Affirmed and Memorandum Opinion filed March 14, 2024.

In The

Fourteenth Court of Appeals

NO. 14-23-00709-CV

IN THE INTEREST OF B.W.R., A/K/A B.R., B.W.H., A/K/A B.H., B.R.H. A/K/A B.H., CHILDREN

On Appeal from the 313th District Court
Harris County, Texas
Trial Court Cause No. 2022-00826J

MEMORANDUM OPINION

Appellant S.R. (Mother) appeals the trial court's final order of termination of her parental rights appointing the Department of Family and Protective Services as sole managing conservator of her children, B.R.H. (Bret), B.W.H. (Barry), and B.W.R. (Bill).[1] *See* Tex. Fam. Code § 263.405(a). The trial court terminated Mother's parental rights on predicate grounds of constructive abandonment and failure to comply with a family service plan. *See* Tex. Fam. Code §

[1] Bret, Barry, and Bill are pseudonyms, which we use to protect the minors in this case. *See* Tex. R. App. P. 9.8.

161.001(b)(1)(N), (O). The trial court further found that termination of Mother's rights was in the children's best interest. *See* Tex. Fam. Code § 161.001(b)(2). On appeal Mother concedes legally and factually sufficient evidence supports the trial court's finding under section 161.001(b)(1)(O) (failure to follow a family service plan), but challenges the sufficiency of the evidence to support the trial court's best-interest finding. Mother further challenges the trial court's designation of the Department of Family and Protective Services (Department) as sole managing conservator of the children. We affirm.

BACKGROUND

Mother has three sons, Bret, ten years old, Barry, eight years old, and Bill, two years old. This case began in Nueces County when Mother abandoned Bill, six months old at the time, with Bill's alleged father. The removal affidavit, which was admitted into evidence without objection, states that Mother arrived at the alleged father's home, broke windows of his trailer, and left Bill on the porch, telling the alleged father, "He's yours now," and driving away. Mother left a car seat and formula, but did not leave the car seat base, diapers, or bottles. The alleged father called authorities because he was unwilling to care for a child he was not sure was his. The alleged father told the Department caseworker that Mother appeared intoxicated and had a history of drinking excessively. The alleged father admitted to engaging in domestic violence with Mother and drinking alcohol daily. Attempts by the caseworker to contact Mother were unsuccessful.

Approximately five months later, on May 3, 2022, the Department received a referral noting that Mother appeared at the home of the children's maternal grandmother (Grandmother). Grandmother reported that Mother had driven to her house while intoxicated with the two older boys in the car. At this time Bill was placed with Grandmother. The Department learned that Mother continued to drink

alcohol despite being on probation for DWI, which required, among other things, a breathalyzer in Mother's car. Bret and Barry were removed when Barry reported that Bret was being asked to breathe into the breathalyzer so that Mother could start her car. The Department concluded that Mother might be unable to safely operate her car with the children in it.

The affidavit reflected that Mother engaged in domestic violence with Bill's alleged father and with Bret and Barry's father. Grandmother reported to the caseworker that she would not permit Mother access to the children if Mother appeared intoxicated. The removal affidavit reflected ongoing denial by Mother that she needed to complete services on her plan to obtain the return of Bill. The affidavit reflected multiple attempts over several months to contact Mother and encourage her to complete services. The caseworker eventually received a text from Mother requesting that the caseworker no longer contact Mother.

Grandmother reported that Mother continued to drive between Houston and Corpus Christi, taking Bret and Barry with her. Grandmother suspected that Mother spent time in Corpus Christi with Bill's alleged father who was also a heavy drinker. Mother and Bill's alleged father frequently took the children on a boat while intoxicated. Grandmother agreed to keep Bret and Barry if they were removed from Mother.

Mother's History with the Department

The removal affidavit listed the following history with the Department:

Date	**Allegation**	**Resolution**
December 11, 2019	Physical abuse and neglectful supervision of Bret. Bret reported that Mother got angry and "threw knives and broke cabinets" and "that he does not feel safe."	Ruled out. No evidence or outcry of physical abuse.

