

**In The**  
***Court of Appeals***  
***Ninth District of Texas at Beaumont***

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**NO. 09-15-00310-CV**

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**IN THE INTEREST OF D.F.L.**

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**On Appeal from the 317th District Court**  
**Jefferson County, Texas**  
**Trial Cause No. C-221,548**

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**MEMORANDUM OPINION**

Mother appeals from an order terminating her parental rights to her daughter, D.F.L.<sup>1</sup> *See* Tex. Fam. Code Ann. § 161.001 (West Supp. 2015).<sup>2</sup> In 2014, D.F.L.’s father and step-mother sued Mother to terminate Mother’s rights to

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<sup>1</sup> We identify the minor by using initials to protect her identity. *See* Tex. R. App. P. 9.8.

<sup>2</sup> Section 161.001 of the Texas Family Code was amended in 2015. Former subsections 161.001(1)(C), (1)(D), and (1)(E) were designated as subsections 161.001(b)(1)(C), (b)(1)(D), and (b)(1)(E). Tex. Fam. Code Ann. § 161.001 (West Supp. 2015). The language contained within the subsections remains the same. *See id.* In the opinion, we will refer to the current version of the statute.

D.F.L. In 2015, the trial court found, by clear and convincing evidence, that Mother's rights to D.F.L. should be terminated.

In seven issues, Mother challenges the trial court's final order. In the first three issues, Mother argues (1) the trial court erred by granting Father's motion to disqualify her attorney, (2) the trial court erred by denying Mother's motion to transfer venue, and (3) the trial court erred by failing to exclude an expert witness from the courtroom while other witnesses testified. In her last four issues, Mother argues the evidence is insufficient to support the findings that her parental rights should be terminated. For the reasons explained below, we affirm the trial court's judgment.

### Background

D.F.L. was born in December 2008. D.F.L.'s parents were not married. In 2012, based on a suit affecting the parent-child relationship filed in Travis County, a district judge in Travis County appointed Mother and Father to be D.F.L.'s joint managing conservators. Under the 2012 agreed order, Mother was the party that had the right to designate D.F.L.'s residence.

Two or three months after the court in Travis County rendered the custody order, Mother's house was heavily damaged in a fire. After the fire, at Mother's

request, D.F.L. began living with Father. From that point on, D.F.L.'s primary residence was at Father's house in Jefferson County.

After D.F.L. established residence in Jefferson County, Mother did not consistently exercise the rights she had to visitation under the custody order rendered by the judge in Travis County. Instead, after D.F.L. established her residence in Jefferson County, Mother became involved in a variety of criminal activities, all of which she claims related to her use of methamphetamine.

In April 2013, Father filed a request to modify the custody order rendered by the judge in Travis County. In his request asking to modify the custody order, he sought to be named D.F.L.'s sole managing conservator. Father also filed a motion to transfer the case from Travis County to Jefferson County. In August 2013, the judge handling the Travis County suit transferred the suit to Jefferson County, and the Jefferson County District Clerk designated the case as cause number C-219,227.

In July 2014, Father and Step-Mother filed a petition in Jefferson County seeking to terminate Mother's rights to D.F.L.; in the petition, they asserted that it would be in D.F.L.'s best interest to terminate Mother's parental rights and to allow D.F.L. to be adopted by Step-Mother. The District Clerk designated Father's

suit, in which he sought an order terminating Mother's parental rights, as cause number C-221,548.

In June 2015, the parties tried the termination suit to the court without a jury. Nine witnesses testified during the trial: Father, Step-Mother, Mother, two licensed professional counselors, a clinical social worker, Mother's biological father, and Mother's aunt and uncle, who adopted Mother before the trial occurred. Mother was an adult when the adoption occurred.

The evidence admitted during the trial developed Mother's history with Father. Mother, a resident alien from Belgium living in the United States, became involved with Father in 2007. She was deported in 2014. When the trial occurred, Mother was living in Belgium, and she had not yet received permission to re-enter the United States.

