Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-17-00313-CV

IN THE INTEREST OF L.C.S., a Child

From the 407th Judicial District Court, Bexar County, Texas
Trial Court No. 2016-PA-00974
Honorable Charles E. Montemayor, Judge Presiding

Opinion by: Marialyn Barnard, Justice

Sitting: Sandee Bryan Marion, Chief Justice
Marialyn Barnard, Justice
Patricia O. Alvarez, Justice

Delivered and Filed: September 6, 2017

AFFIRMED

This is an appeal from the trial court's order terminating appellant mother's ("Mother") rights to her child, L.C.S. On appeal, Mother contends the evidence is legally and factually insufficient to support the trial court's finding that termination is in the child's best interest. We affirm the trial court's termination order.

BACKGROUND

The record shows the Texas Department of Family and Protective Services ("the Department") first became involved with Mother based on allegations of domestic violence and alcohol abuse. The Department investigated the allegations and found Mother stabbed her paramour while L.C.S. was in the home. After this incident, the Department removed L.C.S. from Mother's care and placed her with a maternal aunt and uncle.

Subsequently, the Department filed its petition and the court held the statutorily required status and permanency hearings. During the case, the Department created a service plan for Mother, which required, among other things, that she attend domestic violence classes, complete a psychological assessment, engage in individual counseling, attend parenting classes, and maintain stable employment and housing. The trial court ordered Mother to comply with each requirement set out in the plan. The evidence shows Mother did not complete the requirements of her service plan.

Throughout the case, Mother failed to attend some of the status and permanency hearings. Additionally, due to Mother's lack of attendance, the trial court reset the final hearing twice. Ultimately, the matter moved to a final hearing, during which the Department sought to terminate Mother's parental rights. After considering the evidence, the trial court terminated Mother's parental rights, finding she: (1) engaged in conduct or knowingly placed L.C.S. with persons who engaged in conduct that endangered L.C.S.'s physical or emotional well-being; (2) constructively abandoned L.C.S.; and (3) failed to comply with the provisions of a court order that specifically established the actions necessary for her to obtain the return of L.C.S. *See* TEX. FAM. CODE ANN. § 161.001(b)(1)(E), (N), (O) (West Supp. 2016). Additionally, the trial court found termination of Mother's parental rights was in the best interest of L.C.S. *See id.* § 161.001(b)(2). Thereafter, Mother perfected this appeal.[1]

ANALYSIS

On appeal, Mother does not contest the trial court's findings under sections 161.001(b)(1) of the Texas Family Code ("the Code"). *See* TEX. FAM. CODE ANN. § 161.001(b)(1)(E), (N), (O).

[1] The order of termination states L.C.S.'s presumed father is deceased.

Rather, she contends only that the evidence is legally and factually insufficient to support the trial court's finding that termination was in her child's best interest. *See id.* § 161.001(b)(2).

Standard of Review

A court may terminate a parent's right to her child only if the court finds by clear and convincing evidence the parent violated a provision of section 161.001(1) and termination is in the best interest of the child. *Id.* § 161.001(1), (2). The Code defines "clear and convincing evidence" as "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." *Id.* § 101.007. Courts require this heightened standard of review because the termination of parental rights results in permanent and unalterable changes for both parent and child. *In re J.F.C.*, 96 S.W.3d 256, 263 (Tex. 2002). Thus, when reviewing a termination order, we must determine whether the evidence is such that a fact finder could reasonably form a firm belief or conviction that termination was in the child's best interest. *J.F.C.*, 96 S.W.3d at 267; *In re C.H.*, 89 S.W.3d 17, 25 (Tex. 2002).

In addressing a legal sufficiency challenge in parental termination cases, the court views the evidence in the light most favorable to the trial court's findings and judgment, and any disputed facts are resolved in favor of the trial court's findings if a reasonable fact finder could have so resolved them. *J.F.C.*, 96 S.W.3d at 267. The court must disregard all evidence that a reasonable fact finder could have disbelieved and consider undisputed evidence even if such evidence is contrary to the trial court's findings. *Id.* In other words, we consider evidence favorable to termination if a reasonable fact finder could, and we disregard contrary evidence unless a reasonable fact finder could not. *Id.*

In addressing the factual sufficiency challenge, we give due deference to the trier of fact's findings, avoiding substituting our own judgment for that of the fact finder. *C.H.*, 89 S.W.3d at

27. "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 fact finder could not have reasonably have formed a firm belief or conviction[in the truth of the finding], then the evidence is factually insufficient." *J.F.C.*, 96 S.W.3d at 266.