Date	Allegation	Resolution
February 10, 2020	Physical abuse of Bret. Bret had a half-inch wound on his back. He gave varying descriptions of how he got the wound, one of which included falling out of a golf cart while Mother was driving under the influence	Ruled out. No evidence or outcry of physical abuse.
February 25, 2020	Neglectful supervision of Bret and Barry. Mother had both children in the car and intentionally ran into Bill's alleged father's car while the children were in the car.	Reason to believe. Witnesses and law enforcement explained that the incident appeared to be purposeful.
October 27, 2020	Neglectful supervision of Bret and Barry. Mother physically assaulted Grandmother in the children's presence.	Allegation did not meet preponderance of evidence standard.
January 22, 2022	Neglectful supervision of Bill. Mother abandoned Bill with his alleged father.	Led to removal of Bill from Mother and placement with Grandmother.
May 3, 2022	Neglectful supervision. Mother was driving drunk with children in the car and was verbally abusive to Grandmother.	Led to removal of Bret and Barry.

Mother's Criminal History

The removal affidavit listed the following criminal history for Mother:

Date	Allegation	Resolution
February 25, 2020	Aggravated assault with a deadly weapon	Held
February 25, 2020	Abandoning or endangering a child—two counts	Dismissed
July 27, 2020	Assault causing bodily injury to a family member	Held
October 30, 2020	Assault of EMS personnel	Dismissed
February 24, 2022	Driving while intoxicated	None listed
March 11, 2022	Assault of EMS personnel	Dismissed

Family Service Plan

Mother was ordered to comply with a family service plan, which was admitted into evidence without objection. The plan noted that Mother had not cooperated with the Department to have her needs assessed to facilitate resource management. The plan required Mother to have her parenting skills re-assessed to determine what parenting knowledge, skills, or struggles she may experience that could impact the children. The plan noted that Mother continued to abuse alcohol and had her children blow into the breathalyzer required to start her car so she could drive while under the influence. The plan required Mother to submit to both scheduled and random drug testing with the understanding that a missed test would be considered a positive result. Mother was also required to attend Alcoholics Anonymous meetings. Mother was required to undergo a mental health assessment and follow all recommendations of the assessment. Finally, Mother was required to complete domestic violence counseling and follow all recommendations.

Trial Testimony

Kealana Scott, the Department caseworker, testified that Mother was ordered to complete domestic violence classes, a psychological assessment, go to AA

meetings and obtain a sponsor, and to provide a stable income and safe and stable housing. Scott testified Mother failed to provide stable income or housing, had not completed domestic violence classes, and had not made contact with the Department in the year before the final hearing began. Mother attended some AA meetings, but had not given Scott contact information for her sponsor. Scott testified she spoke with Mother about completing the family service plan, but Mother never expressed an intention to complete the services.

At the time of the final hearing Scott did not know where Mother was living. Scott asked a Department caseworker to check on the trailer where Mother had been living in Corpus Christi. The caseworker went to the place where the trailer had been parked and reported that it had been moved. Approximately two months before trial Grandmother told Scott that Mother had gone to Alabama. During the final hearing Mother's counsel reported that Mother had texted from Alabama.

Scott testified that Grandmother was willing to adopt all three children. Grandmother became a licensed foster parent and went through the necessary steps to apply for receiving Permanency Care Assistance (PCA) benefits.

Bret has a good connection with Grandmother and was doing well while living in her home. Bret benefited from a schedule Grandmother imposed on the children and all of his physical and emotional needs were being met. Bret participated in a psychological assessment and Grandmother was helping him follow the recommendations from the assessment. Scott explained that Bret came into care first when he and Barry told their teachers at school that they were blowing into Mother's breathalyzer to start her car. When Mother abandoned Bill the children went through a Family Based Safety Services (FBSS) stage where Mother completed certain services and participated in monitored visitation. When Mother stopped following the FBSS plan the Department took the children into custody.

Barry also has a good relationship with Grandmother and has prospered in her care. All of Barry's needs were being met by Grandmother. Scott described Barry as "flourishing" with Grandmother.

