

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

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**NO. 09-15-00425-CV**

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**IN THE INTEREST OF R.T. JR.**

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**On Appeal from the County Court at Law No. 3**  
**Montgomery County, Texas**  
**Trial Cause No. 14-08-09507-CV**

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**MEMORANDUM OPINION**

After a bench trial, the trial court entered an order that terminated the parental rights of R.T. (Father) to his child, R.T. Jr. (R.T.J.), a two-year-old boy.<sup>1</sup> Father appeals the termination, raising two issues.<sup>2</sup> We affirm.

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<sup>1</sup> We use initials to protect the identity of the child. *See* Tex. R. App. P. 9.8. Other family members are also identified, as necessary, with initials and designations based on their respective relationship with the child. *See* Tex. Fam. Code Ann. § 109.002(d) (West 2014); Tex. R. App. P. 9.8.

<sup>2</sup> The trial court also terminated the parental rights of Mother to R.T.J., and to R.T.J. sister, L.M. L.M.'s father is O.M. The trial court terminated O.M.'s parental rights to L.M. No appeal was filed on behalf of Mother or O.M. Therefore, we discuss the facts as to Mother, O.M., and L.M. only where necessary to our review regarding Father's appeal.

## PROCEDURAL BACKGROUND

On August 29, 2014, when R.T.J. was twelve months old, the Department of Family and Protective Services (the Department) filed an “Original Petition for Protection of a Child, for Conservatorship, and for Termination in [a] Suit Affecting the Parent-Child Relationship” (the petition). In the petition, the Department requested that the trial court appoint the Department as R.T.J.’s temporary sole managing conservator because “allowing the child[] to remain in the home would be contrary to the child[]’s welfare.” The Department also requested that the trial court appoint the Department as R.T.J.’s permanent sole managing conservator if R.T.J. could not be reunified with either parent or permanently placed with a relative or other suitable person for placement, and that Father’s and Mother’s parental rights be terminated if reunification could not be achieved. The petition alleged that the appointment of either Mother or Father as permanent managing conservator would not be in R.T.J.’s best interest because it “would significantly impair the child[]’s physical health or emotional development.” The petition was supported by a sworn and notarized affidavit of a Department representative, wherein the representative described the circumstances necessitating removal.

According to the affidavit, the Department initially received an intake on October 27, 2013, alleging physical abuse of two-month-old R.T.J. The affidavit alleged that an altercation between Mother and the maternal grandmother's paramour developed, during which R.T.J. "fell to the floor and bumped his face on the bed." Law enforcement was called to the scene, and although no one was arrested, law enforcement submitted charges for injury to a child. Later the same day, law enforcement was again called to the home after Mother assaulted Father "with a mop handle causing visible injuries to the right side of his face."

After an investigation, the Department completed a safety plan on November 1, 2013, and Father stated that he would keep R.T.J. According to the affidavit, during November of 2013, the police were called to investigate a report that Mother stabbed Father in the stomach. At the time of the investigation, Mother denied having stabbed Father, but instead stated that Father was stabbed while someone was robbing him.

The affidavit further alleged that Mother and Father got into an argument on December 7, 2013, during which Mother "accidentally elbowed" Father and Father "choked [Mother], busted [Mother's] lip, and told [Mother] that he wanted to kill her." After this incident, Mother admitted she had stabbed Father in November 2013, and R.T.J. was put in a Child Safety Placement with his maternal grandfather

and the maternal grandfather's wife. The affidavit reflects that Father was charged with assault on a family member by choking, for which he was subsequently convicted and incarcerated.