D.F.L. was born in late 2008. Mother testified that following D.F.L.'s birth, she began using methamphetamines to lose weight. According to Mother, both she and Father used drugs while they were together. During her testimony, Mother indicated that she and Father ended their relationship in late 2011 or early 2012; after the break up, Mother indicated that she moved to Houston.

In mid-2012, a fire occurred at the home in Houston where Mother was living; following the fire, Mother approached Father about taking care of D.F.L.

because she felt that he could provide D.F.L. a stable environment. During the trial, Mother explained that she was charged and then later convicted of three crimes in 2013: possessing a controlled substance, providing false identification, and theft. Mother also acknowledged that she had been arrested on several other charges for shoplifting. After Mother and Father separated, Mother was also arrested for assaulting Father. The evidence before the trial court indicates that Mother was incarcerated between March 2014 and October 2014 based on her felony convictions for possessing a controlled substance and false identification. Mother testified that on one occasion, she threatened to burn down Father's house. According to Mother, all of her arrests were connected with her use of drugs; however, Mother stated that her use of drugs was behind her. According to Mother, when she used methamphetamine, she smoked it twice daily. Mother denied using any other drugs.

In December 2014, Mother left the United States and returned to Belgium. Mother testified that since returning to Belgium, she has been subjected to hair follicle screenings, and she testified that she had not used methamphetamine since January 2014. Mother indicated that she blamed Father for her drug use. Mother also indicated that she was in a drug-treatment program, and that she was working on step three of a twelve-step program. Regarding Mother's current immigration

status, Mother explained that she had applied to be readmitted to the United States, but that her application had not yet been ruled on. Mother testified that she did not want custody of D.F.L., that she was seeking only visitation rights, and that if she could not enter the United States, that she felt D.F.L.'s best interest would be served by allowing her to parent D.F.L. over the Internet.

Step-Mother also testified during the trial. According to Step-Mother, even after the family courts became involved in D.F.L.'s case, Mother failed to fully exercise her visitation rights. Step-Mother discussed Mother's relationship with J.A., a convicted felon, who Step-Mother stated was arrested at Mother's house for possessing and manufacturing methamphetamine. According to Step-Mother, Mother allowed D.F.L. to be in J.A.'s presence when she was in Mother's care.

During Father's testimony, Father testified that after D.F.L. moved in with him, Mother threatened to burn down his house. According to Father, Mother made the threat to burn down his house in the presence of his older daughter and D.F.L. Immediately after Mother made the threat, Mother followed Father from Houston to Beaumont, and while reporting Mother's threat to the police, Mother was seen driving by his house. Father indicated that this incident was not the only time Mother threatened to harm him. According to Father, Mother also threatened to kill him following the mediation of their custody case in Travis County. During the

mediation, Mother told him that she would “spend her entire life hunting [him] down[.]” Although Father testified that he had made some efforts to assist Mother with transportation so that she could see D.F.L., he also stated that he felt that since Mother’s release from prison, Mother had not shown any real interest in D.F.L.’s life. Father also admitted that he had used illegal drugs during the years before he broke up with D.F.L.’s mother.

Two licensed professional counselors also testified during the trial. Colleen Christie was the court-ordered supervisor that supervised Mother’s five visits with D.F.L., which occurred between October 8, 2013 and January 20, 2014. According to Christie, based on what she observed during the visits, Mother and D.F.L. shared a loving relationship. Nonetheless, Christie also noted that Mother had been late to several of the five supervised meetings, and Christie indicated that Mother failed to attend a sixth meeting because Mother was in jail.