In conducting a sufficiency review, we may not weigh a witness's credibility because it depends on appearance and demeanor, and these are within the domain of the trier of fact. *In re J.P.B.*, 180 S.W.3d 570, 573 (Tex. 2005). Even when such issues are found in the appellate record, we must defer to the fact finder's reasonable resolutions. *Id.*

Applicable Law

In a best interest analysis, we consider the factors set forth by the Texas Supreme Court in *Holley v. Adams*: (1) the desires of the child; (2) the emotional and physical needs of the child now and in the future; (3) the emotional and physical danger to the child now and in the future; (4) the parental abilities of the individuals seeking custody; (5) the programs available to assist these individuals to promote the best interest of the child; (6) the plans for the child by these individuals; (7) the stability of the home or proposed placement; (8) the acts or omissions of the parent that may indicate the existing parent-child relationship is not a proper one; and (9) any excuse for acts or omissions of the parent. 544 S.W.3d 367, 371–72 (Tex. 1976). These factors are not exhaustive and a court may consider other factors. *Id.* at 372. Also, a court need not find evidence of each and every factor to terminate the parent-child relationship. *C.H.*, 89 S.W.3d at 27. According to the Texas Supreme Court, "the absence of evidence about some of these considerations would not preclude a fact finder 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." *Id.* Furthermore, in conducting our review of the trial court's

termination, rather than focusing on the parent's best interest, we will focus on whether termination of the parent-child relationship is in the best interest of the child. *Id.*

We recognize courts indulge in the strong presumption that maintaining the parent-child relationship is in a child's best interest. *In re R.R.*, 209 S.W.3d 112, 116 (Tex. 2006) (per curiam). However, promptly placing the child in a safe environment is also presumed to be in his or her best interest. TEX. FAM. CODE ANN. § 263.307(a). Thus, in addition to the *Holley* factors, a court should consider the following factors in determining whether the children's parent is willing and able to provide the children with a safe environment:

> (1) the child's age and physical and mental vulnerability;
> (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;
> (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;
> (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.

Id. § 263.307(b).

Moreover, although proof of acts or omissions under section 161.001(b)(1) of the Texas Family Code does not relieve the Department from proving the best interest of the child, the same evidence may be probative of both issues. *C.H.*, 89 S.W.3d at 28. In conducting a best interest

analysis, a court may consider circumstantial evidence, subjective factors, and the totality of the evidence, in addition to direct evidence. *In re B.R.*, 456 S.W.3d 612, 616 (citing *In re E.D.*, 419 S.W.3d 615, 620 (Tex. App.—San Antonio 2013, pet. denied)). Additionally, a trier of fact may measure a parent's future conduct by his or her past conduct in determining whether termination of the parent-child relationship is in the best interest of the child. *Id.*

The Evidence

On appeal, Mother contends the Department presented limited evidence with regard to several of the *Holley* factors — the desires of the child, the ability of the proposed caregivers to continue to provide for L.C.S.'s future physical and emotional needs, and the parental abilities of the proposed caregivers. However, as stated above, a court need not find evidence of each *Holley* factor before terminating the parent-child relationship. *C.H.*, 89 S.W.3d at 27. The absence of evidence as to one or more of the *Holley* factors does not preclude a trier of fact from reasonably forming a strong conviction or belief that termination is in a child's best interest. *Id.* Here, despite the lack of evidence as to all of the *Holley* factors, we hold the evidence that was presented is legally and factually sufficient to support the trial court's finding that it was in L.C.S.'s best interest to terminate Mother's parental rights.

In our review, we have considered the *Holley* factors and the statutory factors in section 263.307(b) of the Code. *See* TEX. FAM. CODE ANN. § 263.307(b); *Holley*, 544 S.W.2d at 371–72. We have also considered the acts or omissions as found by the trial court under section 161.001(b)(1) of the Code, as well as the circumstantial evidence, subjective factors, and the totality of the evidence. *See In re R.S.D.*, 446 S.W.3d 816, 820 (Tex. App.—San Antonio 2014, no pet.).