Over the next several months, Family Based Safety Services (FBSS) and Child Protective Services (CPS) attempted to work with Mother, during which time Mother failed to visit R.T.J. regularly and failed to stay in contact with CPS, and during that time Mother suffered from an addiction to prescription drugs and a heroin overdose. R.T.J.'s maternal grandfather reported that Mother had threatened to kill him and his wife and to take R.T.J. Ultimately, the Department concluded that it was not in R.T.J.'s best interest to remain in Mother's care due to Mother's "continued drug use, instability, previous assaults, and mental health issues[]" and that Mother exhibited "poor parenting skills due to her failure to remain clean and sober [and] not having a stable place to live[.]" The affidavit also explained that Father was incarcerated.

The court set a hearing for September 9, 2014, on the petition. Following the hearing, the court entered a temporary order appointing the Department as temporary managing conservator of R.T.J. Subsequently, a family service plan was developed for Father. Father's service plan stated that the permanency goal for R.T.J. was adoption by a relative or fictive kin. R.T.J.'s service plan also stated

that the long-range goal for permanency was adoption by an alternate family member or by fictive kin. Father's service plan recognized that Father was incarcerated and stated that Father "will demonstrate an ability to provide appropriate caregivers in his absence" and that upon release from jail, Father will provide care, shelter, food and other necessities for R.T.J. Father's service plan also required him to undergo a psychological evaluation and individual counseling, drug and alcohol assessment and periodic drug testing, and to cooperate with the Department.

A status report to the court dated October 2, 2014, was filed by the Department wherein the Department stated that Father continued to be incarcerated with an expected release date of April 2015. Progress reports to the court dated January 14, 2015, and April 17, 2015, indicated that Father remained incarcerated and stated that the primary permanency goal for R.T.J. was relative adoption with a concurrent permanency goal as unrelated adoption. Both progress reports noted that Father had written to CPS frequently and had provided certificates for several courses completed while incarcerated.

The court held an initial permanency hearing on January 26, 2015. The court determined that continued placement of R.T.J. with a relative was in the child's

best interest and that the Department would continue to be temporary managing conservator.

On August 31, 2015, and September 1, 2015, the court held a continuation of the permanency hearing. Mother signed an Affidavit of Voluntary Relinquishment of Parental Rights to the Department of Family and Protective Services, relinquishing her parental rights as to R.T.J. and L.M., which was admitted at the hearing. After the bench trial, the trial court entered a final order of termination on September 15, 2015, naming the Department as permanent managing conservator of R.T.J. and terminating Father's parental rights to R.T.J. In addition to finding that termination of Father's parental rights was in the child's best interest, the trial court found that (1) Father failed to comply with the provisions of the court-ordered service plan and (2) Father had knowingly engaged in criminal conduct that resulted in him having been convicted and imprisoned and thereby unable to care for the child for not less than two years from the date of filing the petition for termination of his parental rights. *See* Tex. Fam. Code Ann. § 161.001(b)(1)(O), (Q) and (b)(2) (West Supp. 2015). Father appealed.<sup>3</sup>

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<sup>3</sup> Section 161.001 of the Texas Family Code was amended in 2015. *See* Act of Mar. 30, 2015, 84th Leg., R.S., ch. 1, § 1.078, sec. 161.001, 2015 Tex. Sess. Law Serv. 1, 18-20 (current version at Tex. Fam. Code Ann. § 161.001 (West Supp. 2015)). Former subsections 161.001(1)(O) and (1)(Q) are now designated as subsections 161.001(b)(1)(O) and (b)(1)(Q), and former subsection 161.001(2) is

## EVIDENCE

### Mother's Testimony

Mother testified at the hearing that she understood that the Department's permanency goal and plan for R.T.J. was to have the maternal grandfather adopt R.T.J. and L.M. She stated that, when R.T.J. was born, she and Father were living with R.T.J.'s maternal grandfather. She explained that she lived with R.T.J.'s Father for about six months, until CPS told her she could not be with her son. She stated that Father supported Mother and both of her children for a time. Mother acknowledged that Father was presently serving a three-year sentence for assault family violence, specifically, for choking Mother. Mother testified that she wanted her two children to stay together and that it was in R.T.J.'s best interests to terminate Mother's and Father's parental rights so that the maternal grandfather could adopt both children.