Madeline Alford, a licensed professional counselor and certified addiction specialist, also testified at trial. According to Alford, in April 2013, D.F.L., Father, and Step-Mother sought guidance from Alford regarding Mother’s relationship with D.F.L. Alford expressed the opinion that allowing Mother back into D.F.L.’s life would serve no purpose other than to confuse D.F.L. Alford indicated that D.F.L. never expressed any anxiety about not having seen her Mother over

extended periods of time. Alford also indicated that D.F.L. expressed hatred of Mother's boyfriend, J.A., and Alford felt that D.F.L.'s anger was based on an incident D.F.L. witnessed when she saw J.A. hit her mother. D.F.L. told Alford that on one occasion she had seen J.A. angered to the point that he hit a car with his fist. According to Alford, exposing D.F.L. to this sort of conduct had been detrimental to D.F.L.'s well-being. Alford also testified that in one of their sessions, D.F.L. told her that she hoped that she would not have to see J.A. and Mother, that it would be "okay to not see [Mother] at all[.]" D.F.L. told Alford that she did not "really like to talk about [Mother]." According to Alford, D.F.L. views Step-Mother as her mother. Alford indicated that in her opinion, D.F.L.'s life with her father and her step-mother is consistent, stable, predictable, routine, and loving.

Julie Colantonio, a clinical social worker who saw Mother in 2012 to help her with her addiction to methamphetamine, also testified during the trial. Colantonio saw Mother on several occasions in 2012, and she indicated that she recommended that Mother undergo inpatient treatment. However, Mother had resisted her suggestion, stating that she preferred to stay with Colantonio. Colantonio indicated that in the period she counseled her, Mother had thoughts of suicide, but she also indicated that Mother had never expressed any intent to commit suicide. Colantonio noted that in her opinion, Mother's efforts to change



were not sustainable, as she had not been able to stop using methamphetamine. Although Colantonio indicated that she was aware Mother had seen a psychiatrist, she was also aware that Mother had not been able to tolerate the medication prescribed to her by the psychiatrist and that Mother had discontinued her use of the medication. Colantonio indicated that she saw Mother for the last time in June 2013; at that time, she thought Mother might once again be using drugs. Colantonio noted in the records she made of Mother's visits that Mother was "unable to commit to a consistent recovery," and appeared to be in denial.

Mother's aunt and uncle, who adopted Mother as an adult, also testified during the trial. They acknowledged that Mother previously had a drug problem, but stated that she is currently not on drugs, that she is doing well, and that she is no longer engaged in any criminal activity. They testified they wanted to help Mother, and that they wanted to be involved in D.F.L.'s life. While Mother's aunt and uncle stated that they had assisted Mother financially, the evidence did not show that Mother had used any significant part of the money they had given her to pay her child support.

At the conclusion of the trial, the trial court found by clear and convincing evidence that Mother's parental rights to D.F.L. should be terminated. The trial court based its termination finding on three grounds: that Mother voluntarily left

D.F.L. alone or in the possession of another without providing her with adequate support and remained away from her for a period of at least six months; that Mother knowingly placed or knowingly allowed D.F.L. to remain in conditions or surroundings that endangered her physical or emotional well-being; and, that Mother engaged in conduct or knowingly placed D.F.L. with persons who engaged in conduct that endangered D.F.L.'s physical or emotional well-being. Mother filed a timely notice of appeal.

#### Appellate Jurisdiction—Issues One and Two

In her first two issues, Mother challenges rulings in the modification suit, cause number C-219,227. In her first issue, Mother complains about the trial court's ruling to grant Father's motion to disqualify her counsel. In her second issue, Mother argues the trial court erred by not granting the motion she filed to transfer venue of cause number C-219,227. The rulings Mother challenges in issues one and two are not rulings in the termination case, which is the case before us on appeal.

In the termination case, Mother did not file motions addressing her choice of counsel, nor did she file a motion to transfer venue. Although Mother argues that the reporter's record reflects the trial court called the modification cause number at the outset of the termination proceedings, it is evident from the subsequent

discussion that the court had with the attorneys immediately after calling the case that the court intended to call the termination case to trial. *See generally City of San Antonio v. Rodriguez*, 828 S.W.2d 417, 418 (Tex. 1992) (per curiam) (instructing that we should look to substance rather than procedural technicality, where there is no suggestion of confusion).

