Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-16-00236-CV

IN RE C.J.P., et al., Children

From the 81st Judicial District Court, Wilson County, Texas
Trial Court No. 15-01-0021-CVW
Honorable Melissa Uram-DeGerolami, Judge Presiding[1]

Opinion by: Patricia O. Alvarez, Justice

Sitting: Patricia O. Alvarez, Justice
Luz Elena D. Chapa, Justice
Jason Pulliam, Justice

Delivered and Filed: August 31, 2016

AFFIRMED

Appellant A.P. appeals the trial court's order terminating his parental rights to his children, C.J.P., M.R.P., and K.G.P. In his only issue on appeal, A.P. asserts the evidence was neither legally nor factually sufficient for the trial court to find, by clear and convincing evidence, that terminating his parental rights was in his children's best interests. We conclude the evidence is both legally and factually sufficient, and we affirm the trial court's order.

FACTUAL AND PROCEDURAL BACKGROUND

On September 29, 2014, the Texas Department of Family and Protective Services received a referral alleging physical neglect of minor children, G.A. IV, C.J.P., M.R.P., and K.G.P.

[1] This proceeding arises out of Trial Court Cause No. 15-01-0021-CVW, styled *In the Interest of G.A. IV, C.J.P., M.R.P., K.G.P., et al., Children*, pending in the 81st Judicial District Court, Wilson County, Texas, the Honorable Melissa Uram-DeGerolami presiding.

Appellant A.P. is the biological father of only C.J.P., M.R.P., and K.G.P. The termination of the parental rights to G.A. IV is not at issue in this appeal.

The children were initially in Parental Child Safety Placement and, on December 9, 2014, the children were placed in the care of the children's maternal grandmother. The maternal grandmother, however, failed to maintain the safety plan as outlined by the Department. Approximately one month later, on January 20, 2015, the Department filed its Original Petition for Protection of a Child and for Conservatorship, and for Termination in Suit Affecting the Parent-Child Relationship. Included in the motion was a request for Temporary Managing Conservatorship of the children and that the children be immediately placed in foster care. The trial court subsequently issued temporary orders appointing the Department as temporary managing conservator of the children and the children's paternal grandparents were named as temporary possessory conservators.

On May 4, 2016, after several permanency hearings and a bench trial on the merits, the trial court terminated A.P.'s parental rights to C.J.P., M.R.P., and K.G.P. based on (1) subparagraphs (D), (E), and (O) of section 161.001(b)(1), *see* TEX. FAM. CODE ANN. § 161.001(b)(1)(D), (E), (O) (West Supp. 2016), and (2) a determination that such termination was in the child's best interest, *see id.* § 161.001(b)(2).[2]

[2] Texas Family Code sections 161.001(b)(1)(D), (E), and (O) provide as follows:

> (D) knowingly placed or knowingly allowed the child to remain in conditions or surroundings which endanger the physical or emotional well-being of the child;
>
> (E) engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangers the physical or emotional well-being of the child; and
>
> (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)(D), (E), (O).

A.P. does not challenge the trial court's findings concerning the statutory grounds for involuntary termination of his parental rights. *See id.* § 161.001(b)(1); *see also In re J.F.C.*, 96 S.W.3d 256, 261 (Tex. 2002). Instead, he argues the trial court erred because the evidence was neither legally nor factually sufficient for it to find, by clear and convincing evidence, that terminating his parental rights was in his children's best interest. *See* TEX. FAM. CODE ANN. § 161.001(b)(2); *accord J.F.C.*, 96 S.W.3d at 261.

SUFFICIENCY OF THE EVIDENCE

A. Standard of Review

"Involuntary termination of parental rights involves fundamental constitutional rights and divests the parent and child of all legal rights, privileges, duties, and powers normally existing between them, except for the child's right to inherit from the parent." *In re L.J.N.*, 329 S.W.3d 667, 671 (Tex. App.—Corpus Christi 2010, no pet.) (citing *Holick v. Smith*, 685 S.W.2d 18, 20 (Tex. 1985)). As a result, appellate courts must strictly scrutinize involuntary termination proceedings in favor of the parent. *Id.* (citing *In re D.S.P.*, 210 S.W.3d 776, 778 (Tex. App.—Corpus Christi 2006, no pet.)).

