Affirmed and Memorandum Opinion filed April 11, 2017.

In The

Fourteenth Court of Appeals

NO. 14-16-00855-CV
NO. 14-16-00918-CV

IN THE INTEREST OF A.A.B. AND A.B., CHILDREN

On Appeal from the 309th District Court
Harris County, Texas
Trial Court Cause Nos. 2011-65268 and 2015-18630

M E M O R A N D U M O P I N I O N

Appellant A.G. ("Mother") appeals the trial court's final decree terminating her parental rights and appointing the Department of Family and Protective Services ("Department") as sole managing conservator of her children A.A.B. ("Andrew") and A.B. ("Ashley").[1] On appeal, Mother challenges the legal and factual sufficiency of the evidence to support (1) the predicate grounds under

[1] We use pseudonyms to refer to appellant, her children, and other family members. *See* Tex. Fam. Code § 109.002(d); Tex. R. App. P. 9.8.

which the trial court terminated her parental rights, and (2) the trial court's finding that termination was in the children's best interests. We affirm.[2]

I. FACTUAL AND PROCEDURAL BACKGROUND

In February 2015, the Department received a referral alleging physical neglect of Andrew, then age three, and Ashley, then age two, by J.D.B. ("Father"). Father and the children were living under a bridge in Houston while Mother allegedly was staying in Porter, Texas. According to the referral, Father was unemployed, and he and the children had been living under the bridge for approximately two weeks. On the day of the referral it was 38 degrees outside. The children were clad in sweaters and jeans, and wore no socks, shoes, or gloves. When prompted, Father put jackets on the children. The space under the bridge was filthy and covered in trash. The children were dirty and had bites all over their faces and extremities. Ashley's hand was red and painful to the touch. Father and the children had slept outside the previous night, when the temperature had dropped below freezing. Father did not want to go to a shelter.

During the investigation that followed, the Department's investigator Kourtney Charles interviewed the children's paternal grandmother K.E. ("Grandmother") as a potential placement for the children. Grandmother, who had a history with the Department, believed Father was living in an apartment and denied knowing Father was homeless. Father would contact Grandmother using various numbers because he did not have his own contact information. Grandmother stated that Mother had been absent from their lives for a year, and had no contact information for Mother.

[2] The trial court also terminated father J.D.B.'s parental rights pursuant to an irrevocable affidavit of relinquishment; however, he has not appealed the termination.

Charles contacted Mother to inform her that the Department had opened a case involving Andrew and Ashley. Mother believed Father was living with his sister. Mother had no employment. She stayed at home with another child, Alex, who has a different biological father.[3] Mother agreed to be protective of Andrew and Ashley.

Charles informed Mother that she needed to go to Memorial Hermann Hospital, where the children would be evaluated. Father met the Department at the hospital. Father denied having any criminal history, and denied that the children lacked socks and shoes, and denied living under the bridge. He stated that he had left his belongings under the bridge because they did not fit in his apartment. Father indicated he had been living in shelters (Beacon and Star of Hope) but recently began living with a woman he met at a street church.

Eventually, Father admitted that he had been homeless for months following an apartment fire. When Mother left the children with Father, he was employed and had a home. Father admitted that Mother was unaware of his homeless status. The children had been with Father for eight months. Father expressed no concerns over the children being placed with Mother.

The physician who evaluated the children at the hospital reported no concerns, noting that there were no signs of malnourishment and that the bumps on the children's faces could be attributed to poor hygiene. The Department referred the family to Family Based Safety Services. Shortly after the referral, Father contacted Charles and informed her that the children were living with paternal aunt M.B. ("Aunt") at Mother's request. Charles told Father that Mother was not supposed to place the children in another residence without informing the Department. Charles attempted to contact Mother but was unable to reach her.

[3]Mother's parental rights as to Alex are not at issue in this appeal.

Charles also contacted Aunt to confirm whether the children were living with her and to arrange for a home visit. Initially, Aunt refused to provide any information. Once Charles explained that placing the children with Aunt without permission from the Department was improper, Aunt verified that she had the children.