### Father's Testimony

Father agreed that he was presently serving a three-year sentence for a felony assault on Mother, a charge to which he had pleaded guilty. Father testified that he was forty-five years old and that he had spent about ten years of his life

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now designated as subsection 161.001(b)(2). Tex. Fam. Code Ann. § 161.001. The language contained within subsections (O) and (Q) remains the same, and the 2015 amendment does not affect the resolution of this appeal. *See id.* Therefore, we will refer to the current version of the statute.

incarcerated. Prior to his current incarceration which began in March of 2014, he was last released from the Texas Department of Corrections in 2009, where he served seven years. Father stated that, at the time of the hearing, he had served fifteen months of his current sentence and that he was to come up for parole in November of 2015. According to Father, he has not received any disciplinary write-ups while incarcerated.

Father testified that, prior to Mother moving out of the home, he kept a job and he was caring for R.T.J. with the help of his mother-in-law. Father agreed that Mother had made the arrangements to place R.T.J. with her father and that R.T.J. has done well placed with his maternal grandfather. Father also agreed that he had not answered the CPS caseworker's request for names of any of Father's relatives with whom R.T.J. could be placed. Father testified that his sister was willing to help care for R.T.J. and that his stepdaughter has helped with R.T.J. He explained that he had not given his sister's and stepdaughter's names to the CPS caseworker because "[he] felt deep down inside that [he] was coming out shortly and [he] would take the place of where [he] left off[]" and he "didn't want to take the children away from each other as well." Father reported that, during his incarceration, he had sent R.T.J. a birthday card. Father also explained that in addition to R.T.J. he has two other children, ages sixteen and twenty, one of whom



lives alone and one of whom lives with her mother, and that Father had no orders to pay child support for his other two children.

Father testified that he had been unable to attend the Family Group Conference, but that he had “kept in correspondence” with the CPS caseworker. He explained that he had not been able to do everything in his service plan but that he had done everything he could, considering what was available to him in prison. He explained he had not undergone a psychological assessment or individual counseling, nor had he undergone a drug and alcohol assessment. He also stated he had not completed the equivalent to a Batterers’ Intervention Program because he stated it was not available to him in prison. He testified that he had taken classes in anger management, parenting, and family and marriage while in prison; and, he has read “books on discipline[]” and “taken Alcoholics Anonymous” while incarcerated. Father testified that he had also enrolled in certain vocational courses, including a “CDL class[]” and an electrician course, although he had not yet begun the electrician course. Father explained his enrollment in classes as follows:

. . . everything that I’ve enrolled myself was to better myself and to be a provider for my children and to -- it’s going to help me to be a better person for the kids, not just for -- to be able to house them, clothe them, feed them. I believe that I need to have this and all courses that I can take to open any door for me upon my release.

Father agreed that domestic violence was an issue, that Mother had hit him and stabbed him, and that he had choked Mother. At the hearing, Father testified that he did not currently have transportation and that, at that time, he could not provide a home for himself and R.T.J. Father testified that before he was incarcerated he worked as a waiter and cook at a steak house. According to Father, he had previously worked as a cook and a waiter because he had a hernia that kept him from lifting, but now he could “get back to . . . working construction and so forth.” Father stated that he had received “a few job offers” while waiting to be released and that he “received a letter from a nephew. . . that lives in Phoenix; and got a job offer as well.” Father testified that he could return to the same address where he had been living prior to incarceration and there were several family members in Phoenix, Kansas, and San Marcos with whom he could live.

#### Testimony of CPS Caseworker

Kimberly Rodgers-Porter (Rodgers-Porter), a caseworker for CPS, testified at trial. She testified that R.T.J. and his sister have been in the care of their maternal grandparents “since the onset of this case and even prior to that[,]” which is “pretty much the only home that they have known[,]” and they have been well cared for by the maternal grandparents.