An order terminating parental rights must be supported by clear and convincing evidence that (1) the parent has committed one of the grounds for involuntary termination as listed in section 161.001(b)(1) of the Family Code, and (2) terminating the parent's rights is in the best interest of the child. *See* TEX. FAM. CODE ANN. § 161.001; *J.F.C.*, 96 S.W.3d at 261. "There is a strong presumption that the best interest of the child is served by keeping the child with its natural parent, and the burden is on [the Department] to rebut that presumption." *In re D.R.A.*, 374 S.W.3d 528, 533 (Tex. App.—Houston [14th Dist.] 2012, no pet.). "The same evidence of acts or omissions used to establish grounds for termination under section 161.001(1) may be probative in determining the best interest of the child." *Id.*

When a clear and convincing evidence standard applies, a legal sufficiency review requires a court to "look at all the evidence in the light most favorable to the finding to determine whether a reasonable trier of fact could have formed a firm belief or conviction that its finding was true." *In re J.L.*, 163 S.W.3d 79, 85 (Tex. 2005) (quoting *J.F.C.*, 96 S.W.3d at 266). If the court "determines [a] reasonable factfinder could form a firm belief or conviction that the matter that must be proven is true," the evidence is legally sufficient. *See id.* (quoting *J.F.C.*, 96 S.W.3d at 266).

Under a clear and convincing standard, evidence is factually sufficient if "a factfinder could reasonably form a firm belief or conviction about the truth of the State's allegations." *In re C.H.*, 89 S.W.3d 17, 25 (Tex. 2002); *accord In re K.R.M.*, 147 S.W.3d 628, 630 (Tex. App.—San Antonio 2004, no pet.). We must consider "whether disputed evidence is such that a reasonable factfinder could not have resolved that disputed evidence in favor of its finding." *J.F.C.*, 96 S.W.3d at 266; *accord C.H.*, 89 S.W.3d at 25.

Here, A.P. does not challenge the trial court's finding that he committed one or more of the statutory grounds of involuntary termination. We, therefore, need only address the trial court's finding that termination was in the children's best interests.

B. Evidence Regarding the Best Interest of the Child

Before a trial court may terminate a parent's rights to a child, the court must make a determination that such "termination is in the best interest of the child." TEX. FAM. CODE ANN. § 161.001(b)(2); *accord J.F.C.*, 96 S.W.3d at 261.

Applying the applicable standards of review for sufficiency of the evidence, we examine all the evidence, *see J.F.C.*, 96 S.W.3d at 266; *see also City of Keller v. Wilson*, 168 S.W.3d 802, 827 (Tex. 2005) (crediting or disregarding evidence), and recite below the evidence that especially pertains to the *Holley* factors. *See Holley v. Adams*, 544 S.W.2d 367, 371–72 (Tex. 1976). The

trial court heard live testimony from six witnesses, including A.P., and arguments from the Department's attorney, the children's ad litem, and counsel for A.P.

1. Tina Czaja

Tina Czaja was the family-based, safety services caseworker originally assigned to A.P.'s case. She explained the case was initiated based on reports of physical neglect of the children, specifically hygiene and dental issues. There were also concerns with substance abuse and domestic violence in the home. At the initial family meeting in December of 2014, Czaja relayed there was significant conflict between A.P. and the paternal grandparents. "[A.P.] became very angry. . . . We had to cease the meeting because the anger level was so high."

According to Czaja, the second meeting was actually worse. By that time, the children had been removed from the maternal grandmother's residence and placed with the paternal grandparents and A.P. had refused to follow the recommendations in his psychological assessment. Although most of A.P.'s anger was focused toward his parents, Czaja testified there were multiple threats made during the meeting,

> [A.P.] expressed to all of us present in the meeting that he had associates that would take care of us and take care of the situation.