Charles conducted a home visit at Aunt's house, which had running water, electricity, and food. The children slept on a mattress in the bedroom with Aunt and her boyfriend. A background check revealed that Aunt's boyfriend had a criminal history for marijuana possession, theft, and assault. Aunt's boyfriend submitted to a drug test and tested positive for marijuana use.

At a Family Team Meeting in March 2015, Mother admitted leaving the children with Aunt because Alex's father had been released from prison and wanted to see her. Mother further admitted that she was aware of the requirement to inform the Department of any changes or if she could no longer care for the children. Mother remained unemployed. Father stated he had been employed for one week and was living in motels with his domestic partner. Based on the positive drug-test results for Aunt's boyfriend, the Department opted to remove the children from Aunt's care and placed them in a Parent Child Safety Placement with Father's maternal aunt.

Shortly thereafter, the Department filed two original pleadings for termination of the parents' rights to the children, later amending its petition as to Ashley.[4] The Department alleged termination was warranted with regard to Mother because she:

[4] The Department filed an original motion to modify for conservatorship and termination of the parents' rights to Andrew because he already was the subject of a suit affecting the parent-child relationship in which child support was at issue.

- knowingly placed or knowingly allowed the children to remain in conditions or surroundings which endanger the physical or emotional well-being of the children, pursuant to §161.001(b)(1)(D), Texas Family Code;
- engaged in conduct or knowingly placed the children with persons who engaged in conduct which endangers the physical or emotional well-being of the children, pursuant to §161.001(b)(1)(E), Texas Family Code;
- constructively abandoned the children who have been in the permanent or temporary managing conservatorship of the Department of Family and Protective Services or an authorized agency for not less than six months and: (1) the Department or authorized agency has made reasonable efforts to return the children to the mother; (2) the mother has not regularly visited or maintained significant contact with the children; and (3) the mother has demonstrated an inability to provide the children with a safe environment, pursuant to §161.001(b)(1)(N), Texas Family Code; and
- failed to comply with the provisions of a court order that specifically established the actions necessary for the mother to obtain the return of the children who have been in the permanent or temporary managing conservatorship of the Department of Family and Protective Services for not less than nine months as a result of the child's removal from the parent under Chapter 262 for the abuse or neglect of the children, pursuant to §161.001(b)(1)(O), Texas Family Code.

A. Center Caseworker's Testimony

At trial, Mother's sole witness was Andrea Johnson, who was serving as Mother's case manager at the Star of Hope Transitional Living Center. The Center is a 12-to-18-month program designed for single women, single women with children, or single men with children. The program offers life skills classes to help individuals and families successfully move back into the community. Children are allowed to live at the facility with their parents.

Mother initially entered the Center's New Hope Program. At the time of trial, Mother was participating in the Center's GED program as well as the aftercare program, which allowed her to take life-skills classes throughout the week. Johnson testified that Mother was making progress, noting Mother had completed the New Hope Program, and had passed one of the four test areas for her high school equivalency certificate. Mother also was working with a counselor at the Center to address, among other things, parenting issues.

According to Johnson, Andrew and Ashley would be allowed to live with Mother at the Center because Mother had demonstrated continual progress. The Center offers continuing parenting classes as well as day care and afterschool programs. Transportation to and from the children's school also could be arranged. The Center also provides food and clothing. If a family needs additional assistance, the Center sometimes allows the family to stay longer than 18 months, a decision that is made on a case-by-case basis.

Johnson testified that Mother had been placed on restriction an increased number of times in the two months before trial for tardiness to class and failing to complete chores. Johnson was aware of Mother's diagnosis of major depressive disorder. The Center monitors whether program members are taking their prescribed medications. At the time of trial, Mother was not taking her prescribed medication. Johnson stated that a resident would not be removed from the Center based on restrictions alone.

On cross-examination, Johnson testified that when Mother arrived at the Center, Johnson was aware Mother had used marijuana and cocaine within the past year. Johnson did not know about Mother's methamphetamine use. Johnson acknowledged that Mother had not been compliant with certain requirements during the pendency of the Department's case. Although the Center was

"comfortable" with Mother's current progress, Johnson could not guarantee that Mother would be allowed to stay at the Center.