At the termination hearing with regard to termination of Mother's rights, the Department called two witnesses: (1) Monica Morones, a Department caseworker; and (2) M.Q., L.C.S.'s maternal aunt. Mother testified on her own behalf by telephone.

1. Desires of the Child

Mother contends the Department did not present any evidence directly addressing L.C.S.'s desires. We disagree. At the hearing, M.Q., L.C.S.'s maternal aunt, specifically testified L.C.S., who was seven years old at the time of the final hearing, expressed a desire to remain with her aunt and uncle. *See* TEX. FAM. CODE ANN. § 263.307(b)(5)(whether child is fearful of returning home); *Holley*, 544 S.W.2d at 371–72. Specifically, M.Q. testified that as of the date of the final hearing, L.C.S. had lived with her and her husband for more than a year, and L.C.S. has adjusted well to the family and the home. M.Q. further testified L.C.S. has bonded with her cousins as if they were siblings, she has her own room and bed, and she has been nurtured and loved. Even if we were to agree that because the testimony did not come from L.C.S. herself, any failure to produce evidence as to L.C.S.'s desires is not dispositive in a best interest analysis. *See C.H.*, 89 S.W.3d at 27.

2. Emotional & Physical Needs/Emotional & Physical Danger/Parenting Abilities

The evidence showed L.C.S. has been exposed to violence, alcohol abuse, and her Mother's extensive criminal history. Ms. Morones testified L.C.S. needs to be in a stable home free from alcoholism and domestic violence. M.Q. and her husband have provided L.C.S. with a stable household free from violence. Furthermore, M.Q. testified she has been taking L.C.S. to counseling and will continue to do so in the future.

The evidence also shows L.C.S. did not attend school for two years while she was in Mother's custody. Thus, L.C.S. has significant educational needs. *See* TEX. FAM. CODE ANN. § 263.307(b)(1)(child's age and mental and physical vulnerabilities). In this regard, Ms. Morones

testified that since L.C.S.'s removal from Mother's care, her aunt and uncle have met her educational needs by placing her in school and assisting her in attaining the proper grade level for her age.

In sum, the evidence shows L.C.S. has heightened emotional and educational needs that were only addressed by her placement with her aunt and uncle. *See* TEX. FAM. CODE ANN. § 263.307(b) (1); *Holley*, 544 S.W.2d at 371–72.

With regard to the potential emotional and physical danger to the child, there is evidence of the existence of domestic violence and alcohol abuse by Mother. *See* TEX. FAM. CODE ANN. § 263.307(b)(7)(history of abusive or assaultive conduct by child's family or others with access to child's home); *id.* § 263.307(8)(history of substance abuse by child's family or others with access to child's home); *id.* § 263.307(12)(whether child's family demonstrates adequate parenting skills); *Holley*, 544 S.W.2d at 371–72. The Department presented testimony showing L.C.S. was removed from Mother's care, in part, because Mother stabbed her paramour while L.C.S. was in the home. *See* TEX. FAM. CODE ANN. § 263.307(7); *id.* § 263.307(b)(9)(perpetrator of harm identified); *id.* § 263.307(12); *Holley*, 544 S.W.2d at 371–72. Additionally, there was evidence showing Mother has a history of violent behavior, including stabbing a former paramour, assaulting her husband before his death, and assaulting an elderly person. *See* TEX. FAM. CODE ANN. § 263.307(b)(3)(magnitude, frequency and circumstances of harm to child); *id.* §263.307(b)(7); *id.* § 263.307(12); *Holley*, 544 S.W.2d at 371–72. M.Q. testified L.C.S. was traumatized by the stabbing incident and seeing "the blood and all that stuff." *See* TEX. FAM. CODE ANN. § 263.307(b)(3); *id.* § 263.307(b)(7); *id.* § 263.307(12); *Holley*, 544 S.W.2d at 371–72. M.Q. stated L.C.S. had a hard time opening up and discussing the incident, expressing sadness and shock at what had occurred. Thus, the evidence shows Mother subjected L.C.S. to emotional and

physical danger when L.C.S. was in her custody. *See In re J.I.T.P.*, 99 S.W.3d 841, 845 (Tex. App.—Houston [14th Dist.] 2003, no pet.) (holding domestic violence is evidence of physical and emotional endangerment).