Rodgers-Porter agreed that Father has completed several courses while incarcerated and that he maintained communication with her. Rodgers-Porter testified that it was important for Father to complete the Batterers' Intervention classes because he and Mother "[had] a history of domestic violence." Rodgers-Porter also explained that Father had not been able to participate in a "[p]arent collaboration group meeting[]" because he has been incarcerated. According to Rodgers-Porter, Father had not undergone a psychological evaluation, individual counseling, or a drug and alcohol assessment. Additionally, Father had not been able to get safe and stable housing for himself and his children due to his incarceration, and Father has not complied with his overall service plan. On cross-examination, Rodgers-Porter agreed that some of the requirements of Father's service plan would be difficult or impossible for him to complete while he was incarcerated, including the parent collaboration group, a psychological evaluation, Batterer's Intervention classes, and individual counseling.

Rodgers-Porter also testified that if the court did not terminate Father's parental rights, she would have concerns for R.T.J. because

. . . [R.T.J.] has been with his current caregivers, his maternal grandparents, since he was four months old. He does not know any other caregiver other than his grandparents. And I believe that if he were removed from his grandparents' care that would be a major setback and could be very detrimental.

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[Father] has significant criminal history. He is not anticipated to be released until December of 2016, though he may be eligible for parole sooner. He does not have reliable income. He does not have housing or transportation to get [R.T.J.] to and from doctor's appointments, dental appointments, you know, anything of that nature.

According to Rodgers-Porter, she had asked Father to provide names of relatives on his side of the family but she never received any names from Father of family members who would be willing and able to care for R.T.J. Rodgers-Porter testified that the Department's permanency plan for R.T.J. was relative adoption, specifically adoption by R.T.J.'s maternal grandfather and his wife. Rodgers-Porter described the relationship between R.T.J. and the fostering grandparents as "wonderful." Rodgers-Porter stated that R.T.J.'s fostering grandparents are "a licensed foster-to-adopt home" and that it is the grandparents' desire to adopt the children. According to Rodgers-Porter, R.T.J. is "very bonded[]" with his sister and "maintaining that sibling relationship is very, very important."

#### Testimony of Court-Appointed Special Advocate

The court-appointed special advocate (CASA) for R.T.J. and L.M. testified that he had visited the children six times at the maternal grandfather's home. The CASA stated that the foster home was "childproof," the property was fenced and had a swing set and swimming pool, and that "[e]verything is very well cared for. And the children are extremely happy." The CASA explained that a bond had been

established between the children and fostering grandparents and that the children refer to them as “Papa” and “Momma.”

The CASA testified that he recommended that Father’s parental rights to R.T.J. be terminated. According to the CASA, it is in the best interest of R.T.J. for Father’s parental rights to be terminated and for the fostering grandparents to adopt R.T.J. The CASA stated that he does not believe that Father can provide a safe and stable home for R.T.J. The CASA agreed that he had no direct contact with Father and that much of what he based his opinion on came from his interactions with the maternal grandfather and with the Department.

#### Testimony of Maternal Grandfather

R.T.J.’s maternal grandfather (Grandfather) testified that R.T.J. had resided in Grandfather’s home since R.T.J. was four months old and that Grandfather and his wife have been the primary caregivers for R.T.J. Grandfather explained that he and his wife have been licensed to provide foster care, and their house is “totally childproofed[.]” with an alarm and camera security system. Grandfather testified that he knows Father loves R.T.J. and that Grandfather would be amenable to Father seeing R.T.J. at some point in the future. Grandfather also stated that he believed it was in the best interest of the children to terminate Mother’s and Father’s parental rights. Grandfather testified that R.T.J. is doing very well and

Grandfather wants to provide a permanent home for R.T.J., and to adopt R.T.J. and his sister, L.M.