Bill, who was a toddler at the time of the final hearing, was also doing well with Grandmother. Bill could sing the alphabet song and was hitting all his developmental milestones. Bill had lived with Grandmother since he was six months old.

Scott testified that it would be in all three children's best interests to be permanently placed with Grandmother and that she had no reservations in placing them with her. Scott felt confident that if Mother "was to resurface and attempt to re-engage with the boys," Grandmother would take all appropriate steps to protect the children. Grandmother had shown after a previous incident that she was willing to protect the children if Mother attempted to contact them while she was intoxicated.

Grandmother testified that she was willing to take full responsibility for the children if Mother's parental rights were terminated. Grandmother was willing to adopt the boys because she wanted to do what was best for them. Grandmother recognized that Mother had struggled with alcoholism for years and that despite Grandmother's hopes, Mother had been unable to overcome her addiction during the pendency of this case.

The Child Advocate volunteer testified that she visited the boys at Grandmother's home approximately once a month for almost a year before the final hearing. She observed that the boys and Grandmother were "attached at the hip" and the boys were always happy to be around Grandmother. The boys love Grandmother and listen to her to the extent any young boys listen to an adult. When Bret experienced behavior issues at school Grandmother communicated with the school

and responded appropriately to help Bret address those issues. The Child Advocate communicated some with Mother during the case, and Mother reported that she was not visiting the boys because she did not want supervised visitation.

The trial court terminated Mother's parental rights on the predicate grounds of constructive abandonment and failure to comply with a service plan. *See* Tex. Fam. Code § 161.001(b)(1)(N), (O). The trial court further found that termination of the parents' rights was in the children's best interest and appointed the Department the sole managing conservator. Mother timely appealed.

ANALYSIS

Mother presents four issues for review. In her first two issues, she challenges the legal and factual sufficiency of the evidence to support the predicate grounds for termination—constructive abandonment and failure to comply with the court-ordered service plan. In her third issue Mother asserts the evidence is legally and factually insufficient to support the finding that termination is in the best interest of the children. Finally, in her fourth issue, Mother asserts the Department should not be named sole managing conservator.

I. Standards of Review

In a proceeding to terminate the parent-child relationship under Family Code section 161.001, the petitioner must establish by clear and convincing evidence one or more acts or omissions enumerated under subsection (1) of section 161.001(b) and that termination is in the best interest of the child under subsection (2). *See* Tex. Fam. Code § 161.001; *In re N.G.*, 577 S.W.3d 230, 232 (Tex. 2019); *In re J.L.*, 163 S.W.3d 79, 84 (Tex. 2005). Involuntary termination of parental rights is a serious matter implicating fundamental constitutional rights. *See In re of J.F.-G.*, 627 S.W.3d 304, 310 (Tex. 2021); *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. *See In re A.C.*, 560 S.W.3d 624, 629 (Tex. 2018); *In re C.H.*, 89 S.W.3d 17, 26 (Tex. 2002).

Due to the severity and permanency of terminating the parent-child relationship, Texas requires clear and convincing evidence to support such an order. *See* Tex. Fam. Code § 161.001; *In re J.F.-G.*, 627 S.W.3d at 310; *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 § 101.007; *In re J.F.C.*, 96 S.W.3d at 264. This heightened burden of proof results in a "correspondingly searching standard of appellate review." *In re A.C.*, 560 S.W.3d at 630.

In reviewing the legal sufficiency of the evidence in a parental termination case, we must consider all evidence in the light most favorable to the challenged finding to determine whether a reasonable fact finder could have formed a firm belief or conviction that the finding was true. *See In re J.O.A.*, 283 S.W.3d 336, 344 (Tex. 2009). We assume that the fact finder resolved disputed facts in favor of the finding if a reasonable fact finder could do so, and we disregard all evidence that a reasonable fact finder could have disbelieved. *See id.*; *In re G.M.G.*, 444 S.W.3d 46, 52 (Tex. App.—Houston [14th Dist.] 2014, no pet.). Because of the heightened standard, we also must be mindful of any undisputed evidence contrary to the finding and consider that evidence in our analysis. *In re D.R.A.*, 374 S.W.3d at 531.