The evidence also shows Mother consistently abused alcohol, which led to many of her violent encounters. *See* TEX. FAM. CODE ANN. § 263.307(b)(3); *id.* § 263.307(b)(7); *id.* § 263.307(b)(8); *id.* § 263.307(12); *Holley*, 544 S.W.2d at 371–72. M.Q. testified Mother has always been an alcoholic. *See* TEX. FAM. CODE ANN. § 263.307(b)(3); *id.* § 263.307(b)(8); *id.* § 263.307(12); *Holley*, 544 S.W.2d at 371–72. Ms. Morones testified Mother heavily abuses alcohol and has not completed treatment for her alcoholism as required by the service plan. *See* TEX. FAM. CODE ANN. § 263.307(b)(3); *id.* § 263.307(b)(8); *id.* § 263.307(10)(willingness and ability of child's family to seek out, accept, and complete counseling services and to cooperate with and facilitate agency's close supervision); *id.* § 263.307(11)(willingness and ability of child's family to effective positive environmental and person changes within reasonable time period); *id.* § 263.307(12); *Holley*, 544 S.W.2d at 371–72.

Although Mother denied having an alcohol problem during her testimony, there was evidence to the contrary. The evidence suggests Mother uses, and will continue to use, alcohol, placing L.C.S. in emotional and physical danger. *See* TEX. FAM. CODE ANN. § 263.307(b)(3); *id.* § 263.307(b)(8); *id.* § 263.307(10); *id.* § 263.307(11); *id.* § 263.307(12); *Holley*, 544 S.W.2d at 371–72.

Additionally, Mother did not challenge the trial court's findings that she: (1) engaged in conduct or knowingly placed L.C.S. with persons who engaged in conduct that endangered L.C.S.'s physical or emotional well-being; (2) constructively abandoned L.C.S.; and (3) failed to comply with the court-ordered service plan. *See* TEX. FAM. CODE ANN. § 161.001(b)(1)(E), (N),

(O). Although Mother failed to challenge these findings, this does not relieve the Department from proving termination is in the best interest of the child; however, it is probative on the best interest issue and shows Mother's propensity for placing L.C.S. in dangerous situations. *See C.H.*, 89 S.W.3d at 28; *see also* TEX. FAM. CODE ANN. § 263.307(b)(12); *Holley*, 544 S.W.2d at 371–72.

The evidence set out above is also relevant to Mother's lack of parenting abilities. *See* TEX. FAM. CODE ANN. § 263.307(b)(10); *id.* § 263.307(b)(11); *id.* § 263.307(b)(12); *Holley*, 544 S.W.2d at 371–72. Mother has a history of engaging in violent conduct and abusing alcohol, which led the Department to remove L.C.S. from Mother's care. *See* TEX. FAM. CODE ANN. § 263.307(b)(3); *id.* § 263.307(b)(4); *id.* § 263.307(b)(7); *id.* § 263.307(8); *id.* § 263.307(10); *id.* § 263.307(11); *id.* § 263.307(b)(12); *Holley*, 544 S.W.2d at 371–72.

3. Available Programs to Assist Individuals to Promote Best Interest

The Department created a service plan tailored to Mother's needs, and the trial court adopted the plan as a requirement for reunification. As noted above, the plan required that Mother, among other things, attend domestic violence classes, complete a psychological assessment, engage in individual counseling, attend parenting classes, and maintain stable employment and housing. According to the caseworkers' testimony, Mother failed to complete any part of her service plan, despite referrals to several available programs. *See* TEX. FAM. CODE ANN. § 263.307(b)(10); *id.* § 263.307(b)(11); *id.* § 263.307(b)(12); *Holley*, 544 S.W.2d at 371–72. Moreover, Ms. Morones testified the Department provided Mother with every opportunity to complete the elements of her service plan, but Mother was unsuccessful.