Czaja further testified that A.P. failed to comply with all four of her requests that he submit to drug testing. A.P. failed to submit to testing based on Czaja's first request. Even after explaining that A.P.'s Christmas visitation depended on proof that he was not using drugs and made a second request that A.P. submit to testing, A.P. failed to report to the lab. Although A.P. did go to the lab following Czaja's third request, he failed to provide a specimen sufficient for testing. Finally, although A.P. complied with Czaja's fourth request, A.P.'s extreme verbal altercation "disrupted the entire lab" and the director refused to conduct the urinalysis.

Czaja further testified that prior to the children being placed with the paternal grandparents, serious concerns about the children's education continued to arise. Schoolwork was not completed, attendance was an ongoing problem, and two of the children were held back due to lack of educational progress. When the school administrators attempted to express their concerns, A.P. was "very loud and verbally aggressive." Finally, Czaja expressed concern about the children's exposure to domestic violence, specifically the older children's fear for their mom and younger sister.

2. Bambi Ybarra

Bambi Ybarra, the executive director of Rural Area Parenting Program Services, testified about A.P.'s attendance in parenting classes. According to Ybarra's records, A.P. graduated from the parenting classes on June 15, 2015. Additionally, although A.P. started anger management classes in August of 2015, Ybarra acknowledged that A.P. failed to complete two sessions. She further opined that she had never seen anger issues with A.P.

On cross-examination, Ybarra conceded that if A.P. was using drugs, he would not be considerd a "safe parent." Ybarra further agreed that if A.P. failed to comply with his psychological evaluation and the drug assessment's recommendations for drug treatment, she would have concerns with his parenting abilities. When asked about ongoing drug use, Ybarra agreed that such behaviors placed the children's emotional wellbeing at risk.

3. Jacob Pickard

Jacob Pickard, a clinical psychologist, conducted a psychological evaluation on A.P. Pickard testified that although A.P. denied any mental health issues, his assessment showed an adjustment disorder with anxiety. A.P. was also diagnosed with narcissistic antisocial personality traits. Pickard explained,

> . . . individuals with antisocial personality traits in general they display a disregard for social norms such as the law. They tend to be impulsive. They tend to have angry [outbursts]. They get irritated easily. They—they tend to deflect responsibility. They generally have a sense of pride. And when that sense of pride is challenged or touched on, they can get very irritated or angry and push back. They generally lack empathy and remorse for their actions. And often will justify their actions or rationalize reactions by saying like, "it's a dog eat dog world." But they never accept responsibility. Individuals with narcissistic personality traits are very self[-]centered, self[-]absorbed. For them it's very much about their—maintaining their elevated sense of self[-]esteem. But underneath is typically low self[-]esteem. And so when their self[-]esteem or something about them is challenged, they tend to get very angry or irritated. They have difficulty empathizing with the perspective of others. They have difficulty seeing the perspective of others because they are so self[-]focused.

Pickard continued that his examination revealed a "great deal of instability" between A.P. and the children's mother. Pickard documented domestic violence including physical assault. Although A.P. denied recent drug use, A.P. did acknowledge a history of marijuana, cocaine, and alcohol use.

Pickard also expressed concerns for A.P.'s aggressive nature and difficulties with impulse control. When Pickard asked A.P. about reports that A.P. had recently or was currently using methamphetamines, "he became visibly agitated pretty quickly." Pickard further testified that A.P. expressed little empathy for his children and that most of A.P.'s attention was focused on his being "attacked" by the Department and not what was in the children's best interests.

4. Lynn Baker

The State's next witness, Lynn Baker, was the Department's caseworker assigned to the case at the time of trial. Baker testified that it was her responsibility to help A.P. with his service plan, to visit the home, and to monitor random drug testing. With regard to services required by A.P.'s service plan, Baker testified that she had not received any certificates of completion regarding anger management, domestic violence, or parenting. Additionally, although A.P. had

completed the drug-and-alcohol assessment, he had failed to obtain the outpatient treatment required by the assessment.

Baker explained that she tried to arrange for drug treatment. However, when A.P. arrived at the facility, he reported monthly earnings between $3,000.00 and $10,000.00. Because of his reported earnings, the facility required A.P. to pay a small portion of the treatment. Baker's request that the agency conduct another assessment was refused. Baker explained to A.P. that the one-time payment of $464.00 was a result of his reported earnings. A.P. chose not to participate in treatment.