In reviewing the factual sufficiency of the evidence under the clear-and-convincing standard, we consider and weigh disputed evidence contrary to the finding against all the evidence favoring the finding. *In re A.C.*, 560 S.W.3d at 631; *In re 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. *In re J.O.A.*, 283 S.W.3d at 345. 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).

To affirm a termination judgment on appeal, a court need uphold only one termination ground—in addition to upholding a challenged best-interest finding—even if the trial court based the termination on more than one ground. *In re N.G.*, 577 S.W.3d at 232; *In re L.M.*, 572 S.W.3d 823, 832 (Tex. App.—Houston [14th Dist.] 2019, no pet.).

II. Sufficient evidence supports the trial court's finding that Mother failed to comply with a family service plan.

As stated above, Mother's parental rights were terminated on two predicate grounds: constructive abandonment and failure to comply with a family service plan. Mother concedes on appeal that the evidence was sufficient to support the trial court's finding that she failed to comply with the family service plan. *See* Tex. Fam. Code § 161.001(b)(1)(O).

An unchallenged fact finding is binding on an appellate court "unless the contrary is established as a matter of law, or if there is no evidence to support the finding." *See In re E.C.R.*, 402 S.W.3d 239, 249 (Tex. 2013) (unchallenged findings of fact supported termination under section 161.001(1)(O) because record supported those findings).

Our review of the record shows the trial court's finding on subsection 161.001(1)(O) is supported by evidence that is legally sufficient and not factually insufficient. That subsection requires clear and convincing evidence that Mother:

> 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 § 161.001(b)(1)(O).

Scott, the Department caseworker, testified that Mother did not comply with all the provisions of her court-ordered service plan. She did not complete her parenting classes or domestic violence classes, and she failed to show evidence of stable income and safe and stable housing. The children were in the Department's managing conservatorship for at least one year at the time of the final hearing. Finally, the record reflects the children were removed from Mother due to neglect; the referral to the Department alleged Mother abandoned her youngest child on the porch of his alleged father, she intentionally collided with another car while the two oldest children were in the car, and she required her children to breathe into her vehicle's breathalyzer so she could drive while under the influence.

Because the trial court's finding on subsection 161.001(b)(1)(O) is supported by the record, we are bound by it. *See In re E.C.R.*, 402 S.W.3d at 249. This single finding is sufficient to support a decree of termination when there is also a finding that termination is in the children's best interest. *In re A.V.*, 113 S.W.3d at 362. In light of our conclusion regarding the trial court's finding on subsection 161.001(b)(1)(O), we need not review the evidence supporting the finding under subsection 161.001(b)(1)(N).

We overrule Mother's first two issues.

III. Sufficient evidence supports the trial court's finding that termination of Mother's parental rights was in the children's best interest.

In Mother's third issue she 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 best interest of the children. *See* Tex. Fam. Code § 161.001(b)(2).

A. Legal standards

The best interest inquiry is child-centered and focuses on the child's well-being, safety, and development. *In re A.C.*, 560 S.W.3d at 631. The trier of fact may consider several factors to determine the child's best interest, including: (1) the desires of the child; (2) the present and future physical and emotional needs of the child; (3) the present and future emotional and physical danger to the child; (4) the parental abilities of the persons seeking custody; (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); *In re E.R.W.*, 528 S.W.3d 251, 266 (Tex. App.—Houston [14th Dist.] 2017, no pet.); *see also* Tex. Fam. Code § 263.307(b) (listing factors to consider in evaluating parents' willingness and ability to provide the child with a safe environment).