Mother filed her notice of appeal in cause number C-221,548, the termination case, and we have no notice of appeal in the modification case, cause number C-219,227. Under the circumstances, we conclude that we do not have jurisdiction over Mother's first two issues, as the issues concern rulings the trial court made in a case that is not before us in this appeal. *See Tex. R. App. P. 25.1(b)* (Jurisdiction of Appellate Court). We overrule and dismiss Mother's appeal as it relates to issues one and two because we do not have jurisdiction to act on her complaints. *Id.*

#### Failure to Exclude Father's Expert

Issue three complains about a ruling in the case Mother appealed. In issue three, Mother argues that the trial court erred by exempting Madeline Alford, Father's expert witness, from the rules generally used to prevent a witness who will testify in a case from sitting in the courtroom while the other witnesses in that case testify. *See Tex. R. Civ. P. 267* (Witnesses Placed Under Rule); *see also Tex.*

R. Evid. 614 (Excluding Witnesses). The rules providing that witnesses are to be excluded from the courtroom during a trial are intended to minimize the ability of a witness to tailor their testimony after having heard the testimony of others. *See id.*; *Drilex Sys., Inc. v. Flores*, 1 S.W.3d 112, 116 (Tex. 1999). Nevertheless, a trial court may allow certain witnesses, such as a witness whose presence is essential to the party's presentation of its case, to remain in the courtroom while other witnesses testify. Tex. R. Civ. P. 267b.; Tex. R. Evid. 614(c). When a party has asked the trial court to exclude the witnesses who will testify from being present in the courtroom during the trial, the party that desires to have a witness remain in the courtroom must show that the witness's presence is essential. *Drilex Sys., Inc.*, 1 S.W.3d at 117-18.

Mother moved to invoke the Rule before any witnesses testified. In response, Father requested that Alford, his expert witness, be allowed to remain in the courtroom during the trial. Mother maintained that Alford had already formulated her opinions, and argued that it was not necessary for her to remain in the courtroom. In response, Father argued that Alford was entitled to hear the testimony so that she could use it to formulate the opinions that she would offer during the trial. The trial court overruled Mother's objection, allowing Alford to remain in the courtroom during the trial.

A trial court's decision to allow a witness to remain in the courtroom after the Rule is invoked is reviewed for an abuse of discretion. *Id.* While not automatic, the Texas Supreme Court has indicated that expert witnesses are typically allowed to remain in the courtroom while other witnesses testify, as Rules 267 and 614 "vest in trial judges broad discretion to determine whether a witness is essential." *Id.* at 118-19. Unlike the circumstances before the trial court in *Drilex*, Father did not rely solely on his claim that Alford should be exempted because she was an expert; instead, Father claimed that Alford needed to be present "to form [her] opinions based on more accurate factual assumptions[.]" *Id.* at 119.

Alford served primarily as an opinion witness on Mother's relationship with D.F.L., Father, and Step-Mother. There were witnesses who testified at trial whose factual statements might have supported, altered, or changed whatever initial opinion Alford may have held prior to trial. In our opinion, in a case that concerned the current and future effects of Mother's addiction as her addiction related to Mother's ability to parent D.F.L., the trial court did not abuse its discretion by allowing Alford, a licensed professional counselor with a certification as an addiction specialist, to remain in the courtroom so that she could consider any additional facts that might have developed at trial. We overrule Mother's third issue.

## Legal and Factual Sufficiency of the Evidence

Mother's fourth, fifth, and sixth issues assert the evidence is insufficient to support the termination of Mother's parental rights to D.F.L. under subsections 161.001(b)(1)(C),<sup>3</sup> 161.001(b)(1)(D), and 161.001(b)(1)(E) of the Texas Family Code. *See* Tex. Fam. Code Ann. § 161.001(b)(1). In Mother's seventh issue, Mother argues the evidence is insufficient to prove that terminating her rights to D.F.L. is in D.F.L.'s best interest. *See* Tex. Fam. Code Ann. § 161.001(b)(2).