More specifically, as part of her service plan, the Department referred Mother to inpatient treatment as a condition of a charge accusing Mother of family violence. Mother, however, failed to provide proof to the Department that she completed inpatient treatment or any other element of

her service plan. *See* TEX. FAM. CODE ANN. § 263.307(b)(10); *id.* § 263.307(b)(11); *Holley*, 544 S.W.2d at 371–72. Furthermore, the evidence shows Mother failed to keep in contact with the Department throughout the case. *See* TEX. FAM. CODE ANN. § 263.307(b)(10); *id.* § 263.307(b)(11); *Holley*, 544 S.W.2d at 371–72.

According to Mother's testimony, she was arrested shortly after the Department initially removed L.C.S. from her custody. She was ultimately placed on probation. However, immediately after her arrest, she was placed in an alcohol and behavior treatment center for seven months. Thereafter, she was sent to the Austin Transitional Center, where she was being held at the time of the hearing. Mother suggested these "placements" constituted attempts to complete her service plan. We disagree. Mother's criminal behavior resulted in her placement at the behavior treatment and transitional centers, which was not part of her service plan. Ultimately, Mother conceded she had not completed her service plan and had not been in contact with the Department regarding her progress. *See* TEX. FAM. CODE ANN. § 263.307(b)(10); *id.* § 263.307(b)(11); *id.* § 263.307(b)(12); *Holley*, 544 S.W.2d at 371–72.

Although she stated she attended Alcoholics Anonymous meetings, she also stated she failed to contact the Department caseworkers with any updates with regard to progress on her service plan. Mother testified she could not contact the Department because of the rules at her facility regarding phone usage, however, she also testified she could write letters but chose not to write to her caseworker. *See* TEX. FAM. CODE ANN. § 263.307(b)(10); *id.* § 263.307(b)(11); *id.* § 263.307(b)(12); *Holley*, 544 S.W.2d at 371–72. The evidence establishes that despite the availability of services and programs provided by the Department, Mother chose not to engage or could not engage because of her criminal behavior. *See* TEX. FAM. CODE ANN. § 263.307(b)(10); *id.* § 263.307(b)(11); *id.* § 263.307(b)(12); *Holley*, 544 S.W.2d at 371–72.

As stated above, this evidence is also relevant to Mother's parenting skills. Based on the evidence showing Mother's almost complete failure to participate and complete her service plan, and in light of her criminal record, she has demonstrated a lack of motivation to improve her parenting skills, which are questionable given her lifestyle choices. *See In re W.E.C.*, 110 S.W.3d 231, 245 (Tex. App.—Fort Worth 2003, no pet.) (holding that trier of fact could have formed firm belief that parent was not motivated to improve parenting abilities given her failure to avail herself of programs provided); *see also* TEX. FAM. CODE ANN. § 263.307(b)(10); *id.* § 263.307(b)(11); *id.* § 263.307(b)(12); *Holley*, 544 S.W.2d at 371–72.

4. Plans for Children by Those Seeking Custody/Stability of Home or Proposed Placement

At the time of the final hearing, Mother resided at the Austin Transitional Center and was on probation. *See* TEX. FAM. CODE ANN. § 263.307(b)(7); *Holley*, 544 S.W.2d at 371–72. Although Mother stated her probation ended in the next two months, her plans after her release were vague and uncertain. *See* TEX. FAM. CODE ANN. § 263.307(b)(11); *id.* § 263.307(b)(12); *Holley*, 544 S.W.2d at 371–72. The testimony established Mother wished to move in with her father, "get [her] life situated," and start working again. However, Mother failed to obtain work before L.C.S. was removed, she testified she was unable to pay for rent, and she conceded she did not have a job lined up after her release. *See* TEX. FAM. CODE ANN. § 263.307(b)(11); *id.* § 263.307(b)(12); *Holley*, 544 S.W.2d at 371–72.

Moreover, Mother's criminal history is probative of her future conduct. *See B.R.*, 456 S.W.3d at 616 (allowing trier of fact to measure future conduct by prior conduct). The trial court may have inferred Mother would be unable to find work or avoid violent behavior in the future. *Id.* In sum, Mother's violent history and continued alcohol use portend future instability and "[a]s a general rule, conduct that subjects a child to a life of uncertainty and instability endangers the

physical and emotional well-being of a child." *In re D.J.H.*, 381 S.W.3d 606, 613 (Tex. App.—San Antonio 2012, no pet.) (quoting *In re R.W.*, 129 S.W.3d 732, 739 (Tex. App.—Fort Worth 2004, pet. denied)).