Baker made several attempts to arrange for counseling for A.P. She made referrals, and the counselor made attempts to initiate counseling, but A.P. never returned the calls. A.P.'s lack of counseling intensified Baker's concerns regarding the children's exposure to A.P.'s aggressiveness and domestic violence in the home.

Baker also made multiple requests that A.P. submit to drug testing. According to her records, A.P. missed drug tests on the following dates: May 14, 2015, June 11, 2015, August 3, 2015, January 15, 2016, and March 17, 2016. The only drug tests Baker was able to obtain were all court-ordered: (1) a hair follicle test on April 29, 2015 which was positive for amphetamines, methamphetamines, and marijuana; (2) an oral drug test on May 27, 2015, which was positive for methamphetamines, and (3) on September 28, 2015, A.P. again tested positive for methamphetamines. Baker opined that A.P.'s drug use would inhibit his ability to successfully parent the children. Baker testified the children not only "talked about how they saw [A.P.] rolling up a joint," but could describe in detail how it was done.

In January of 2016, the parties participated in mediation. The session, however, only lasted about ten minutes. A.P. was very upset and the mediator explained that if A.P. did not calm down, he would have to leave. A.P. simply responded, "Well, I'm leaving then." In Baker's opinion,

A.P. had not made any progress toward reuniting with his children since the case began in January of 2015.

As for the children's placement with the paternal grandparents, Baker witnessed very loving interactions. The children were very close to their grandparents and they interacted very well. In her opinion, the grandparents were providing a safe and stable home for the children; the children's physical needs, such as food, shelter, clothing, and shoes, were being met. Additionally, Baker opined that the children felt loved in the home and the grandparents wanted to adopt the children. In fact, they were adding on to their home to accommodate the children. The children were healthy and had made significant improvements in their educational development.

Finally, Baker testified that, in her opinion, termination of A.P.'s parental rights was in the children's best interests. A.P. had not completed any of his service plan or taken the necessary steps set forth in his psychological evaluation. A.P. did not seem to care that the children, aged eleven, nine, and six years old at the time of the hearing, were very upset every time he failed to show for visitations. "As far as for the children, [A.P.] hasn't learned from what brought him into this case, which was the drug abuse, the domestic violence. He is not further now than he was at the very beginning of this case, which brought the children here."

5. A.P.

A.P. testified that the original reports to the Department were related to the children's clothes and that "their teeth were all rotten." He acknowledged the Department first became concerned with drug use when the police were called to the residence following a domestic dispute. In contrast to the caseworker's testimony, A.P. opined the children were doing very well in school while in his care and were being raised in a loving home.

A.P. testified that although he had completed many of the Department's services, he had not turned in the paperwork. Additionally, his failure to complete drug treatment was a result of

the Department's refusal to pay for the treatment. Specifically, he blamed his caseworker for his lack of drug treatment; according to A.P., his caseworker told him that *inpatient* treatment he wanted to attend would not meet the assessment's mandate that he participate in *outpatient* treatment. He also denied refusing to submit to his caseworker's request for drug testing, with the exception of one time. A.P. further opined that "marriage and life was a learning process and about not repeating" his previous mistakes.

On cross-examination, A.P. testified he was not currently using drugs, but that he could not remember the last time that he used drugs. When asked whether a drug test conducted at that moment would be positive or negative, A.P. stated, "I don't recall." A.P. did, however, acknowledge the court ordered hair follicle test showed he was positive for both amphetamines and marijuana.

A.P. denied struggling with anger issues, but acknowledged struggling with stress issues. A.P. conceded that he had not paid child support as ordered by the trial court, but professed that he had given his parents money at one point. He also admitted his failure to regularly attend his parent-child visits and that he directed one of his children to change the name on his phone so that no one would know that A.P. was texting him.

A.P. testified that he was not employed and he did not currently have a home for the children. "But if I need one [a home], it can be taken care of." When asked about his previous court hearing and driving a 2015 Hummer and a "Mercedes with paper plates," A.P. testified that "I drive new cars every single day . . . different cars and trucks or whatever" and that "transportation was the least of his worries."

6. L. P.

The State's last witness was the children's paternal grandmother. L.P. testified that the children are on a schedule; they do their homework, they eat dinner, and they do their reading.