As Mother's caseworker, Johnson meets with Mother weekly for updates on Mother's progress. Johnson acknowledged that it was taking Mother "some time" to complete the GED program and if Mother does not pass the test, the Center might have to consider a new plan for Mother. Mother had completed an anger management program, a parenting course, and a substance abuse program as well as a life-skills workshop. Mother also participated in a youth conference program addressing mental health issues. According to Johnson, Mother had seen a psychiatrist about three months before trial. Johnson was unaware of any doctor telling Mother to stop taking medication for anxiety and depression.

B. Mother's Testimony

Mother testified that she was not caring for Andrew and Ashley currently. Both children had been living with Father for the nine-month period before the Department initiated suit. Mother left the children with Father after the couple ended their relationship. Mother later tried to care for Ashley but returned the child to Father because Mother was unable to get a job and look after Ashley at the same time.

Initially, Father was living in a house with his sister. Then Mother heard that Father was moving from hotel to hotel. About four months before the children's removal, Mother saw the children at her parents' house for Christmas. At that time, Mother did not ask either Father or Andrew where they were living. Mother testified that she only learned Father and the children were living under a bridge when the Department became involved.

During the Department's investigation, Mother denied any drug or alcohol use, though at trial Mother conceded that was a lie. After the Department placed the children in Mother's care, Mother told the Department she could not care for the children and entrusted their care to one of Father's family members without informing the Department. Mother then left Texas and lived with an aunt in Florida for a few months.

Mother was aware that Father was using methamphetamines when they lived together. Mother's brothers, who were drug addicts, also were living with them and the children. When Father failed his first court-ordered drug test, Mother learned that Father also was using cocaine. Mother likewise tested positive for cocaine use. Mother testified that she had not used alcohol or drugs for approximately one year. Yet, Mother was using methamphetamines when the children came into the Department's care and Mother was using cocaine and marijuana after the children were removed. Although Mother took a parenting class while in Florida, she did not engage in any additional services ordered in her family plan of service for a period of five months.

Mother stated that she was prescribed medication for anxiety and depression but decided on her own to stop taking it a month or two before trial. Mother admitted it was not in the children's best interest for her to stop taking her prescribed medication.

Mother was supposed to participate in services at the Mental Health and Mental Retardation Authority ("MHMRA") but only went once. Mother conceded that outside of the Center, she did not have a place to live or a job. But, Mother planned to complete her program at the Center, including getting her GED, and ultimately looking for a job.

Mother believed it would be in the children's best interest for them to live with her because she "would do anything I could for them to be happy and for them to be taken good care of." Mother testified that she returned to Houston from Florida so she could be closer to the children. Mother's Department caseworker, Marilyn Scott, arranged for her to enter the Center's New Hope Program. Mother visits with the children at the Center twice a month for ninety-minute sessions. Mother has no interaction with the foster parents but believes the children are in a good environment.

Mother testified that Father's family, some of whom were present at trial, had provided support for her in the past and that she intended to continue her relationship with Father's family. Mother had not provided any financial support for the children during the pendency of this case and agreed that, without the Center, she had no ability to provide the children with housing, clothing, or food.

C. Department Caseworker's Testimony

The Department's caseworker Marilyn Scott testified that Mother appeared in court at the beginning of the case and signed her family service plan. The trial court ordered Mother to complete the services in the family service plan. Scott testified that Mother had not completed her family service plan. Specifically, Mother was not in compliance with the following requirements: (1) continue with MHMRA; (2) have employment and provide the income to have stable and safe housing for her and her children; and (3) complete all of the substance abuse recommendations. Scott grew concerned upon hearing that Mother had discontinued going to MHMRA and had stopped taking her medication because Mother had told Scott during a recent visit with the children that she was still going to MHMRA and taking her medication.

Scott further testified that the children's foster home was meeting their physical and emotional needs and they could remain in their current placement if Mother's parental rights were terminated. According to Scott, the children play well together and listen to their foster parents. Andrew is in kindergarten and having fewer behavioral issues at school. Ashley is in daycare and meeting all of her developmental milestones.

