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IN THE
COURT OF APPEALS OF INDIANA

IN THE MATTER OF THE INVOLUNTARY TERMINATION OF THE PARENT-CHILD RELATIONSHIP OF K.D. AND K.P., MINOR CHILDREN AND THEIR MOTHER, TAMIKA WHEELER, AND THE ALLEGED FATHER OF K.P., PHELP PHAYTON,	)	
TAMIKA WHEELER,	)	
Appellant-Respondent,	)	
vs.	)	No. 49A02-0508-JV-685
MARION COUNTY DIVISION OF FAMILY AND CHILDREN,	)	
Appellee-Petitioner,	)	
And	)	
CHILD ADVOCATES, INC.	)	
Co-Appellee (Guardian ad Litem)	)	

APPEAL FROM THE MARION SUPERIOR COURT

The Honorable Deborah Shook, Commissioner
Cause No. 49D09-0410-JT-311

March 15, 2006

MEMORANDUM DECISION - NOT FOR PUBLICATION

SHARPNACK, Judge

Tamika Wheeler ("Mother") appeals the involuntary termination of her parental rights to her children, K.D. and K.P. (collectively "the Children"). Mother raises one issue, which we restate as whether the trial court's order terminating Mother's parental rights to the Children is supported by clear and convincing evidence. We affirm.[1]

The relevant facts follow. Mother has two children, including her daughter, K.D., who was born on June 19, 1995, and her son, K.P., who was born on February 4, 1998. On October 30, 2003, the Marion County Department of Child Services ("MCDCS") went to Mother's house after receiving a report regarding physical abuse. The MCDCS investigator saw that the right side of K.D.'s face was swollen and had scratches, and Mother admitted that she had gotten "very upset" with K.D. and had hit K.D. on the face. Transcript at 198. The MCDCS investigator found Mother's house in "complete disarray" and had to "forcefully push the front door open because there was so much clothing [and] trash" in front of the door. Id. at 196-197. The floor of the house was

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[1] We direct Mother's attention to Ind. Appellate Rule 46(A)(10), which requires an appellant's brief to "include any written opinion, memorandum of decision or findings of fact and conclusions thereon relating to the issues raised on appeal."

covered with trash, including food, food containers, and newspapers. It was not possible to "walk in [Mother's] home without stepping on something." Id. at 200. "[F]lies were swarming around the kitchen" and "there were household cleaners next to the children's toothbrushes." Id. at 197. The MCDCS investigator believed that Mother's house posed a danger for the Children and removed them from the house. The Children were then placed with their maternal grandmother.

The following day, the MCDCS filed a petition alleging that the Children were children in need of services ("CHINS") because of the "excessive form of discipline utilized" by Mother and because of "the condition of the family home." Exhibits at 2. During the initial CHINS hearing, Mother admitted the allegations of the petition, and the trial court determined that the Children were CHINS. Thereafter, the trial court ordered Mother to "[o]btain and maintain suitable housing" that was "safe for all residing within." Id. at 14. The trial court also ordered Mother to complete a parenting assessment, home based counseling, a psychological evaluation, a drug and alcohol assessment, and an anger management assessment and to follow any resulting recommendations from those assessments.

The parenting assessor, Donna Barker, conducted the parenting assessment at Mother's house in November 2003 and found a "large amount of debris" that was "knee high" and that there was nowhere to sit. Transcript at 11. As a result of the parenting assessment, it was recommended that Mother complete individual psychological therapy and parenting classes and to "clean, organize and maintain her home to minimally acceptable standards and eliminate hazards." Id. at 26. The psychological evaluator also

recommended that Mother receive individual mental health treatment. The parenting classes were to be combined with the home based counseling so that Mother's specific needs could be addressed. Following Mother's substance abuse assessment, it was recommended that Mother complete a 12-step program. However, Mother did not agree with the recommendation, and the trial court excused Mother from completing the program. The anger management evaluation did not result in any recommendations. Therefore, Mother was required to obtain and maintain suitable housing, successfully complete her home based counseling with parenting classes, and participate in mental health treatment.

In March 2004, Mother began home based counseling. Kenneth Jones, one of the home based counselors, visited Mother's home on March, 13, 2004, which was three to four months after the Children had been removed and Mother had been ordered to obtain and maintain a suitable home, and found Mother's house to be "deplorable" and "in disarray." Id. at 139, 141. Mother's house had "little bugs flying around . . . all on the windows . . . all in the house." Id. at 141. She also had cereal bowls with milk on the floor and fast food containers lying around the house. Mother could not open the door completely because of the debris that was blocking the door. The home based counselor could not find a place to sit down, could not walk through the house because of all the clothing and other items on the floor, and could not go up the stairway because of the clutter.