Courts apply a strong presumption that the best interest of the child is served by keeping the children with their natural parents, and it is the Department's burden to rebut that presumption. *In re D.R.A.*, 374 S.W.3d at 531. Prompt and permanent placement in a safe environment also is presumed to be in the children's best interest. Tex. Fam. Code § 263.307(a). 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. Evidence that proves one or more statutory grounds for termination may also constitute evidence illustrating that termination is in the children's best interest. *In re C.H.*, 89 S.W.3d at 28. And a fact finder may measure a parent's future conduct by their past conduct in determining whether termination of parental rights is in the children's best interest. *In re L.G.*, No. 14-22-00335-CV, 2022 WL 11572541, at *11 (Tex. App.—Houston [14th Dist.] Oct. 20, 2022, no pet.) (mem. op.). We review the *Holley* factors in light of the evidence at trial.

B. Desires of the children

The children were ten, seven, and one at the time of the final hearing. Neither party presented testimony regarding the children's desires. However, both the caseworker and Grandmother testified that the children had bonded well with Grandmother, and there was ample testimony that Grandmother was willing to take whatever action was best for the children, including adoption.

As to Bill, he was too young to express his desires, but Grandmother testified that Bill had been with her since Mother had abandoned him at six months old. He was thriving under her care and had not known any other caregivers. When children are too young to express their desires, the fact finder may consider that the children have bonded with the foster family, are well-cared for by them, and have spent minimal time with a parent. *In re J.D.*, 436 S.W.3d 105, 118 (Tex. App.—Houston [14th Dist.] 2014, no pet.).

Mother asserts that the Child Advocate testified that the older boys missed their mother and Grandmother recognized that Mother could benefit from parenting classes because Grandmother knows her daughter loves her children. To be sure, the Child Advocate testified that the older boys told her once that they missed Mother. She further testified that the last time she spoke with the boys Barry said he did not

miss Mother. The Child Advocate further testified that all three boys had bonded with Grandmother, loved her, and would "be better off with grandma raising them and providing for them." This factor weighs in favor of the trial court's best-interest finding.

C. The present and future physical and emotional needs of the children; the present and future physical and emotional danger to the children

This court's analysis of the present and future physical and emotional needs of the children must focus on the children's innate need for permanence. *See In re D.R.A.*, 374 S.W.3d at 533. Mother asserts there was no evidence she could not provide for the emotional and physical needs of the children. Mother asserts there was little to no evidence as to her living conditions.

While evidence is scant as to Mother's living conditions, the record reflects Mother's absence from her children's lives and her refusal to cooperate with the caseworker to allow the Department to determine her living conditions. The removal affidavit lists multiple attempts to contact Mother after she abandoned Bill at the trailer where Bill's alleged father lived in Corpus Christi. Mother told the caseworker to stop contacting her. In July 2022 a Department investigator went to Mother's home but there was no answer. Before that, caseworkers had visited Mother's home approximately once a month. By August 2022, there were indications that Mother was driving back and forth to Corpus Christi visiting Bill's alleged father. On August 12, 2022, the caseworker met with Mother at her home to discuss the FBSS case. Mother was "angry and irritated" and expressed, incorrectly, that she had attended and passed all drug tests requested by the Department.

As part of Mother's service plan, she was required to show proof of safe and stable housing. At the time of the final hearing Mother had not communicated with

the Department, despite attempts to reach her. The caseworker did not know where Mother was living and even sent a courtesy worker to Corpus Christi to check on the trailer where she last thought Mother was living. The trailer had been moved. Grandmother reported that Mother was planning to go to Alabama but there is no evidence that Mother reported her address in Alabama.

The record reflects that Mother had not made contact with the Department in the year before the final hearing began. In terminating Mother's parental rights, the trial court reasonably credited the evidence of the parenting void in the children's life and Mother's inability or unwillingness to safeguard the children's physical and emotional well-being. A lack of all contact with children without any proffered excuse and no effort to ensure their well-being—coupled with multiple episodes of driving while intoxicated with the children in the car, and violence against the children's fathers—is sufficient to support a finding that termination is in the best interest of the children. *See In re L.M.*, 572 S.W.3d at 836. These factors weigh in favor of the trial court's best-interest finding.