Scott believed termination of Mother's rights would be in the children's best interest. Andrew has special needs, having been diagnosed recently with petit mal seizures. Andrew requires extra attention, which his foster parents can provide, as well as ensure the child gets necessary visits to the doctor. Additionally, both children are progressing. Scott stated that although Mother achieved some of the goals in her service plan, she could have done more. Scott did not know whether the children would remain in the care of their foster parents if Mother's parental rights remained intact. Scott testified that termination of parental rights would be in the children's best interests, so the children could achieve permanency through adoption.

D. Child Advocate's Testimony

Child advocate Meredith Wallace recommended termination of Mother's parental rights because it would be in the children's best interests. Wallace testified the children are in a "really stable loving home" and the foster parents want to adopt them. Noting that Mother still had not completed the required services to support the children long-term, Wallace testified there is no way to predict when Mother might be able to support them.

Wallace also expressed concern that Mother had self-diagnosed herself and discontinued her MHMRA services. Wallace had observed Mother interact with the children on two occasions and noted that Mother had difficulty controlling the

children and interacting with both at the same time. Wallace did not believe the facts and circumstances initiating the instant case against Mother had changed.

E. Trial Court's Termination of Mother's Parental Rights

Following argument of counsel, the trial court determined Mother's parental rights should be terminated pursuant to the predicate findings under Family Code sections 161.001(b)(1)(D), (E), and (O). The trial court also found that termination of Mother's parental rights was in the children's best interests. The trial court appointed the Department as sole managing conservator. Mother now challenges the termination ruling.

II. Issues and Analysis

In her first three issues Mother argues the evidence is legally and factually insufficient to support the termination finding under sections 161.001(b)(1)(D), (E), and (O). Parental rights can be terminated upon proof by clear and convincing evidence that (1) the parent has committed an act prohibited by section 161.001(b)(1); and (2) termination is in the best interest of the child. Tex. Fam. Code Ann. § 161.001(b)(1), (2); *In re J.O.A.*, 283 S.W.3d 336, 344 (Tex. 2009).

A. Standard of Review

Involuntary termination of parental rights is a serious matter implicating fundamental constitutional rights. *Holick v. Smith*, 685 S.W.2d 18, 20 (Tex. 1985); *In re D.R.A.*, 374 S.W.3d 528, 531 (Tex. App.—Houston [14th Dist.] 2012, no pet.). Although parental rights are of constitutional magnitude, they are not absolute. *In re C.H.*, 89 S.W.3d 17, 26 (Tex. 2002) ("Just as it is imperative for courts to recognize the constitutional underpinnings of the parent-child relationship, it is also essential that emotional and physical interests of the child not be sacrificed merely to preserve that right.").

Due to the severity and permanency of the termination of parental rights, the burden of proof is heightened to the clear-and-convincing-evidence standard. *See* Tex. Fam. Code Ann. § 161.001; *In re J.F.C.*, 96 S.W.3d 256, 265–66 (Tex. 2002). "Clear and convincing evidence" means "the measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established." Tex. Fam. Code Ann. § 101.007 (West 2014); *J.F.C.*, 96 S.W.3d at 264. This heightened burden of proof results in a heightened standard of review. *In re C.M.C.*, 273 S.W.3d 862, 873 (Tex. App.—Houston [14th Dist.] 2008, no pet.).

In reviewing the legal sufficiency of the evidence in a termination case, we must consider all the evidence in the light most favorable to the finding to determine whether a reasonable fact finder could have formed a firm belief or conviction that its finding was true. *See J.O.A.*, 283 S.W.3d at 344; *J.F.C.*, 96 S.W.3d at 266; *C.H.*, 89 S.W.3d at 25. We assume the fact finder resolved disputed facts in favor of its finding if a reasonable fact finder could do so, and we disregard all evidence a reasonable fact finder could have disbelieved. *J.O.A.*, 283 S.W.3d at 344; *J.F.C.*, 96 S.W.3d at 266.