L.P. explained that the children know that she and her husband care about them. They are respectful and loving. When the children first arrived, she was surprised by the children's knowledge of drugs in the house. Even the smallest child knew "what a joint is. She knows what pot is." L.P. explained that she and her husband loved A.P. very much and were hoping and praying that the children would be able to be returned to his care. "But sometimes he acts like he doesn't care about anything." L.P. testified that she was willing to continue to care for the children and that if A.P.'s parental rights were terminated, she wanted to adopt the children.

C. Factors Considered by the Trial Court

The trial court is the sole judge of the weight and credibility of the evidence, including the testimony of the witnessesw. *See In re H.R.M.*, 209 S.W.3d 105, 108 (Tex. 2006) (per curiam) (requiring appellate deference to the fact-finder's findings); *City of Keller*, 168 S.W.3d at 819. The factors used to ascertain the best interest of the child were set forth in *Holley*, 544 S.W.2d at 371–72; *accord E.N.C.*, 384 S.W.3d 796, 807 (Tex. 2012) (reciting the *Holley* factors). The *Holley* court warned that "[t]his listing is by no means exhaustive, but does indicate a number of considerations which either have been or would appear to be pertinent." *Holley*, 544 S.W.2d at 372; *accord In re E.N.C.*, 389 S.W.3d at 807 (describing the Holley factors as nonexclusive). "The absence of evidence about some of these considerations would not preclude a factfinder from reasonably forming a strong conviction or belief that termination is in the child's best interest, particularly if the evidence were undisputed that the parental relationship endangered the safety of the child." *C.H.*, 89 S.W.3d at 27. In fact, evidence of only one factor may be sufficient for a factfinder to form a reasonable belief or conviction that termination is in a child's best interest—especially when undisputed evidence shows that the parental relationship endangered the child's safety. *See id.*

In addition to consideration of the *Holley* factors, courts remain mindful that "the prompt and permanent placement of the child in a safe environment is presumed to be in the child's best interest." TEX. FAM. CODE ANN. § 263.307(a) (West Supp. 2016); *In re B.R.*, 456 S.W.3d 612, 615 (Tex. App.—San Antonio 2015, no pet.). There is a strong presumption that keeping a child with a parent is in the child's best interest. *In re R.R.*, 209 S.W.3d 112, 116 (Tex. 2006) (per curiam). In determining whether a parent is willing and able to provide the child with a safe environment, courts should consider the following statutory factors set out in section 263.307(b) of the Code, which include:

(1) the child's age and physical and mental vulnerabilities;

(2) the frequency and nature of out-of-home placements;

(3) the magnitude, frequency, and circumstances of the harm to the child;

(4) whether the child has been the victim of repeated harm after the initial report and intervention by the Department or other agency;

(5) whether the child is fearful of living in, or returning to, the child's home;

(6) the results of psychiatric, psychological, or developmental evaluations of the child, the child's parents, other family members, or others who have access to the child's home;

(7) whether there is a history of abusive or assaultive conduct by the child's family or others who have access to the child's home;

(8) whether there is a history of substance abuse by the child's family or others who have access to the child's home;

(9) whether the perpetrator of the harm to the child is identified;

(10) the willingness and ability of the child's family to seek out, accept, and complete counseling services and to cooperate with and facilitate an appropriate agency's close supervision;

(11) the willingness and ability of the child's family to effect positive environmental and personal changes within a reasonable period of time;

(12) whether the child's family demonstrates adequate parenting skills; and

(13) whether an adequate social support system consisting of an extended family and friends is available to the child.

TEX. FAM. CODE ANN. § 263.307(b); *see In re G.C.D.*, No. 04-14-00769-CV, 2015 WL 1938435, at *4 (Tex. App.—San Antonio Apr. 29, 2015, no pet.) (mem. op.) (citing *In re A.S.*, No. 04-14-00505-CV, 2014 WL 5839256, at *2 (Tex. App.—San Antonio Nov. 12, 2014, pet. denied) (mem. op.)); *B.R.*, 456 S.W.3d at 615.