To support terminating a parent's rights to a child, the evidence need not support all of the various grounds under subsection (b)(1) of section 161.001 of the Family Code; instead, the evidence need only support one of the grounds listed in the statute. *See* Tex. Fam. Code Ann. § 161.001; *In re J.L.*, 163 S.W.3d 79, 84 (Tex. 2005). Therefore, we will first review Mother's challenge to the sufficiency of the trial court's finding that Mother engaged in conduct or knowingly placed D.F.L. with persons who engaged in conduct that endangered D.F.L.'s physical or

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<sup>3</sup> Mother's brief and her motion for new trial include a challenge to the trial court's termination of Mother's rights under subsection 161.001(b)(1)(B) of the Texas Family Code. *See* Tex. Fam. Code Ann. § 161.001(b)(1)(B). However, Father and Step-Mother never sought to terminate Mother's rights under subsection 161.001(b)(1)(B), nor did the trial court terminate Mother's parental rights on this ground. Construing Mother's brief liberally, we will assume that Mother intended to challenge the evidence supporting the trial court's termination of her parental rights on each of the grounds found in the order terminating her parental rights.

emotional well-being. *See* Tex. Fam. Code Ann. § 161.001(b)(1)(E); *In re A.V.*, 113 S.W.3d 355, 362 (Tex. 2003).

In a legal sufficiency review of an order terminating a parent's rights, the evidence relating to a challenged finding is reviewed "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.F.C.*, 96 S.W.3d 256, 266 (Tex. 2002). Mother also challenges the factual sufficiency of the evidence supporting the termination of her rights. With respect to Mother's factual sufficiency claim, we must "give due consideration to evidence that the factfinder could reasonably have found to be clear and convincing." *Id.* Under a factual sufficiency standard, the trial court's findings are sufficient unless, based on the entire record, the disputed evidence that could not have been credited in favor of the finding is so significant that the trial court could not have reasonably formed a firm belief or conviction that the challenged finding was true. *See id.* Due process requires the petitioner to justify an order terminating a parent's right by clear and convincing evidence, which is that "measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established." Tex. Fam. Code Ann. § 101.007 (West

2014); *see also id.* §§ 161.001, 161.206(a) (West 2014); *In re J.F.C.*, 96 S.W.3d at 263.

### *Endangerment*

Under subsection 161.001(b)(1)(E), the term “endanger” means “to expose to loss or injury; to jeopardize.” *In re M.C.*, 917 S.W.2d 268, 269 (Tex. 1996) (per curiam) (quoting *Tex. Dep’t of Human Servs. v. Boyd*, 727 S.W.2d 531, 533 (Tex. 1987)). “Although ‘endanger’ means more than a threat of metaphysical injury or the possible ill effects of a less-than-ideal family environment, it is not necessary that the conduct be directed at the child or that the child actually suffers injury.” *Id.* (citing *Boyd*, 727 S.W.2d at 533).

Subsection E requires the evidence demonstrate that the endangerment was the direct result of the parent’s conduct, including acts, omissions, or failures to act. *In re J.T.G.*, 121 S.W.3d 117, 125 (Tex. App.—Fort Worth 2003, no pet.). Termination under subsection E must be based on more than a single act or omission, the statute requires a voluntary, deliberate, and conscious course of conduct by the parent. *Id.* Here, the evidence concerning Mother’s illegal drug use shows that she had been addicted to methamphetamine for most of D.F.L.’s life, and her ongoing use of methamphetamine allowed the judge to form a firm belief that her use of the drug was voluntary, deliberate, and the result of a conscious