In reviewing the factual sufficiency of the evidence, we consider and weigh all of the evidence, including disputed or conflicting evidence. *J.O.A.*, 283 S.W.3d at 345. "If, in light of the entire record, the disputed evidence that a reasonable fact finder could not have credited in favor of the finding is so significant that a fact finder could not reasonably have formed a firm belief or conviction, then the evidence is factually insufficient." *Id*. We give due deference to the fact finder's findings and we cannot substitute our own judgment for that of the fact finder. *In re H.R.M.*, 209 S.W.3d 105, 108 (Tex. 2006). The fact finder is the sole arbiter when assessing the credibility and demeanor of witnesses. *Id.* at 109.

B. Predicate Termination Grounds

Relevant to the sufficiency issue under section 161.001(b)(l)(O), termination of parental rights is warranted if the trial court finds by clear and convincing evidence, in addition to the best-interest finding, that the parent has:

> (O) failed to comply with the provisions of a court order that specifically established the actions necessary for the parent to obtain the return of the child who has been in the permanent or temporary managing conservatorship of the Department of Family and Protective Services for not less than nine months as a result of the child's removal from the parent under Chapter 262 for the abuse or neglect of the child.

Tex. Fam. Code Ann. § 161.001(b)(1)(O). Mother does not challenge that the children were removed under Chapter 262 for abuse or neglect, or that the children were in the Department's conservatorship for the requisite period of time. The record reflects that the trial court approved Mother's service plan and ordered compliance with its terms. *See* Tex. Fam. Code Ann. §§ 161.001(b)(l)(O); 263.101–106. Mother's service plan required her to:

- Complete a substance abuse assessment and follow all recommendations;
- Complete a psychological evaluation and follow all recommendations;
- Complete parenting classes;
- Complete individual therapy and follow all recommendations;
- Participate in random drug testing;
- Maintain safe and stable housing for at least six months;
- Maintain stable employment for at least six months;
- Provide the Department caseworker with a release of information;
- Maintain contact with her Department caseworker;

- Continue participation in related hearings and meetings;
- Notify caseworker within 24 hours of any changes in contact information;
- Maintain a positive support system that is safe, crime-free, drug/alcohol free, and will not inflict abuse or neglect on her children;
- Provide the Department caseworker with copies of all prescriptions and follow all recommended dosages; and
- Contact caseworker to begin monitored face-to-face visitations with the children.

The burden of complying with the court order is on the parent. *In re D.N.*, 405 S.W.3d 863, 878 (Tex. App.—Amarillo 2013, no pet). Courts do not measure the "quantity of failure" or "degree of compliance." *Id*. at 877. Rather, courts determine whether a parent has failed to comply. *In re M.C.G.*, 329 S.W.3d 674, 675 (Tex. App.—Houston [14th Dist.] 2010, pet. denied) (holding a parent's reasons or excuses for failing to comply with the provisions of a court order that specifically established the actions necessary for the parent to obtain the return of the child are not material to the sufficiency of the evidence to support a finding under section 161.001(1)(O)); *see also In re A.W.*, No. 01-15-01030-CV, 2016 WL 3022824, at *7 (Tex. App.—Houston [1st Dist.] May 26, 2016, no. pet.) (mem. op.) (holding substantial compliance with court-ordered service plan may be insufficient to avoid termination). Subsection (O) does not "make a provision for excuses" for the parent's failure to comply with the service plan. *D.N.*, 405 S.W.3d at 877; *see also M.C.G.*, 329 S.W.3d at 675.

Mother concedes, and the record reflects, that Mother failed to comply with her service plan when she discontinued services through MHMRA. Mother testified that she was not discharged from these services but rather it was her decision to stop participating. Likewise, Mother acknowledged that she chose to

stop taking her prescribed medication for anxiety and depression and that she did so without a doctor's approval. Because even substantial compliance with a family service plan will not negate a termination finding under subsection O, we need not address Mother's challenges to whether the record contains clear and convincing evidence she failed to complete all recommendations from the substance-abuse assessment and obtain stable housing and employment. *See C.M.C.*, 273 S.W.3d at 875; *see also In re T.T.*, 228 S.W.3d 312, 319–20 (Tex. App.—Houston [14th Dist.] 2007, pet. denied) (noting Texas courts have uniformly found substantial compliance with the provisions of a court order inadequate to avoid a termination finding under subsection O). Mother failed to complete the service plan and so has not demonstrated the ability to provide the children with a safe environment. *See In re A.D.*, 203 S.W.3d 407, 411–12 (Tex. App.—El Paso 2006, pet. denied) (affirming termination under subsection O because mother failed to meet her service plan's material requirements including drug assessment, finding a job, and providing a safe home).