When determining the best interest of a child, a trial court may consider circumstantial evidence, subjective factors, and the totality of the evidence as well as direct evidence. *B.R.*, 456 at 616 (citing *In re E.D.*, 419 S.W.3d 615, 620 (Tex. App.—San Antonio 2013, pet. denied)). A factfinder may also measure a parent's future conduct by his or her past conduct to aid in determining whether termination of the parent-child relationship is in the best interest of the child. *Id*. Finally, the grounds on which the trial court granted termination, pursuant to section 161.001 of the Code, "may also be probative in determining the child's best interest; but the mere fact that an act or omission occurred in the past does not ipso facto prove that termination is *currently* in the child's best interest." *In re O.N.H.*, 401 S.W.3d 681, 684 (Tex. App.—San Antonio 2013, no pet.) (internal citations omitted).

D. Analysis of Children's Best Interest

1. Desires of the Children

The children were young at the time of the termination hearing and were not called to testify. The evidence, however, shows the children were happy and healthy and doing well in the paternal grandparents' residence and the grandparents hoped to adopt the children. Additionally, L.P. and Baker testified the children were doing well in school, were well fed, and were thriving in their current placement. *See* TEX. FAM. CODE ANN. § 263.307(b)(13); *Holley*, 544 S.W.2d at 371–72.

2. Emotional and Physical Needs of the Children

The evidence further indicates A.P. was unable to successfully address his illegal drug use or provide a nurturing and safe environment for his children. *See O.N.H.*, 401 S.W.3d at 684 (concluding trial court permitted to consider parent's past conduct in best interest determination). A.P. exhibited an aggressive nature and difficulty with impulse control during every step of the process. Both Pickard and L.P. opined that A.P. expressed little empathy for his children and viewed himself as a victim of the Department's actions. *See* TEX. FAM. CODE ANN. § 263.307(b)(3), (4), (7); *Holley*, 544 S.W.2d at 371–72. The record also reflects A.P.'s history of violence toward other individuals, especially the children's mother. *See* TEX. FAM. CODE ANN. § 263.307(b)(7); *Holley*, 544 S.W.2d at 371–72. Both caseworkers, the psychologist, and even A.P.'s mother all expressed concerns about the domestic abuse witnessed by the children. *See* TEX. FAM. CODE ANN. § 263.307(b)(7); *Holley*, 544 S.W.2d at 371–72. Although A.P. downplays and disputes the abuse allegations, the trial court was not required to accept A.P.'s testimony and could have resolved the evidence against A.P. *See J.L.*, 163 S.W.3d at 85; *J.F.C.*, 96 S.W.3d 256 at 261.

The record also establishes A.P. used drugs in front of his children. *See* TEX. FAM. CODE ANN. § 263.307(b)(8); *Holley*, 544 S.W.2d at 371–72. The children very openly discussed watching their parents use drugs, and even six-year-old K.G.P. could describe how to "roll a joint." In additional to A.P.'s drug use, the trial court heard evidence that while in A.P.'s care, the children were not well fed, were not appropriately clothed, their teeth were rotten, they were regularly truant, and all three children were not meeting educational expectations. Yet, A.P. felt the children were well cared for in his home and professed his ability to care for the children's needs.

3. Parenting Abilities and Services Available

With regard to A.P.'s use of services available to assist him with reunification, the trial court heard testimony that established A.P. resisted utilizing most of the services offered by the Department. *See* TEX. FAM. CODE ANN. § 263.307(b)(10); *Holley*, 544 S.W.2d at 371–72. Both caseworkers testified that a service plan was developed and explained to A.P.; yet, A.P. failed to submit to the required drug testing or to attend the required individual counseling, anger management classes, parenting classes, or drug treatment. Moreover, during each phase of the case, and with every service provider, A.P.'s violent and aggressive nature resulted in a lack of services provided. *See* TEX. FAM. CODE ANN. § 263.307(b)(10); *Holley*, 544 S.W.2d at 371–72. Even further, the record evidenced very little effort on the part of A.P. to attend visitation with his children. Accordingly, based on this evidence, the trial court could have formed a firm belief or conviction that A.P. failed to work with the Department and did not fully comply with his service plan. *See J.L.*, 163 S.W.3d at 85; *J.F.C.*, 96 S.W.3d 256 at 261. As a result, we find these factors—parenting abilities and utilization of available programs—favor termination.