A case aide from the home based counseling group tried to help Mother clean and spent at least three hours on three separate occasions assisting Mother. However, Mother

was not able to maintain any cleaning that was done, and when the case aide returned to Mother's house after a cleaning, the house "was dirty all over again." Id. at 148. In April 2004, Mother stepped on a knife in her kitchen, cut her foot, and had to go to the emergency room for stitches.

Mother cancelled multiple appointments with the home based counselors, and the home based counselors informed Mother that her cancellations could be viewed as noncompliance. In May 2004, Jones again visited Mother's house and found the main floor still "in disarray" with "soiled dishes in the living room and disposable paper plates and utensils on [Mother's] living room table." Id. at 150-151. Mother and the case aide had, however, cleaned an upstairs bedroom. Mother then continued to cancel appointments for home visits with the home based counselors.

In June 2004, pursuant to a request by the home based counselors to motivate Mother to clean her house, the trial court authorized for Mother to have visitation with the Children in her home as soon as her house was cleaned. However, when Jones visited Mother's house thereafter in June 2004, Jones "found [Mother's house] to be in total disarray again." Id. at 153. "[T]he hallway, dining room[,] and bathroom were cluttered" and "[c]lothes were all over the floor." Id. Jones informed Mother that her house "was totally unacceptable for visitation of her children." Id.

In July 2004, another home based counselor, Regina Johnson, began working with Mother to clean her house. On July 1, 2004, Johnson went to Mother's house, and the house was still "in disarray." Id. at 171. Mother's house had "boxes of food" lying around, "clothes all over the floor[,]" and "trash bags everywhere" in the living room,

dining room, and hallway. Id. Johnson told Mother that she needed to get her house safe and clean before she could have visitation with the Children in the house.

On July 23, 2004, Johnson returned to Mother's house and found that Mother had cleaned up her living room so that Johnson could sit down and had cleared a path in the hallway to the kitchen. However, Johnson could not get into the kitchen because of the bags of clothes, trash, and food boxes and could not get upstairs because trash bags covered the stairs. Whenever Johnson visited Mother's house, she changed her shoes and clothes before entering Mother's house because she "wasn't sure what [her] feet might touch" and because "when [she] walked in, the gnats would attack [her]." Id. at 182.

Johnson also worked with Mother to arrange therapy at Midtown Mental Health Center ("Midtown"). Mother told Johnson multiple times that she was going to attend a therapy session at Midtown, but Mother failed to keep any of her appointments.

In August 2004, Mother was closed out of home based counseling as unsuccessful. At that time, Mother's house "was still in disarray" with food boxes, trash, clothes, and "gnats flying everywhere." Id. at 179. Mother also had "egg shells on the front door and the porch that had been there for at least two weeks." Id. There was nowhere to sit, eat, or play, and Mother had bleach sitting out.

In October 2004, the MCDCS filed a petition to involuntarily terminate Mother's parental rights to the Children. In January 2005, Mother started seeing a therapist at Midtown after having cancelled ten appointments between September 2004 and December 2004. In January 2005, Mother's case manager sent Mother a letter describing what services Mother needed to complete, including participating with mental health

services on a consistent basis. From January 2005 to March 2005, Mother missed one appointment and was late for three appointments. In March 2005, a pretrial conference was held, and Mother was instructed that she needed to have "[n]o lates, no misses, [and attend her therapy] every other week[.]" Id. at 276. From that pre-trial conference until the termination hearing, Mother was late for four of her eight therapy sessions.

The guardian ad litem contacted Mother and informed her that he needed to visit her house. Mother cancelled multiple appointments with the guardian ad litem for the home visit and failed to show up for the final scheduled appointment. Mother's case manager also attempted to set up appointments for a home visit, and Mother cancelled five scheduled appointments. The case manager was finally able to visit Mother's house on May 10, 2005, which was approximately three weeks before the termination hearing. During that visit, the case manager saw "two trash cans on the porch that had been leaking [with] a slight odor." Id. at 280. Although Mother had cleaned a closet, Mother's house had "bags [and] boxes of stuff" all over, and the case manager could not walk in the living area, the bathroom, kitchen, or up the stairs because they were blocked with debris. Id. The case manager determined that Mother's house was a "safety hazard" and a "fire hazard[.]" Id. at 281.

In June 2005, the trial court held a termination hearing. During the termination hearing, Mother's mother, Melanie Davis, testified that she had concerns about Mother's ability to provide a safe home environment for the Children eight to nine months before the MCDCS removed the Children from Mother's house. Davis also testified that during that time she would take trash bags over to Mother's house when she visited and would

try to clean because she "just couldn't stand for [the Children] to live in that filth." Id. at 207. Davis testified that during one visit, she filled twenty to thirty trash bags and that whenever she would return after cleaning Mother's house, the house was always "messed up the same way that it was before [she] came." Id. at 208. Davis also testified that she warned Mother that someone would take away the Children if she did not clean her house.