### Other Evidence

The affidavit attached to the Department’s petition stated that Father had been convicted for misdemeanor property theft by check on or about September of 2004, and Father was convicted for purchasing or furnishing alcohol to a minor on or about May of 1999. The affidavit further recited other alleged criminal violations for Father, without further detail regarding the disposition of the additional criminal charges. Additionally, there is a document in the record from the “Kansas Department of Corrections[,] Offender Information[.]” for Father, which states “Party Status: DISCHARGED, 20060124[.]” Therein it lists two alleged offenses from 2001—attempted aggravated robbery and robbery—but the document does not provide any further information. A copy of Father’s 2014 judgment of conviction on the charge of “assault family choking” was also admitted at trial.

Additional documents were admitted at the hearing, including copies of certificates of completion for Father for the following: InsideOut Dad’s, Financial Peace University, Anger Management I, CDL, and Building Christian Homes—Book 2. A document titled “Official Training Transcript” appears to indicate that

Father completed other courses in: Basic Safety, Introduction to Construction Math, Introduction to Hand Tools, Introduction to Power Tools, Introduction to Construction Drawings, Basic Rigging, Basic Communication Skills, Basic Employability Skills, and Introduction to Materials Handling.

#### ISSUES ON APPEAL

Father raises two issues on appeal. In his first issue, Father challenges the legal and factual sufficiency of the evidence to support termination of his parental rights under subsection Q of the statute. In his second issue, Father challenges whether the evidence was legally and factually sufficiency to support a finding that termination of his parental rights was in the best interest of the child.

#### STANDARD OF REVIEW

In proceedings to terminate the parent-child relationship brought under section 161.001 of the Texas Family Code, parental rights can be terminated upon proof by clear and convincing evidence that the parent has committed an act prohibited by section 161.001(b)(1) of the Family Code, and termination is in the best interest of the child. *See* Tex. Fam. Code Ann. § 161.001(b)(1), (b)(2); *In re J.O.A.*, 283 S.W.3d 336, 344 (Tex. 2009); *In re J.L.*, 163 S.W.3d 79, 84 (Tex. 2005). “Clear and convincing evidence” means “the measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the

truth of the allegations sought to be established.” Tex. Fam. Code Ann. § 101.007 (West 2014).

In reviewing the legal sufficiency of the evidence in a parental rights termination case, we must consider all the evidence in the light most favorable to the finding to determine whether a reasonable factfinder could have formed a firm belief or conviction that its finding was true. *In re J.O.A.*, 283 S.W.3d at 344-45 (citing *In re J.F.C.*, 96 S.W.3d 256, 266 (Tex. 2002)). We assume the factfinder resolved disputed facts in favor of its finding if a reasonable factfinder could do so, and we disregard all evidence that a reasonable factfinder could have disbelieved. *In re J.O.A.*, 283 S.W.3d at 344; *In re J.F.C.*, 96 S.W.3d at 266. We “give due consideration to evidence that the factfinder could reasonably have found to be clear and convincing.” *In re J.F.C.*, 96 S.W.3d at 266. We must determine “whether the evidence is such that a factfinder could reasonably form a firm belief or conviction about the truth of the State’s allegations.” *Id.* (quoting *In re C.H.*, 89 S.W.3d 17, 25 (Tex. 2002)). “If, in light of the entire record, the disputed evidence that a reasonable factfinder could not have credited in favor of the finding is so significant that a factfinder could not reasonably have formed a firm belief or conviction, then the evidence is factually insufficient.” *Id.* We give due deference to the factfinder’s findings and we cannot substitute our own judgment for that of



the factfinder. *In re H.R.M.*, 209 S.W.3d 105, 108 (Tex. 2006). The factfinder is the sole arbiter when assessing the credibility and demeanor of the witnesses. *See id.* at 109.

