the children by May 15. On May 20, when Owens finally located Crawford in Indianapolis, Owens learned that Crawford had left the children with their grandmother in South Bend.

On May 22, 2009, DCS filed a petition alleging the children as CHINS because Crawford had failed to comply with the terms of her IA plan. That same day, the Marion County juvenile court conducted an initial CHINS hearing, found that probable cause existed to declare the children CHINS, and ordered that the children continue relative care with their great-grandmother. Crawford denied the allegations in the petition, but stated to the trial court that she had an outstanding arrest warrant in St. Joseph County. On June 3, 2009, the trial court held another initial CHINS hearing at which Crawford failed to personally appear.

On July 1, 2009, Crawford appeared by court appointed counsel at the CHINS pretrial hearing because she was incarcerated at the Elkhart County Jail on charges of forgery and false informing. On July 15, 2009, the trial court held a fact-finding hearing. Crawford, through counsel, stipulated that the children were CHINS and that she was incarcerated on both the date of removal and date of trial. The trial court adjudged the children CHINS and entered a dispositional order and a parental participation order (PPO), which required, among other things, that Crawford complete various counseling services and maintain suitable housing.

In September 2009, some two weeks after her release from Elkhart County Jail on her arrest for forgery and false informing, Crawford was again arrested in South Bend for shoplifting. She was detained in St. Joseph County for three days. On October 5, 2009, she pleaded guilty to forgery, a class C felony, and was sentenced to five years suspended to probation. Then, on October 17, 2009, Crawford was arrested on another theft charge.

She was jailed for fourteen days. On January 28, 2010, she was arrested for violating the terms of her probation by being charged with theft.

Because the children remained in South Bend while Crawford was incarcerated, DCS transferred the case to its office in St. Joseph County. Lauren Corzett was assigned as the family case manager.

On February 3, 2011, DCS filed its verified petitions for involuntary termination of the parent-child relationship. On June 20, 2011, the probate court held the termination hearing, during which, it heard evidence that Crawford had been in and out of jail ever since the trial court adjudged the children CHINS. At the time of the termination hearing, she had been incarcerated since January 28, 2010, and her expected release date is November 12, 2012. Additionally, while incarcerated at the Rockville Correctional Facility, she was placed in segregation for ninety-six days after she engaged in a physical altercation with another inmate.

Crawford testified that she was attending anger management and parenting classes in jail but was only able to present a photo of her with a certificate for one of the anger management classes. She also testified that she was attending home based services from November 19, 2009, until December 4, 2009, but claimed that, for the rest of December, her case manager was unavailable. And, when the case manager became available, she was arrested on her probation violation on January 28, 2010.

Corzett testified that, since May 2009, the children have been out of Crawford's care. Although Crawford had started some parenting classes, Corzett stated that

Crawford “did not go far.” Tr. p. 15. Crawford requested substance abuse classes, but only attended an initial assessment. And, although Crawford claims she was attending anger management and parenting classes in jail, Corzett has never received any verification of any of the programs. Additionally, sometime around the initial termination hearing on March 9, 2011, she learned that Crawford had been placed in segregation for physically attacking another inmate.

Corzett then testified that, because of Crawford’s continued criminal involvement, the reasons for the removal of the children have not been remedied, the continuation of the relationship is a threat to the children’s well-being, and terminating the relationship is in the best interests of the children. Specifically, Corzett testified that:

after our involvement, she got stability and housing and then was re-arrested two more time and I don’t feel that’s healthy with the children at the age they are to see their mother some and then not see their mother some, a normal pattern for them, and I don’t feel that that’s healthy or stable environment to be in.

Id. at 22. Likewise, the Court Appointed Special Advocate (CASA) Sharon LaPara testified that, because of Crawford’s frequent incarcerations, it was in the best interests of the children to terminate the parent-child relationship in order to provide them with a stable environment. Id. at 31.

At the time of the termination hearing, the children were residing with their maternal aunt. Corzett testified that the aunt was unwilling to provide the children with a permanent home.

On June 21, 2011, the probate court issued findings of fact and conclusions of law. The probate court concluded, among other things, that there is a reasonable probability that the continuation of the parent-child relationship poses a threat to the well-being of the children, that the conditions resulting in the removal of the children from Crawford's home will not be remedied, and it is in the best interest of the children that the parent-child relationship be terminated. Crawford now appeals.