Reviewing the evidence under the appropriate standards, we conclude that the trial court could have formed a firm belief or conviction that termination of Mother's rights was warranted under section 161.001(b)(1)(O). Because the record contains legally and factually sufficient evidence to support the trial court's finding under this section, we need not address Mother's arguments that the evidence is insufficient to support the trial court's findings under sections 161.001(b)(1)(D) and (E). *See In re A.V.*, 113 S.W.3d 355, 362 (Tex. 2003) ("Only one predicate finding under section 161.001(1) is necessary to support a judgment of termination when there is also a finding that termination is in the child's best interest."). We overrule Mother's third issue, and do not reach her first and second issues.

C. Best Interest of the Children

In her fourth issue Mother challenges the legal and factual sufficiency of the evidence to support the trial court's finding that termination of her parental rights is in the children's best interests. Texas courts presume that keeping the child with the child's natural parent serves the child's best interest, and the Department shoulders the burden to rebut that presumption. *In re U.P.*, 105 S.W.3d 222, 230 (Tex. App.—Houston [14th Dist.] 2003, pet. denied). We also presume that prompt and permanent placement of the children in a safe environment is in the children's best interests. *See* Tex. Fam. Code Ann. § 263.307(a).

Courts use the following considerations, known as the *Holley* factors, to evaluate the best interest of the child:

> (1) the desires of the child;
>
> (2) the present and future physical and emotional needs of the child;
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> (3) the present and future emotional and physical danger to the child;
>
> (4) the parental abilities of the persons seeking custody;
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> (5) the programs available to assist those persons seeking custody in promoting the best interest of the child;
>
> (6) the plans for the child by the individuals or agency seeking custody;
>
> (7) the stability of the home or proposed placement;
>
> (8) acts or omissions of the parent that may indicate the existing parent-child relationship is not appropriate; and
>
> (9) any excuse for the parents' acts or omissions.

Holley v. Adams, 544 S.W.2d 367, 371–72 (Tex. 1976); *U.P.*, 105 S.W.3d at 230; *see also* Tex. Fam. Code Ann. § 263.307(b) (listing factors to consider in

evaluating parents' willingness and ability to provide the child with a safe environment). A finding in support of "best interest" does not require proof of any unique set of factors, nor does it limit proof to any specific factors. *See Holley,* 544 S.W.2d at 371–72.

1. Safety Needs of the Children

A parent's drug use supports a finding that termination is in the best interest of the child. *See In re M.R.*, 243 S.W.3d 807, 821 (Tex. App.—Fort Worth 2007, no pet.). The factfinder can give "great weight" to the "significant factor" of drug-related conduct. *In re K.C.*, 219 S.W.3d 924, 927 (Tex. App.—Dallas 2007, no pet.); *see also In re B.G.*, No. 14–14–00729–CV, 2015 WL 393044, at *7 (Tex. App.—Houston [14th Dist.] Jan. 29, 2015, no pet.) (mem. op.) (considering a parent's criminal and drug histories in affirming the decision that termination was in the best interest of a child). Although the evidence showed Mother was sober at the time of trial, Mother's history of illegal drug use evinces a course of conduct that a factfinder reasonably could conclude endangers the children's well-being. Mother and Father used methamphetamines around the children when they were all living together. And, Mother testified that she was using methamphetamines at the time the children were removed. When the Department initially placed the children with Mother after they were found living under the bridge, Mother denied using drugs or alcohol but admitted on the record that she lied. Mother continued to use cocaine and marijuana even after the Department initiated the suit. Accordingly, this factor weighs in favor of the trial court's finding.

2. Proposed Placement and Stability of Home Environment

The stability of the proposed home environment is an important consideration in determining whether termination of parental rights is in a child's best interest. *See In re D.M.,* 452 S.W.3d 462, 472 (Tex. App.—San Antonio 2014,

no pet.). Texas courts recognize as a paramount consideration in the best-interest determination the child's need for permanence through the establishment of a "stable, permanent home." *See K.C.,* 219 S.W.3d at 931. Therefore, evidence about the present and future placement of the children is relevant to the best-interest determination. *See C.H.*, 89 S.W.3d at 28.

