

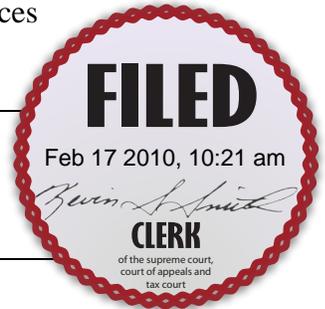
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**IN THE
COURT OF APPEALS OF INDIANA**

IN RE THE MATTER OF THE INVOLUNTARY)
TERMINATION OF PARENT-CHILD)
RELATIONSHIP OF A.A., minor child,)
And)
W.M., Father,)
Appellant,)
)
vs.)
)
MARION COUNTY DEPARTMENT OF)
CHILD SERVICES,)
Appellee,)
And)
CHILD ADVOCATES, INC.,)
Co-Appellee.)

No. 49A04-0908-JV-447

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Marilyn Moores, Judge
The Honorable Danielle Gaughan, Magistrate
Cause No. 49D09-0810-JT-047453

February 17, 2010

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

William M. (“Father”) appeals the involuntary termination of his parental rights to his child A.A., claiming there is insufficient evidence to support the juvenile court’s judgment. Concluding that the juvenile court’s judgment terminating Father’s parental rights is supported by clear and convincing evidence, we affirm.

Facts and Procedural History

Father is the biological father of A.A., born on August 25, 2007.¹ The facts most favorable to the juvenile court’s judgment reveal that the Marion County local office of the Indiana Department of Child Services (“MCDCS”) filed a petition alleging A.A. was a child in need of services on August 29, 2007, because Mother used marijuana and opiates during her pregnancy, had a substantial history with the Indiana Department of Child Services (“DCS”), and Father, who was a registered sex offender, had failed to establish paternity or attempt to gain custody of A.A.

An initial hearing on the CHINS petition was held on the same day. Father, whose whereabouts were unknown, did not attend the hearing. Mother admitted to the allegations of the CHINS petition and the juvenile court adjudicated A.A. a CHINS. The court thereafter proceeded to disposition, ordered A.A. formally removed from Mother’s care, and directed A.A. to remain in foster care.

In November 2007, Father appeared in the CHINS case and requested an attorney. The juvenile court granted Father’s request for counsel and ordered Father to undergo DNA testing in order to establish paternity of A.A. In January 2008, Father admitted to

¹ The parental rights of A.A.’s biological mother, Barbara A. (“Mother”), were involuntarily terminated by the juvenile court in its May 2009 termination order. Mother does not participate in this appeal. Consequently, we limit our recitation of the facts to those pertinent solely to Father’s appeal.

the allegations of an amended CHINS petition. The juvenile court proceeded to disposition and formally removed A.A. from Father's care. The court's dispositional order also incorporated a Participation Decree directing Father to successfully complete a variety of services in order to achieve reunification with A.A. Specifically, Father was ordered to, among other things: (1) complete a parenting assessment and all resulting recommendations including parenting classes, home-based counseling services, and other counseling services; (2) submit to a psychological evaluation, (3) obtain and maintain suitable and safe housing for all residing therein; and (4) exercise regular supervised visitation with A.A.

MCDCS case worker Monique Miller made multiple referrals for services for Father following the dispositional hearing including a psychological evaluation, parenting assessment, anger management classes, parenting classes, individual counseling, and supervised visitation. Miller then notified Father after making each referral. The psychological evaluation was referred in January 2008, and supervised visitation was referred the following month. Father completed the psychological evaluation with Dr. Mary Papandria on March 2, 2008. During the clinical interview portion of the psychological evaluation, Father told Dr. Papandria he had been physically and/or sexually abused as a child by multiple family members including his biological mother, father, and older sister. Father also disclosed he had a history of alcohol and marijuana use since age seven, a family history of depression, was diagnosed with Attention Deficit Disorder at age fifteen but was not currently taking his medication, was removed from foster care and placed in a group home for eighteen months due to allegations of

inappropriate sexual conduct with two younger boys, and was convicted of class C felony child molesting in 1999 at age nineteen resulting in eight to nine years incarceration due to this conviction and subsequent parole and probation violations.