4. Stability of the Home or Proposed Placement

The record reflects the children are currently living with their paternal grandparents, in a stable and loving home; all three children are thriving. *See* TEX. FAM. CODE ANN. § 263.307(b)(13); *Holley*, 544 S.W.2d at 371–72. Additionally, the children's grandparents wish for the children to stay with them permanently and are in the process of constructing an addition to their home to provide more living space for the children. *See* TEX. FAM. CODE ANN. § 263.307(b)(10); *Holley*, 544 S.W.2d at 371–72.

In contrast, A.P. contends he has maintained a stable home environment for his children and wishes for them to return home. *See* TEX. FAM. CODE ANN. § 263.307(b)(11) (willingness of child's family to effect positive and personal changes); *Holley*, 544 S.W.2d at 371–72. Although

A.P. denied any recent drug use, he acknowledges some domestic abuse in the home. Given A.P.'s admissions, as well as the children's outcries, it was reasonable for the trial court to conclude A.P.'s future home would include an abusive atmosphere where the children would endure emotional and physical abuse as well as witness A.P.'s aggressive acts toward other individuals. *See* TEX. FAM. CODE ANN. § 263.307(b)(3), (4), (7), (11); *Holley*, 544 S.W.2d at 371–72; *see also B.R.*, 456 S.W.3d 612, 615 (stating factfinder may measure future conduct by past conduct).

5. Acts or Omissions of the Parent

Finally, the trial court heard testimony from several witnesses regarding A.P.'s continuous acts of violence due to his anger management and impulse control issues. *See* TEX. FAM. CODE ANN. § 263.307(b)(3), (4), (7), (12); *Holley*, 544 S.W.2d at 371–72. Based on the evidence presented, the trial court—as the sole judge of the weight and credibility of the evidence—could have reasonably concluded that A.P. exercised poor judgment and lacked the decision-making skills and parental abilities to provide for and parent the children in a healthy and safe manner. *See H.R.M.*, 209 S.W.3d at 108; *City of Keller*, 168 S.W.3d at 819.

The record supports A.P. was unable to effect the necessary changes within a reasonable time. The trial court found, and A.P. does not challenge on appeal, that A.P.

- knowingly placed or knowingly allowed the child to remain in conditions or surroundings which endanger the physical or emotional well-being of the child;
- endangered the physical or emotional well-being of the children; and
- failed to comply with the service plan as directed by the trial court.

See TEX. FAM. CODE ANN. § 161.001(b)(1)(D), (E), (O). The trial court's determination regarding A.P.'s termination under section 161.001(b)(1) is properly considered in its findings that termination is in the best interests of the children and is, in fact, probative in determining the children's best interests. *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); *O.N.H.*, 401 S.W.3d at 684.

Reviewing the evidence under the two sufficiency standards, and giving due consideration to evidence that the trial court could have reasonably found to be clear and convincing, we conclude the trial court could have formed a firm belief or conviction that terminating A.P.'s parental rights to C.J.P., M.R.P., and K.G.P. was in the children's best interests. *See J.L.*, 163 S.W.3d at 85; *See J.F.C.*, 96 S.W.3d at 266; *see also H.R.M.*, 209 S.W.3d at 108. Therefore, the evidence is legally and factually sufficient to support the trial court's order. *See J.F.C.*, 96 S.W.3d at 266; *see also H.R.M.*, 209 S.W.3d at 108.

CONCLUSION

The trial court found A.P. committed the statutory grounds supporting termination of his parental rights and that termination of A.P.'s parental rights was in C.J.P.'s, M.R.P.'s, and K.G.P.'s best interests. A.P. only appealed the best interests of the children finding.

Having reviewed the evidence, we conclude it was legally and factually sufficient to support the trial court's finding by clear and convincing evidence that termination of A.P.'s parental rights to C.J.P., M.R.P., and K.G.P., was in the children's best interests.

Accordingly, we overrule A.P.'s sole issue on appeal and affirm the trial court's order.

Patricia O. Alvarez, Justice