Mother failed to get stable employment or stable housing. At the time of trial, Mother was unable to provide for the children in any manner without the Center's assistance. Although the Center, for a time, could provide housing, clothing, and food for the children if they lived with Mother, there were no guarantees Mother would remain in the program or complete the program and successfully make the transition into the community.

The record reflects the children were doing well in their foster placement. Scott testified that the foster home was meeting the children's physical and emotional needs. Andrew's behavior at school had improved, and Ashley was meeting all of her developmental milestones. Both children had been potty-trained. Scott and Wallace both testified that the foster parents wanted to adopt the children. Although Scott could not state with absolute certainty that the children were in their "forever home" at the time of trial, this is not dispositive of whether termination of Mother's parental rights was in the children's best interests. Indeed, "the lack of evidence about definitive plans for permanent placement and adoption cannot be the dispositive factor; otherwise, determinations regarding best interest would regularly be subject to reversal on the sole ground that an adoptive family has yet to be located." *C.H.*, 89 S.W.3d at 28. We conclude this factor weighs in favor of the trial court's finding.

3. Parenting Abilities and Family Support

The factfinder may consider a parent's parenting skills in a best-interest analysis. *See In re C.A.J.*, 122 S.W.3d 888, 893 (Tex. App.—Fort Worth 2003, no pet.). The record demonstrates that Mother completed parenting classes in compliance with her service plan and that she had received some support from Father's family in the past. Although Mother had regular visits with the children during the pendency of this case, Wallace testified that Mother struggled to control the children and interact with both children at the same time. The record also reflects that Mother had a history of leaving the children with other people because she could not care for them and find or maintain employment simultaneously.

Although a reasonable fact-finder could look at Mother's recent progress at the Center and perhaps conclude that this progress weighed in favor of not terminating Mother's parental rights, we cannot say the trial court acted unreasonably in finding that the children's best interests lay elsewhere. *In re M.G.D.*, 108 S.W.3d 508, 514 (Tex. App.—Houston [14th Dist.] 2003, pet. denied). It is not our role to reweigh the evidence on appeal.

4. Mother's Noncompliance with Court-Ordered Service Plan

Finally, evidence supporting termination under the grounds listed in section 161.001(b)(1) also can be considered in support of a finding that termination is in the child's best interest. *See C.H.*, 89 S.W.3d at 27 (holding the same evidence may be probative of both section 161.001(b)(1) grounds and best interest).

In determining the best interest of the child in proceedings for termination of parental rights, the trial court properly may consider that the parent did not comply with the court-ordered service plan for reunification with the child. *See In re E.C.R.*, 402 S.W.3d 239, 249 (Tex. 2013). Scott testified, and Mother conceded, that Mother failed to complete her family service plan successfully by

discontinuing her services through MHMRA and not taking her medication for anxiety and depression as medically prescribed.

D. Sufficiency of Evidence for the Best-Interest Finding

Applying the applicable *Holley* factors to the evidence, we conclude that legally and factually sufficient evidence supports the trial court's finding that termination of Mother's parental rights is in the children's best interests. *See In re S.B.,* 207 S.W.3d 877, 887–88 (Tex. App.—Fort Worth 2006, no pet.) (considering the parent's drug use, inability to provide a stable home, and failure to comply with a family-service plan in holding the evidence supported the best-interest finding). Based on the evidence presented, the trial court reasonably could have formed a firm belief or conviction that terminating Mother's rights is in the children's best interests so that the children quickly could achieve permanency through adoption. *See In re T.G.R.–M.*, 404 S.W.3d 7, 17 (Tex. App.—Houston [1st Dist.] 2013, no pet.); *M.G.D.*, 108 S.W.3d at 513–14. Accordingly, we overrule Mother's fourth issue.

We affirm the judgment of the trial court.

/s/ Kem Thompson Frost
Chief Justice

Panel consists of Chief Justice Frost and Justices Donovan and Wise.