Dr. Papandria also administered a battery of objective psychological tests including a mental status examination and personality testing. Based on her overall evaluation, Dr. Papandria's report indicated she felt Father was only "marginally capable" of making good parenting decisions regarding the welfare of A.A. and that Father was showing evidence of "serious psychological disturbance" at the time of the evaluation. Ex. p. 31. Dr. Papandria therefore made several recommendations for treatment including anger management and parenting classes, weekly individual counseling for a minimum of two to three years, intensive out-patient drug and alcohol treatment, and intensive home-based therapy.

As a result of Dr. Papandria's recommendations for treatment, Miller made additional referrals for Father to participate in parenting classes and individual counseling in March 2008. A second referral for visitation was also made in March 2008. In April 2008, Miller referred Father for anger management classes at Broad Ripple Counseling. At Father's request, Miller also provided a new referral for Father to participate in individual counseling at Gallahue in April 2008. Each of Miller's referrals for services remained open for six months.

Father participated in eleven weeks of anger management classes before he was arrested in June 2008 on new class C felony child molesting charges involving a thirteen-year-old neighbor girl. The MCDCS initiated an investigation and subsequently

substantiated the child molesting referral based, in part, on Father's admissions to the investigating police officer that he had hugged, kissed, tickled, and wrestled with the neighbor girl on a regular basis. Father bonded out of jail in August 2008. Apart from parenting classes, Father did not re-engage in any other court-ordered services, including anger management classes or individual counseling services, even though the referrals remained open upon his release. Father also did not seek to renew visitation with A.A., which had been suspended due to his arrest and incarceration.

On October 21, 2008, the MCDCS filed a petition requesting the involuntary termination of Father's parental rights to A.A. During a hearing in March 2009, Father requested and the trial court denied renewed visitation privileges with A.A. Father was eventually found not guilty of the most recent child molesting charges levied against him.² A three-day evidentiary hearing on the termination petition was commenced on April 14, continued on April 30, and concluded on May 1, 2009. On May 26, 2009, the juvenile court issued a judgment terminating Father's parental rights to A.A. Father now appeals.

Standard of Review

We begin our review by acknowledging that this court has long had a highly deferential standard of review in cases concerning the termination of parental rights. In re K.S., 750 N.E.2d 832, 836 (Ind. Ct. App. 2001). When reviewing a termination of parental rights, we will not reweigh the evidence or judge the credibility of the witnesses.

² Unfortunately, the record does not disclose the date of the criminal court's verdict regarding this matter. The only evidence contained in the record concerning this issue is Detective Anna Humkey's acknowledgement during the second day of the termination hearing that Father had been "recently acquitted" of the child molesting charges. Tr. p. 118.

In re D.D., 804 N.E.2d 258, 265 (Ind. Ct. App. 2004), trans. denied. Instead, we consider only the evidence and reasonable inferences that are most favorable to the judgment. Id. Moreover, in deference to the juvenile court's unique position to assess the evidence, we will set aside the court's judgment terminating a parent-child relationship only if it is clearly erroneous. In re L.S., 717 N.E.2d 204, 208 (Ind. Ct. App. 1999), trans. denied.

Here, in terminating Father's parental rights, the juvenile court entered specific findings and conclusions. When a juvenile court's judgment contains specific findings of fact and conclusions thereon, we apply a two-tiered standard of review. Bester v. Lake County Office of Family & Children, 839 N.E.2d 143, 147 (Ind. 2005). First, we determine whether the evidence supports the findings, and second, we determine whether the findings support the judgment. Id. "Findings are clearly erroneous only when the record contains no facts to support them either directly or by inference." Quillen v. Quillen, 671 N.E.2d 98, 102 (Ind. 1996). If the evidence and inferences support the juvenile court's decision, we must affirm. L.S., 717 N.E.2d at 208.

Discussion and Decision

A parent's interest in the care, custody, and control of his or her children is arguably one of the oldest of our fundamental liberty interests. Bester, 839 N.E.2d at 147. Hence, "[t]he traditional right of parents to establish a home and raise their children is protected by the Fourteenth Amendment of the United States Constitution." In re M.B., 666 N.E.2d 73, 76 (Ind. Ct. App. 1996), trans. denied. These parental interests, however, are not absolute and must be subordinated to the child's interests when determining the proper disposition of a petition to terminate parental rights. Id. In

addition, although the right to raise one's own child should not be terminated solely because there is a better home available for the child, parental rights may be terminated when a parent is unable or unwilling to meet his or her parental responsibilities. K.S., 750 N.E.2d at 836.