#### STATUTORY GROUNDS FOR TERMINATION

In his first issue, Father argues that the evidence was legally and factually insufficient to support the termination of his parental rights under subsection Q. *See* Tex. Fam. Code Ann. § 161.001(b)(1)(Q). Specifically he argues that termination under subsection Q requires that the parent be both incarcerated or confined and unable to care for the child for at least two years from the date the termination petition is filed. In his brief on appeal, Father argues that although he was incarcerated, he “has arranged for the care of the child through a non-incarcerated family member[.]”

Only one predicate finding under section 161.001(b)(1) is necessary to support a judgment of termination when there is also a finding that termination is in the child’s best interests. *See In re A.V.*, 113 S.W.3d 355, 362 (Tex. 2003); *In re S.F.*, 32 S.W.3d 318, 320 (Tex. App.—San Antonio 2000, no pet.). Therefore, we will affirm the termination order if the evidence sufficiently establishes any statutory ground upon which the trial court relied in terminating parental rights as well as the best interest finding. *See In re A.V.*, 113 S.W.3d at 362. Father does not

dispute that he did not complete the terms of the court-ordered service plan. And, Father has not challenged the sufficiency of the evidence to support the trial court's finding terminating his rights under subsection O. Because Father has not challenged the sufficiency of the evidence on termination under subsection O, Father has waived any complaint about the trial court's findings under that subsection. *Toliver v. Tex. Dep't of Family & Protective Servs.*, 217 S.W.3d 85, 102 (Tex. App.—Houston [1st Dist.] 2006, no pet.) (failure to challenge the sufficiency of the evidence supporting the findings under a subsection waived any complaint about the sufficiency of the evidence to support that finding); *see also Gamez v. Tex. Dep't of Family & Protective Servs.*, No. 03-09-00190-CV, 2009 Tex. App. LEXIS 9269, at \*19 n.8 (Tex. App.—Austin Dec. 1, 2009, no pet.) (mem. op.) (an unchallenged finding concerning subsection O alone is sufficient to support the order terminating parental rights).

Because the unchallenged finding under subsection O supports the order of termination, we need not reach Father's issue regarding the sufficiency of the evidence under subsection Q. *See In re C.A.C.*, No. 09-10-00477-CV, 2011 Tex. App. LEXIS 3385, at \*2 (Tex. App.—Beaumont May 5, 2011, no pet.) (mem. op.); *see also* Tex. R. App. P. 47.1. We overrule Father's first issue.

## BEST INTERESTS OF THE CHILD

Father's second issue challenges the sufficiency of the evidence supporting the finding that termination of Father's parental rights is in the child's best interest. He argues that the evidence showed he took classes and read books on parenting, as well as other classes that were otherwise pertinent to "his betterment" while he was incarcerated, that prior to incarceration, Father provided for and cared for R.T.J., and that Father "plans to find gainful employment" and provide for R.T.J. after his incarceration ends.

Trial courts have wide latitude in determining a child's best interest. *See Gillespie v. Gillespie*, 644 S.W.2d 449, 451 (Tex. 1982). Nevertheless, there is a strong presumption that the best interest of a child is served by keeping the child with his or her natural parent. *In re R.R.*, 209 S.W.3d 112, 116 (Tex. 2006); *In re D.R.A.*, 374 S.W.3d 528, 533 (Tex. App.—Houston [14th Dist.] 2012, no pet.). Prompt and permanent placement of the child in a safe environment is also presumed to be in the child's best interest. Tex. Fam. Code § 263.307(a) (West 2014).