D. Parental abilities of those seeking custody, stability of the home or proposed placement, and plans for the children by the individuals or agency seeking custody

These factors compare the Department's plans and proposed placement of the children with the plans and home of the parent seeking to avoid termination. *See In re D.R.A.*, 374 S.W.3d at 535. Evidence about placement plans and adoption are, of course, relevant to best interest. *In re C.H.*, 89 S.W.3d at 28.

This is perhaps the strongest factor in favor of the best-interest finding. Grandmother has been caring for Bill since Mother abandoned him. Grandmother was providing the older boys with the care and attention they needed, and the evidence showed the boys loved their grandmother. On the other hand, Mother did

not participate in the final hearing, has refused to contact the Department, and has not engaged in services that would ensure the return of her children.

E. Other Relevant Factors

Mother asserts that while achieving permanency for children is of paramount importance, the goal should not be rushed into at the expense of breaking the parent-child relationship.

This factor actually weighs in favor of termination because Grandmother testified that if Mother seeks treatment and is able to overcome her addiction to alcohol Grandmother would be open to allowing Mother to have a relationship with the children. Moreover, although the right to parent is one of constitutional dimension, the Department is not required to show that other alternatives, short of termination were not available to protect the children. *See In re A.M.*, No. 14-23-00415-CV, 2023 WL 7206735, at *9 (Tex. App.—Houston [14th Dist.] Nov. 2, 2023, no pet.).

Viewing the evidence in the light most favorable to the judgment for our legal-sufficiency analysis and all of the evidence equally for our factual-sufficiency analysis, we conclude that a reasonable fact finder could have formed a firm belief or conviction that termination of Mother's parental rights was in the children's best interest. *See* Tex. Fam. Code § 161.001(b)(2). We overrule Mother's third issue.

IV. The trial court did not abuse its discretion in appointing the Department as managing conservator of the children.

In Mother's fourth issue she challenges the trial court's appointment of the Department as sole managing conservator of the children. We review a trial court's appointment of a non-parent as sole managing conservator for abuse of discretion and reverse only if we determine the appointment is arbitrary or unreasonable. *In re J.A.J.*, 243 S.W.3d 611, 616 (Tex. 2007).

A parent shall be named a child's managing conservator unless, as relevant here, the court finds that such appointment would significantly impair the child's physical health or emotional development. *See* Tex. Fam. Code § 153.131(a). Although the trial court made this finding, when the parents' rights are terminated, as here, Family Code section 161.207 controls the appointment of a managing conservator. *In re I.L.G.*, 531 S.W.3d 346, 357 (Tex. App.—Houston [14th Dist.] 2017, pet. denied). Section 161.207 states, "If the court terminates the parent-child relationship with respect to both parents or to the only living parent, the court shall appoint a suitable, competent adult, the Department of Family and Protective Services, or a licensed child-placing agency as managing conservator of the child." Tex. Fam. Code § 161.207(a). Having terminated the parents' rights, the trial court was required to appoint the Department or another permissible adult or agency as the children's managing conservator. *See In re I.L.G.*, 531 S.W.3d at 357. The appointment may be considered a "consequence of the termination." *Id*.

We have concluded the evidence supporting termination of Mother's parental rights is legally sufficient and not and factually insufficient under section 161.001(b). Accordingly, section 161.207 controls. We therefore conclude the trial court did not abuse its discretion in appointing the Department as sole managing conservator of the children. *See In re I.L.G.*, 531 S.W.3d at 357. We overrule Mother's fourth issue.

CONCLUSION

The evidence is legally sufficient and not factually insufficient to support the predicate termination finding under subsection 161.001(b)(1)(O). And, based on the evidence presented, the trial court reasonably could have formed a firm belief or conviction that terminating Mother's parental rights was in the children's best interest so that they could promptly achieve permanency through adoption. *See In re*

M.G.D., 108 S.W.3d 508, 513-14 (Tex. App.—Houston [14th Dist.] 2003, pet. denied).

We affirm the final order of termination as challenged on appeal.

/s/ Jerry Zimmerer
Justice

Panel consists of Justices Bourliot, Zimmerer, and Spain.