Before an involuntary termination of parental rights may occur, the State is required to allege and prove, among other things, that:

- (B) there is a reasonable probability that:
 - (i) the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied; or
 - (ii) the continuation of the parent-child relationship poses a threat to the well-being of the child

Ind. Code § 31-35-2-4(b)(2)(B) (2008). Moreover, “[t]he State’s burden of proof in termination of parental rights cases is one of ‘clear and convincing evidence.’” In re G.Y., 904 N.E.2d 1257, 1260-61 (Ind. 2009) (quoting Ind. Code § 31-37-14-2 (2008)).

Father challenges the sufficiency of the evidence supporting the juvenile court’s findings as to subsection 2(B) of the termination statute cited above. See Ind. Code § 31-35-2-4(b)(2)(B). We first consider whether clear and convincing evidence supports the juvenile court’s determination as to subsection 2(B)(i).

Remedy of Conditions

In finding there is a reasonable probability the conditions leading to a child’s removal or continued placement outside the parent’s care will not be remedied, a juvenile court must judge a parent’s fitness to care for his or her child at the time of the termination hearing, taking into consideration evidence of changed conditions. In re J.T.,

742 N.E.2d 509, 512 (Ind. Ct. App. 2001), trans. denied. However, the court must also “evaluate the parent’s habitual patterns of conduct to determine the probability of future neglect or deprivation of the child.” Id. Pursuant to this rule, courts have properly considered evidence of a parent’s prior criminal history, drug and alcohol abuse, history of neglect, failure to provide support, and lack of adequate housing and employment. A.F. v. Marion County Office of Family & Children, 762 N.E.2d 1244, 1251 (Ind. Ct. App. 2002), trans. denied. The juvenile court may also properly consider the services offered to the parent by the county department of child services, and the parent’s response to those services, as evidence of whether conditions will be remedied. Id. In addition, a county department of child services (here, MCDCS) is not required to provide evidence ruling out all possibilities of change; rather, it need establish only that there is a reasonable probability that the parent’s behavior will not change. In re Kay L., 867 N.E.2d 236, 242 (Ind. Ct. App. 2007).

In challenging the sufficiency of the evidence supporting the juvenile court’s finding that there is a reasonable probability the reasons for A.A.’s removal or continued placement outside his care will not be remedied, Father asserts the juvenile court, at the request of MCDCS, “refused to allow visitation or services to resume” after his release from incarceration on child molesting charges and thus his inability to complete services was “not his fault.” Appellant’s Br. p. 16. Father further asserts that although the MCDCS “may have proved it is in [A.A.’s] best interests to terminate” Father’s parental rights, “[e]xcept for the services that [Father] was prevented from completing by [MCDCS] and the [juvenile court], [he] did everything he was told he needed to do.” Id.

at 10. Father also claims the juvenile court “ignored evidence of changed conditions,” and failed to “make reasonable efforts to reunify the family.” Id. at 17, 19-20.³

The law concerning termination of parental rights does not require DCS to offer services to a parent to correct deficiencies in the parent’s ability to care for his or her child. In re B.D.J., 728 N.E.2d 195, 201 (Ind. Ct. App. 2000). Although a participation plan serves as a useful tool in assisting parents in meeting their obligations and DCS, via its local offices, routinely offers various services to parents to assist them in regaining custody of their children, “termination of parental rights may occur independently of [these services], as long as the elements of Indiana Code section 31-35-2-4 are proven by clear and convincing evidence.” Id. Thus, a parent may not “sit idly by without asserting a need or desire for services” and then successfully argue that he or she was denied services to assist him or her with parenting. Id.