The Family Code outlines a number of factors to be considered in determining whether a parent is willing and able to provide a safe environment for a child. Tex. Fam. Code Ann. § 263.307(b). Other factors which may be

considered when determining whether termination of parental rights is in the best interest of the child include: (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) programs available to assist these individuals to promote the best interest of the child, (6) the plans for the child by these individuals or by the agency seeking custody, (7) the stability of the home or proposed placement, (8) the acts or omissions of the parent which may indicate that the existing parent-child relationship is not a proper one, and (9) any excuse for the acts or omissions of the parent. *See Holley v. Adams*, 544 S.W.2d 367, 371-72 (Tex. 1976) (setting forth the “*Holley* factors” and noting “[t]he list is by no means exhaustive”). No particular *Holley* factor is controlling, and evidence of one factor may be sufficient to support a finding that termination is in the child’s best interest. *See In re A.P.*, 184 S.W.3d 410, 414 (Tex. App.—Dallas 2006, no pet.). The best interest determination may rely on direct or circumstantial evidence, subjective facts, and the totality of the evidence. *See In re N.R.T.*, 338 S.W.3d 667, 677 (Tex. App.—Amarillo 2011, no pet.). If, in light of the entire record, no reasonable factfinder could form a firm belief or conviction that termination was in

R.T.J.'s best interest, then we must conclude that the evidence is legally insufficient to support termination. *See In re J.F.C.*, 96 S.W.3d at 266.

A parent's criminal history, admissions, past conduct, and inability to maintain a lifestyle free from arrests and incarcerations may be relevant to the best interest determination. *See In re D.M.*, 58 S.W.3d 801, 814 (Tex. App.—Fort Worth 2001, no pet.). Similarly, a history of abusive or assaultive conduct in the child's family is relevant to determining the best interests of the child. *See In re S.K.A.*, 236 S.W.3d 875, 904 (Tex. App.—Texarkana 2007, pet. denied); *see also* Tex. Fam. Code Ann. § 153.131 (West 2014).

The record indicates not only that Father is presently incarcerated, but also that Father has a history of incarceration—a pattern that suggests Father's future is uncertain. *See In re M.D.S.*, 1 S.W.3d 190, 200 (Tex. App.—Amarillo 1999, no pet.). Furthermore, Father admitted that he and Mother had a history of domestic violence and that the reason for Father's current incarceration was his assault on Mother.

With respect to the desires of the child, when a child is unable to express his desires due to his young age, a trial court may consider whether the child has bonded with the foster parents and whether he calls a foster parent “mommy” or “daddy.” *See In re A.M.*, 385 S.W.3d 74, 82 (Tex. App.—Waco 2012, pet. denied);

*In re U.P.*, 105 S.W.3d 222, 230 (Tex. App.—Houston [14th Dist.] 2003, pet. denied). Here, although R.T.J.’s desires cannot be determined because of his young age, the foster family is the only one R.T.J. knows, and R.T.J. refers to the fostering grandparents as “Papa” and “Momma.” Both the CPS caseworker and the CASA testified that a strong mutual bond has developed between R.T.J. and the fostering grandparents. The record provides evidence that the fostering grandparents are willing and able to provide a stable and nurturing environment for R.T.J. and wish to adopt R.T.J. and his sister.

We conclude that the record contains sufficient evidence to support the best interest finding. The evidence established that Father had a criminal history and history of domestic violence with Mother, Father failed to fully comply with the court-ordered service plan, Father had limited interaction with R.T.J., Father failed to support R.T.J. or bond with him, and that the foster grandparents have bonded with the child and are willing and able to provide a safe, stable, and nurturing environment for the child. Viewing all the evidence in the light most favorable to the judgment, we conclude that a factfinder could have formed a firm belief or conviction that termination of the Father’s parental rights is in R.T.J.’s best interest. *See J.F.C.*, 96 S.W.3d at 266. After considering the relevant factors under the appropriate standards of review, we conclude that the evidence is legally and

factually sufficient to support the trial court's finding that termination of Father's parental rights is in R.T.J.'s best interest.

We overrule Father's second issue and affirm the judgment of the trial court.

AFFIRMED.

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LEANNE JOHNSON  
Justice

Submitted on January 11, 2016  
Opinion Delivered March 3, 2016

Before Kreger, Horton and Johnson, JJ.