The Department also provided evidence regarding the current and future placement of L.C.S. *See Holley*, 544 S.W.2d at 371–72. The evidence shows the Department plans to continue L.C.S.'s placement with M.Q. and her family. *See id.* This placement is supportive and stable. *See id.* M.Q. is a part-time homemaker and her husband is a police officer. M.Q. and her husband care for their two young children and took care of L.C.S. on occasion even before the Department placed L.C.S. with them. M.Q. testified L.C.S. is doing well and has bonded with her family. *See id.* Furthermore, she testified she and her husband are willing to adopt L.C.S. and raise her as if she were their own child. *See id.* M.Q. also testified she has taken L.C.S. to counseling and is committed to following through with continued counseling to address the violence L.C.S. witnessed. *See id.* As stated above, M.Q. testified L.C.S. has expressed a desire to remain with the family.

Moreover, Ms. Morones testified L.C.S.'s placement with her maternal aunt and uncle is "an excellent placement." *See id*. She stated the couple has met L.C.S.'s needs and provided a safe home. Ms. Morones testified she informed Mother of L.C.S.'s placement and Mother did object to the placement.

5. Act or Omissions Suggesting Parent-Child Relationship is Not Proper/Excuses

Ms. Morones expressed concern over Mother's lack of contact with L.C.S. throughout the case. Furthermore, M.Q. opined Mother "doesn't want anything to do with [L.C.S.]" See *id*. The evidence shows Mother has had the ability to call or send letters regarding L.C.S., but has not engaged. *See id*. Rather, Mother has sent letters only to her own mother, asking for money.

Although Mother contends she "wants [her] daughter back," the evidence shows Mother has failed to engage in her service plan or to keep in contact with the Department or L.C.S. *See id.*

Mother testified she did not keep in contact with the Department because she was either in custody or in the transitional center. She testified the transitional center has strict rules for telephone use and she was unable to call M.Q. or the Department. However, the evidence shows Mother received letters and was able to send letters in return, but still, she failed to do so with regard to the Department or her daughter. *See id.* Moreover, M.Q. testified Mother did not respond to her attempted contacts. *See id.*

Regarding her violent conduct and failure to place L.C.S. in school, Mother testified she experienced depression after her husband died. *See id.* She also stated she continued to enter into "bad relationships," which led to her assaulting her paramours. *See id.* This evidence does not actually excuse Mother's behavior; rather, it shows Mother is unable to cope with her emotions and life problems other than by violence and alcohol use, exposing L.C.S. to continued emotional and physical danger. *See id.*

Summation

The evidence shows Mother exposed L.C.S. to domestic violence and alcohol abuse, endangering her physical and emotional well-being. She engaged in criminal behavior, including assaulting at least four people, which resulted in her incarceration and placement at the transitional center. Mother failed to comply with her service plan, despite reasonable time and opportunity. Mother's conduct prior to the Department's removal of the child and subsequent thereto shows she is unable to care for L.C.S. — she is unable to resolve her own mental health and alcohol issues.

Therefore, based on the foregoing, we hold the evidence, when considered in light of the relevant *Holley* factors and statutory considerations, weigh in favor of a finding that termination

was in the best interest of L.C.S. Given that the trial court was permitted to consider circumstantial evidence, subjective factors, and the totality of the evidence, in addition to the direct evidence presented, we hold the trial court was within its discretion in finding termination of Mother's parental rights would be in L.C.S.'s best interest. In other words, we hold the evidence is such that the trial court could have reasonably formed a firm belief or conviction that termination was in L.C.S.'s best interest.

CONCLUSION

We hold the evidence is legally and factually sufficient to have permitted the trial court, in its discretion, to find termination was in the best interest of L.C.S. Accordingly, we hold the trial court did not err in terminating Mother's parental rights, overrule Mother's sole issue, and affirm the trial court's termination order.

Marialyn Barnard, Justice