Here, in determining there is a reasonable probability the conditions resulting in A.A.’s removal or continued placement outside of Father’s care will not be remedied, the juvenile court made numerous detailed findings concerning Father’s (1) extensive history of sexual abuse as both a victim and perpetrator, including a class C felony conviction for child molesting, (2) recurrent periods of incarceration, (3) unsuccessful participation in court-ordered services, and (4) past and current inability to demonstrate the ability to

³ To the extent Father raises an additional issue concerning an alleged violation of his constitutional right to due process during the CHINS proceedings based on MCDCS’s alleged non-compliance with statutory requirements to make “reasonable efforts” to facilitate A.A.’s safe return home pursuant to Indiana Code section 31-34-21-5.5, we find this issue waived. See Smith v. Marion County Dep’t of Pub. Welfare, 635 N.E.2d 1144, 1146 (Ind. Ct. App. 1994) (stating time for appealing issue in CHINS proceeding commences when dispositional decree is entered and party may not raise issue for first time on appeal), trans. denied; see also McBride v. Marion County Office of Family & Children, 798 N.E.2d 185, 194 (Ind. Ct. App. 2003) (stating party may waive a constitutional claim).

provide A.A. with a safe home environment. Although the juvenile court's findings acknowledge Father maintained regular contact with MCDCS caseworkers, completed a Comprehensive Family Profile, participated in a psychological evaluation, and consistently visited with A.A. for several months prior to his arrest and incarceration on new child molesting charges in June 2008, the juvenile court also found MCDCS substantiated the report of sexual abuse against Father involving these new charges. In addition, the juvenile court found Father failed to successfully complete several important court-ordered services, such as intensive individual counseling and anger management therapy, both of which were vital for ensuring A.A.'s future safety. The court's termination order also contained the following pertinent specific findings:

46. Once the criminal matter was resolved, the CHINS court did not order any new services for [Father] because the Petition to Terminate Parental Rights had already been filed by [MCDCS].
47. In March of 2009, the CHINS court denied [Father's] request to reinstate visitation.

* * *

50. There is a reasonable probability that the conditions that resulted in the removal of [A.A.] or the reasons for continued placement outside the home of [Father] . . . will not be remedied. At the time of the filing of the CHINS petition, [Father] was not appropriate to parent [A.A.] and he still is not appropriate to parent [A.A.]. [Father] was removed from a foster home because of allegations that he touched younger boys in the home, spent 18 months in a treatment center for juvenile sex offenders, was convicted of Child Molest[ing] as a [class] C felony in March 1999, and is still a child predator, as evidenced by the substantiated allegation of child molest[ing] in June of 2008. [Father] has never received the individual counseling he needs and has had opportunities throughout his life to do so. He was involved in counseling when on parole for his 1999 Child Molest[ing] conviction but did not complete it because of his

violation of parole and subsequent discharge. He did not complete counseling under the CHINS case because of his new arrest.

Appellant's App. pp. 21-22. A thorough review of the record leaves us satisfied that clear and convincing evidence supports the juvenile court's findings and conclusion set forth above, which in turn support the court's ultimate decision to terminate Father's parental rights to A.A.

A.A. was initially taken into protective custody upon testing positive for illegal substances at birth. Although Father was not responsible for A.A.'s in utero ingestion of illegal substances, MCDCS was nevertheless unable to place A.A. with Father once Father was located and paternity was established because of Father's history of sexual abuse and inability to demonstrate he was capable of providing A.A. with a safe and stable home environment. At the time of the termination hearing, these conditions had not improved.

Testimony from various service providers and caseworkers during the termination hearing makes clear that although Father initially participated in services, including a psychological examination and regular visits with A.A., his arrest and incarceration on new charges of child molesting during the underlying CHINS case greatly interfered with his ability to successfully complete the court-ordered services necessary to achieve reunification with A.A.

Significantly, Father also did not re-engage in services, other than parenting classes, following his release from incarceration in August 2008 even though multiple referrals remained open for approximately one to three months, including referrals for

individual counseling and anger management classes. Nor did Father seek treatment on his own to accomplish the court's dispositional orders.

During the termination hearing, MCDCS family case manager Monique Miller informed the juvenile court that she was assigned to Father's case from January 2008 through June 2008. Miller confirmed that she had made multiple referrals for Father during her tenure, including "anger management referrals, parenting classes, individual counseling, visitations, and a psychological evaluation," and that she subsequently notified Father after making each referral. Tr. p. 75. Miller testified, however, that reunification was not possible at the time she handed the case over to MCDCS case manager Sarena Taylor because Father's services "had not been completed yet." Id. at 88.