choice. Because illegal drug use exposes a child to the possibility that the parent may be impaired or imprisoned, the use of illegal drugs may support termination under subsection 161.001(b)(1)(E). *Walker v. Tex. Dep't of Family & Protective Servs.*, 312 S.W.3d 608, 617-18 (Tex. App.—Houston [1st Dist.] 2009, pet. denied); *see also In re J.O.A.*, 283 S.W.3d 336, 345 (Tex. 2009); *In re Z.C.*, 280 S.W.3d 470, 474 (Tex. App.—Fort Worth 2009, pet. denied). Continued illegal drug use is conduct that jeopardizes parental rights and may be considered as establishing an endangering course of conduct. *See Cervantes-Peterson v. Tex. Dep't of Family & Protective Servs.*, 221 S.W.3d 244, 253-54 (Tex. App.—Houston [1st Dist.] 2006, no pet.) (holding in a case involving the Texas Department of Family and Protective Services after the child's removal). Additionally, the record in this case includes evidence that Mother's drug use caused Mother to expose D.F.L. to other adults who used, manufactured, and sold drugs.

As the factfinder, the trial court was not required to believe the testimony of the witnesses who stated that Mother was no longer using drugs. *See In re A.B.*, 437 S.W.3d 498, 503 (Tex. 2014). Although Mother and Mother's witnesses claimed that she had taken hair follicle tests that proved she was no longer taking illegal drugs, the test results from those alleged tests were not introduced during

the trial, and the trial court was not required to rely on the testimony claiming that she had passed hair follicle tests. *See id.* Additionally, the evidence did not demonstrate that Mother had ever enrolled in or completed an inpatient drug-treatment program of the type that Mother's drug counselor apparently thought would be required for Mother to stop using methamphetamine. In summary, even if the trial court believed that Mother had recently succeeded in avoiding the use of methamphetamine, her improved conduct, given its relatively short duration, does not negate her history of long-term use and irresponsible choices. *In re J.O.A.*, 283 S.W.3d at 346. Given the length of time Mother was shown to have abused methamphetamine and the consequences that resulted from her abuse, the evidence was sufficient to allow the trial court to form a firm belief or conviction on the question of endangerment. *Id.*

While Mother testified that she believed that Father was probably still using drugs, the question before us in issue six concerns whether the evidence is sufficient to show that Mother's conduct endangered D.F.L. While this evidence was relevant to the trial court's best interest finding, it is not relevant to the arguments Mother has advanced in her challenge to the trial court's finding that her conduct endangered D.F.L.'s safety or well-being. Even if it was relevant to the endangerment finding, the trial court, as the sole arbiter of the credibility of the

witnesses, was entitled to believe Father's testimony that he "never touched anything" after separating from Mother and starting a new life. *In re A.B.*, 437 S.W.3d at 503. The trial court was also entitled to credit Father's testimony that he was not the person who was responsible for Mother's decision to use and abuse methamphetamine. *Id.*

Viewing the evidence before the trial court in the light most favorable to the trial court's judgment, as we must based on the standard of review, we hold the record contains clear and convincing evidence on which a reasonable factfinder could have formed a firm belief or conviction that Mother had engaged in a conscious course of conduct that endangered D.F.L.'s physical or emotional well-being. *See* Tex. Fam. Code Ann. § 161.001(b)(1)(E); *In re J.F.C.*, 96 S.W.3d at 266. The evidence that arguably contradicts the trial court's findings is not so significant that the trial court could not have reasonably formed a belief that Mother's conduct endangered D.F.L.'s safety or well-being. *See In re J.F.C.*, 96 S.W.3d at 266. We overrule Mother's arguments in issue six, which argue that the evidence is legally and factually insufficient to support the trial court's order terminating Mother's parental rights under subsection 161.001(b)(1)(E) of the Texas Family Code.