### DISCUSSION AND DECISION

As stated above, Crawford challenges the sufficiency of the evidence supporting two of the probate court's conclusions of law; that the continuation of the parent-child relationship poses a threat to the well being of the children and that termination is in the children's best interests. She does not specifically challenge any of the findings of fact.

When reviewing a 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, 265 (Ind. Ct. App. 2004). Instead, we consider only the evidence and reasonable inferences that are most favorable to the judgment. Id. Moreover, 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). 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. Bester v. Lake Cnty. Office of Family & Children, 839 N.E.2d 143, 147 (Ind. 2005). Thus, if the evidence and

inferences support the trial court's decision, we will affirm. In re L.S., 717 N.E.2d at 208.

Parental rights are of a constitutional dimension, but the law provides for the termination of those rights when the parents are unwilling or unable to meet their parental responsibilities. Bester, 839 N.E.2d at 147. The purpose of terminating parental rights is not to punish a parent but to protect the child. In re L.S., 717 N.E.2d at 208.

When DCS seeks to terminate parental rights, it must, in relevant part, plead and prove the following:

(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) (emphasis added). DCS must establish these elements by clear and convincing evidence. In re I.A., 934 N.E.2d 1127, 1133 (Ind. 2010).

Here, Crawford first contends that DCS failed to prove by clear and convincing evidence that the continuation of the parent-child relationship poses a threat to the well-being of the children. We point out, as we have many times in the past, that Indiana



Code section 31-35-2-4(b)(2)(B) is written in the disjunctive, and, therefore, DCS was required to establish only one of the elements of subparagraph (B). Id. Accordingly, because Crawford does not challenge the probate court's conclusion that there is a reasonable probability that the conditions resulting in the removal of the children from the parent's home will not be remedied, we may proceed directly to her next argument.<sup>1</sup>

Id.

Next, Crawford alleges that DCS failed to present any evidence that termination of parental rights is in the best interests of the children. In determining what is in the best interests of the child, the trial court is required to look beyond the factors identified by the DCS and consider the totality of the evidence. In re A.B., 887 N.E.2d 158, 167 (Ind. Ct. App. 2008). In so doing, the trial court must subordinate the interests of the parent to those of the children. Id. The court need not wait until a child is irreversibly harmed before terminating the parent-child relationship. In re M.M., 733 N.E.2d 6, 13 (Ind. Ct. App. 2000). Moreover, this court has previously determined that the testimony of a child's CASA and the family case manager regarding the child's need for permanency supports a finding that termination is in the child's best interests. McBride v. Monroe

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<sup>1</sup> Nevertheless, we note that DCS showed that Crawford was frequently incarcerated and that the children had to be placed in foster care, then with their great grandmother, and finally, at the time of the termination hearing, with their maternal aunt. Appellee's Ex. E. Corzett testified that she believed that Crawford's intermittent presence in her children's lives was unhealthy and posed a threat to their well-being. Tr. 22. The court need not wait until the children are harmed irreversibly such that their physical, mental, and social development is permanently impaired. In re T.F., 743 N.E.2d 766, 773 (Ind. Ct. App. 2001). Consequently, Crawford's argument that DCS failed to prove that the continuation of the parent-child relationship poses a threat to the children is unavailing.

Cnty. Office of Family & Children, 798 N.E.2d 185, 203 (Ind. Ct. App. 2003), In re M.M., 733 N.E.2d 6, 13 (Ind. Ct. App. 2000).

Here, the probate court heard evidence of the children's need for permanency and stability. Corzett testified that the reasons for the removal of the children, specifically Crawford's frequent incarceration, have not been remedied and terminating the relationship is in the best interests of the children. Tr. p. 21-24. Corzett further testified that the children require stability, and Crawford's frequent incarceration threatened that stability. Id. at 22. LaPara agreed, testifying that Crawford's inability to "prevent herself from being incarcerated again which would result in the children being removed again." Id. at 31. Accordingly, we conclude that DCS provided by clear and convincing evidence that termination of Crawford's parental rights was in the best interest of the children.

The judgment of the probate court is affirmed.

DARDEN, J., and BAILEY, J., concur.