Similarly, in recommending termination of Father's parental rights, Taylor explained she could not support reunification due to Father's "history of child molestation charges," together with the fact that she was "not aware of any additional services" Father had completed on his own to satisfy the court's dispositional goals. Id. at 33. Taylor also testified that, following his release from incarceration, Father did not request visitation with A.A. until March 2009, approximately five months after the MCDCS filed its involuntary termination petition and only one month prior to the evidentiary hearing. We have previously explained that failure to exercise the right to visit one's child "demonstrates a lack of commitment to complete the actions necessary to preserve [the] parent-child relationship." Lang, 861 N.E.2d at 372.

Finally, Father's own testimony supports the juvenile court's findings. During the termination hearing, Father confirmed that he had been unsuccessfully discharged from a juvenile sexual offender treatment program in 1999 after violating his parole on the child molesting conviction. Father also acknowledged he did not participate in individual counseling during the underlying CHINS proceedings, apart from an initial intake interview, and that he stopped going to anger management classes once the court ruled MCDCS was no longer obligated to offer and/or pay for Father's participation in such services.

For all these reasons, we conclude that clear and convincing evidence supports the juvenile court's findings and its determination that there is a reasonable probability the conditions leading to A.A.'s removal or continued placement outside Father's care will not be remedied. Although not required to do so by statute, MCDCS made multiple referrals for Father to participate in services designed to improve his parenting ability and to facilitate his reunification with A.A. Despite being notified of these services, Father failed to participate in and successfully complete a majority of the court's dispositional goals.

“A pattern of unwillingness to deal with parenting problems and to cooperate with those providing services, in conjunction with unchanged conditions, support[s] a finding that there exists no reasonable probability that the conditions will change.” Lang v. Starke County Office of Family & Children, 861 N.E.2d 366, 372 (Ind. Ct. App. 2007), trans. denied. Moreover, a juvenile court must judge a parent's fitness to care for his or her children *at the time of the termination hearing*, taking into consideration the parent's

habitual patterns of conduct to determine the probability of future neglect or deprivation of the children. D.D., 804 N.E.2d at 266. It is clear from the language of the judgment that the juvenile court gave more weight to the evidence of Father's habitual pattern of sexually inappropriate and/or criminal conduct, unresolved mental health issues, failure to successfully complete services, and current inability to demonstrate he can safely parent A.A. than to Father's purported change in circumstances, which the court was permitted to do. See Bergman v. Knox County Office of Family & Children, 750 N.E.2d 809, 812 (Ind. Ct. App. 2001) (concluding trial court was permitted to and in fact gave more weight to abundant evidence of mother's pattern of conduct in neglecting her children during several years before the termination hearing than to mother's testimony that she had changed her life to better accommodate the children's needs). Father's arguments on appeal, emphasizing the few services he completed as opposed to the evidence cited by the juvenile court in its termination order, amount to an invitation to reweigh the evidence, which we will not do. D.D., 804 N.E.2d at 265.

Threat to Child's Well-being

Notwithstanding our conclusion that Indiana Code section 31-35-2-4(b)(2)(B)(i) was established by clear and convincing evidence, we shall nevertheless address Father's arguments regarding the sufficiency of the evidence supporting subsection 2(B)(ii) of this statute due to the significance of the rights being affected and the specific facts of the underlying case. See L.S., 717 N.E.2d at 209 (stating that Indiana Code section 31-35-2-4(b)(2)(B) is written in disjunctive and therefore requires juvenile court to find only one prong of subsection 2(B) has been established by clear and convincing evidence).

Father argues that although he may not be an “ideal parent,” he was “not shown to be unfit and [therefore] his right to raise his son must be upheld absent that proof.”

Appellant’s Br. p. 10. Father further asserts:

The fact that there was a substantiated allegation of child molest is insufficient to support the conclusion that continuation of the parent-child relationship poses a threat to this child’s well-being. [Father] denied the allegation, he was acquitted of this allegation in a criminal trial, and there was no evidence before the [juvenile] court from which it could conclude that [Father] committed an act of child molesting.

Id. at 13.