### *Best Interest Finding*

Mother's seventh issue challenges the sufficiency of the evidence supporting the trial court's finding that the termination of Mother's parental rights is in D.F.L.'s best interest. In reviewing whether the trial court's best-interest finding is supported by sufficient evidence, we consider the nine non-exhaustive factors identified in *Holley v. Adams*, 544 S.W.2d 367, 371-72 (Tex. 1976).<sup>4</sup>

In determining whether terminating a parent's rights is in a child's best interest, the trial court starts with the presumption that the best interest of the child would be served by keeping the child with the parent. *In re R.R.*, 209 S.W.3d 112,

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<sup>4</sup> In *Holley*, the Texas Supreme Court applied the following factors to determine whether terminating the parent's relationship was in the child's best interest:

- the child's desires;
- the child's emotional and physical needs, now and in the future;
- the emotional and physical danger to the child, now and in the future;
- the parenting abilities of the parties seeking custody;
- the programs available to assist the parties seeking custody;
- the plans for the child by the parties seeking custody;
- the stability of the home or the proposed placement;
- the parent's acts or omissions which may indicate that the existing parent-child relationship is improper; and
- any excuse for the parent's acts or omissions.

*Holley v. Adams*, 544 S.W.2d 367, 371-72 (Tex. 1976).

116 (Tex. 2006). Also, courts presume that a prompt and permanent placement of a child in a safe environment is in the child's best interest. Tex. Fam. Code Ann. § 263.307(a) (West Supp. 2015). Nonetheless, the party seeking termination need not prove that each of the *Holley* factors favors terminating a parent's rights. *In re C.H.*, 89 S.W.3d 17, 27 (Tex. 2002). A trial court's best interest finding "is not dependent upon, or equivalent to, a finding that the child has been harmed by abuse or neglect or is in danger of such harm[,]” but rather it “is a term of art encompassing a much broader, facts-and-circumstances based evaluation that is accorded significant discretion.” *In re Lee*, 411 S.W.3d 445, 460 (Tex. 2013).

In this case, the record before the trial court allowed the trial court to reasonably conclude that Mother has a long history of methamphetamine addiction, and that her addiction had caused her to be unable to adequately provide for or parent D.F.L. *See In re M.R.*, 243 S.W.3d 807, 821 (Tex. App.—Fort Worth 2007, no pet.) (holding that a parent's drug use supports a finding that termination is in the best interest of a child). The evidence shows that Mother had not successfully completed a recovery program, and the trial court could infer from the evidence of Mother's addiction that she would be unable to sustain any prolonged periods of sobriety, free from the adverse effects of methamphetamine. The evidence also showed that Mother had not made any significant efforts to support D.F.L., and

that D.F.L. had bonded with and views her step-mother as her mother. As the factfinder, the court could reasonably credit the testimony showing that Father and Step-Mother had provided and would continue to provide D.F.L. with a safe and stable home where she is loved, and where she receives the emotional support she needs to thrive.

Given the trial court's role in resolving any questions about who should be believed, the trial court's conclusion that the termination of Mother's parental rights was in D.F.L.'s best interest is supported by clear and convincing evidence based on evidence admitted during the trial. *See In re J.F.C.*, 96 S.W.3d at 266; *see also Toliver v. Tex. Dep't of Family and Protective Servs.*, 217 S.W.3d 85, 102 (Tex. App.—Houston [1st Dist.] 2006, no pet.). Having considered the *Holley* factors and the evidence the trial court had before it, we hold the trial court's best-interest finding is supported by legally and factually sufficient evidence. We overrule issue seven.

Because sufficient evidence supports the trial court's ruling under subsection 161.001(b)(1)(E), we need not address the arguments that Mother raises in issues four and five, which concern the trial court's findings under subsections 161.001(b)(1)(C) and 161.001(b)(1)(D). *See In re J.L.*, 163 S.W.3d at 84; *see also*

Tex. R. App. P. 47.1. Having considered the issues that are necessary to decide Mother's appeal, the trial court's order of termination is affirmed.

AFFIRMED.

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HOLLIS HORTON  
Justice

Submitted on November 30, 2015  
Opinion Delivered February 4, 2016

Before McKeithen, C.J., Kreger and Horton, JJ.