Even if Father’s claim is perhaps arguable in the abstract, its application in the case before us has no merit. This lack of merit is clearly shown in the several additional, relevant findings made by the juvenile court in support of its determination that continuation of the parent-child relationship poses a threat to A.A.’s well-being, including the following:

48. Dr. Johnson reviewed the psychiatric report of Dr. Mary Papandria as well as the probable cause affidavits from the criminal cases involving [Father] in 1999 and 2008 in order to identify risk factors, if any, for [Father] sexually re-offending.
49. Dr. Johnson concluded that, [a]though [Father] was not convicted of [child molesting] in 2008, [Father] admitted to hugging, kissing, and tickling the alleged victim and those behaviors are “grooming” behaviors. Rather than avoiding situations where he would be alone with children, [Father] is still grooming his victims. Given his history, any child in [Father’s] care would be at risk.
51. The continuation of the parent-child relationship between [Father] and [A.A.] poses a threat to the well-being of [A.A.]. [Father] has a history of sexually abusive behaviors, including the substantiated allegations of Child Molest[ing] in June 2008. Any child in his care is at risk of his re-offending.

Appellant's App. pp. 21-22. Evidence presented during the termination hearing clearly supports these findings.

Licensed clinical psychologist Dr. Mary Papandria informed the court that she specialized in "[c]linical psychology assessment" including "neuropsychology" and had previously performed approximately seven to eight hundred parent assessments for DCS. Tr. pp. 92-93. Dr. Papandria explained that during her clinical interview with Father, Father disclosed he had been diagnosed with Attention Deficit Disorder, incarcerated on multiple occasions, convicted of "molestation" when he was nineteen years old, prescribed two anti-psychotic medications, Haldol and Seroquel, but was not taking either medication, abused physically by both of his biological parents and sexually abused by his older sister, and had used alcohol and marijuana since age seven. Id. at 95-96.

When asked to describe her diagnostic impression of Father based on this interview and various other objective psychological testing she had conducted, Dr. Papandria answered as follows:

On Axis I, [Father] had a depressive disorder that I felt was mild at that point. Cannabis dependence, with sustained full remission. Alcohol dependence, sustained full remission. Attention [D]eficit, [H]yperactivity [D]isorder [ADHD], combined type. A reading disability, a spelling disability, intermittent explosive disorder[,] and sexual abuse of a child. . . . [A]nd then on the Axis II, I felt that [Father] had features of a personality disorder . . . [with] features of passive aggressive, self-defeating, schizoid[,] and depressive traits.

Id. at 101.

When asked what treatment recommendations she had made based on her complete assessment of Father, Dr. Papandria replied:

The first one was that I felt at the time that [Father] was probably only marginally capable of making good decisions regarding the welfare of [A.A.] because of the evidence of depression, long history of drug and alcohol use, anger issues, history of being a sexual perpetrator[,] and the long[-]standing personality features. He was also . . . having cognitive problems, including attention deficit disorder and learning disabilities, which could cause problems in learning new skills. Because of the multiple psychological issues, no history of parenting a child of any age, particularly a baby, a history of anger issues . . . and other psychological issues, I felt that it was highly questionable if he would be able to safely and effectively raise and parent a small child. . . . I felt he should undergo outpatient treatment like IOP, AA meetings, aftercare treatment. I felt . . . visits should be supervised. . . . [T]hat [if] reunification was [the] goal, that he would need intensive home based services. I felt he needed to be seen by a psychiatrist, as he was supposed to be on . . . psycho-tropic medications but wasn't. . . . I felt he should take anger management classes and parenting classes, and needed pretty intensive counseling once a week, for two to three years for his multiple psychological problems.

Id. at 103-04. Father confirmed during the termination hearing that he had been diagnosed and treated for ADHD, physically and sexually abused by multiple family members when a child, and convicted of felony child molesting in 1999.

Additional testimony that supports the juvenile court's findings was also provided by Indianapolis Metropolitan Police Department Detective Anna Humkey. Detective Humkey testified she received a child molest complaint involving Father in June 2008. Detective Humkey further indicated that during her investigation of this complaint, Father told her he would "hug" the alleged victim, "kiss" her "[o]n the forehead and on the side of her neck," and "tickle" her "on her sides and under her legs and feet and ankles." Id. at 115-16. Father also admitted to Detective Humkey that he had contact

with the alleged victim “every day,” would “go over to her apartment and check on her,” would “watch her play outside,” and would “turn on the music in his car and then she would dance.” Id. at 116-117. Father’s admissions to Detective Humkey were included in the probable cause affidavits, which were later provided to Dr. Michael Johnson, a psychologist at the Broad Ripple Counseling Center

Dr. Johnson testified that he had a Ph.D. in psychology, a Masters Degree in clinical psychology, was a certified juvenile sex offender counselor by both the University of Louisville and the Indiana Association of Juvenile Sex Offender Practitioners, and had been working in the specialized area of adult and juvenile sex offenders since 1993. Dr. Johnson informed the court that he had been asked to perform an assessment of Father’s risk of re-offending. Dr. Johnson thereafter testified that several factors in Father’s past, including Father’s extensive history of sexually abusive behaviors, ADHD symptoms, poor executive functioning, and continuing sexual misconduct following approximately eighteen months of in-patient sex offender treatment at Star Commonwealth, caused him concern.

Specifically, Dr. Johnson stated that the fact Father had participated in sex offender treatment and then re-offended “increases [Father’s] risk down the road because just statistically, folks that go through treatment and then re-offend after that are more likely to keep re-offending.” Id. at 131. Dr. Johnson went on to say that Father’s “ADHD symptoms . . . and poor executive functioning” were also considered risk factors for reoffending sexually because people with these symptoms “tend to act more

impulsively.” Id. at 132. He also testified that Father’s profile of being “socially isolated and a loner” was another risk factor for re-offending.

Regarding Father’s mental status, Dr. Johnson informed the court that one of the things that “was really telling” was that Father had “a very good awareness and understanding of social situations in terms of being able to understand what he is experiencing . . . and the possible consequences to himself, or consequences of the situation,” which meant Father was “making informed decisions about his behaviors.”

Id. When asked to explain why this is relevant, Dr. Johnson replied:

Well . . . one of the things that [Father] would have been taught in his treatment program is to avoid what we call high risk situations and grooming behaviors. Situations where he would be alone with children. Situations where he would be touching children, playing with them, giving them special treatment. Those are situations that he would’ve been taught to avoid because being in those situations increase[s] his risk for re-offending. And [Father] admitted in the probable cause affidavit . . . that he was doing those behaviors in a recent case where he’s been accused of child molest. So[,] my concern would be that he is grooming victims, doing so knowingly, which obviously leads to re-offending.

Id. at 132-33.

When asked to opine as to whether he would consider hugging, kissing, tickling, and wrestling with a child to be “grooming” activities, Dr. Johnson replied, “For somebody who has committed sex offenses, yes. . . . Absolutely.” Id. at 133. Dr. Johnson also made clear that the fact Father was eventually found not guilty of the 2008 child molesting charges did not change his opinion “in any way” as to whether Father’s admitted behaviors with the alleged victim had been grooming behaviors. Id. at 134.

When asked whether he had any concerns about Father parenting a child “given what [he] knows,” Dr. Johnson answered in the affirmative and elaborated as follows:

[Father] has shown the pattern . . . as recently as a year ago, that he’s still grooming potential victims. His . . . victim selection over time has been . . . been fairly diverse. So whether the child is male or female, over a certain age, doesn’t, you know, I can’t say there is a protective factor there at all. So my concern would be that, that any child that was in his care would be at risk for him re-offending against that child.

Id. at 134. Dr. Johnson also testified there are “degrees of risk of harm” for sexual offenders, and he would classify Father as “high risk” for re-offending. Id. at 136.

The evidence and testimony cited above makes clear the juvenile court’s findings that “any child in [Father’s] care would be at risk” and continuation of the parent child relationship poses a threat to A.A.’s well-being are supported by abundant evidence. Appellant’ App. p. 22. The record is replete with evidence of Father’s history of sexual abuse, recent sexual grooming activities with minors, and unresolved mental health and anger issues, all of which make Father a high risk for sexually re-offending. Father’s assertion that the juvenile court improperly based its finding on the fact Father was arrested on new child molesting charges during the CHINS proceedings overlooks the court’s specific acknowledgment in its judgment that “[a]though Father was not convicted of [child molesting] in 2008, [Father] admitted to hugging, kissing, and tickling the alleged victim and those behaviors are ‘grooming’ behaviors.” Appellant’s App. p. 21.

Conclusion

A thorough review of the record leaves us convinced the juvenile court's findings are supported by clear and convincing evidence. These findings, in turn, support the court's ultimate decision to terminate Father's parental rights to A.A. Accordingly, the juvenile court's judgment terminating Father's parental rights to A.A. is hereby affirmed.

Affirmed.

BARNES, J., and BROWN, J., concur.