During Mother's testimony, she admitted that when the MCDCS removed the Children from her house that her house was unsafe and "was in very much disarray." Id. at 74. Mother also testified that she did not disagree with the case manager's assessment that Mother's house was not in a safe condition for the Children in May 2005.

The trial court entered the following findings of fact and conclusions thereon regarding the MCDCS's petition for involuntary termination of Mother's parental rights:

FINDINGS OF FACT

The Court finds the following by clear and convincing evidence:

> 1. [Mother] is the mother of [K.D.], born June 19, 1995, and [K.P.], born February 4, 1998.
>
> 2. [K.D.] and [K.P.] were found to be a child in need of services under cause number 49D09-0310JC001451-001452.
>
> 3. On or about October 30, 2003, [Mother] lived with her two children, [K.D.] and [K.P.] at 2821 Walnut Street, Indianapolis, Indiana.
>
> 4. Melanie Davis, [Mother]'s mother, was extremely concerned about [Mother]'s inability to maintain a clean and safe home in which to live with her children. She helped [Mother] clean her home on numerous occasions, but [Mother] was unable to keep it clean and uncluttered. Melanie Davis was worried about the children's safety in the home.

5. On October 30, 2003, Child Protective Services investigator Jennifer Sweazy investigated a report of physical abuse on [K.D.]. After observing [K.D.] and interviewing [K.D.] and [Mother], allegations of physical abuse were substantiated. Additionally, Jennifer Sweazy observed the residence at 2821 Walnut Street and found the home to be so cluttered and dirty that it was a fire hazard and an unsafe place in which to reside. The children were immediately removed due to the condition of the home.

6. On October 31, 2003, a child in need of services petition (CHINS Petition) was filed in the Marion County Superior Court, Juvenile Division, by the Marion County Office of Family and Children as a result of the investigation performed by Jennifer Sweazy.

7. On November 3, 2003, [Mother] admitted the allegations of the CHINS petition and [K.D.] and [K.P.] were determined to be children in need of services as to [Mother] .

8. On December 2, 2003, the Court proceeded to disposition and legally removed [K.D.] and [K.P.] from the care of [Mother] pursuant to a dispositional decree.

9. [K.D.] and [K.P.] have never been placed in the care of [Mother] since the dispositional order was issued on December 2, 2003; therefore, they have been removed from the care of [Mother] under the terms of a dispositional decree for more than six (6) months.

10. [Mother] was ordered to complete a parenting assessment and to follow all recommendations made by the parenting assessor. Additionally, [Mother] agreed to obtain mental health treatment through Midtown Mental Health Center.

11. [Mother] completed a parenting assessment interview in her home on or about November 24, 2003. The Parenting Assessor, Donna Barker, found the home to be unsafe and did not recommend the return of the children to [Mother]'s care until she completed various services, including successful completion of a home-based counseling program, in order for her to learn appropriate housekeeping skills. Additionally, after observing [Mother] and her children during a visitation, Donna Barker had concerns about her ability to adequately parent her children. As such, she recommended that she successfully participate in and complete a parenting program in order to improve her parenting skills.

12. In March of 2004, case manager Sharon Renforth referred [Mother] to a home-based counseling program through Jus[t] Harmony. Her referral to Jus[t] Harmony requested that the counselors work with [Mother] on cleaning her home and teaching her how to maintain a clean home. Additionally, Jus[t] Harmony was advised to assist [Mother] in learning appropriate parenting skills once the children began visiting in the home and assist [Mother] in obtaining her mental health treatment at Midtown Mental Health Center.

13. Reverend Kenneth Jones and Regina Johnson were the assigned home-based counselors. Although they worked with [Mother] on cleaning her home, [Mother] missed numerous appointments and was unable to keep her home clean.

14. During the time that Kenneth Jones and Regina Johnson were working with [Mother], [Mother] cut her foot on a knife in her home and had to receive medical attention and stitches. Kenneth Jones was not surprised by the injury she received due to the condition of her home.

15. [Mother] was unsuccessfully discharged from the home-based program in August of 2004. At the time of discharge, the condition of the home had not improved, even to the point of having supervised visitations begin in the home. The home was described as an unsafe environment in which to live due to the severe clutter making the home a fire hazard.

16. Because [Mother] did not progress to the point of having visitations in her home, parenting issues were not addressed. Additionally, although appointments had been set for treatment at Midtown Mental Health Center, [Mother] did not address her mental health needs.

17. A [termination of parental rights] petition was filed on October 26, 2004 due to [Mother]'s lack of progress in services necessary to return the children to her care.

18. On March 10, 2005, a pre-trial in this cause was held. On this date, [Mother] was advised that if she consistently attended her bi-weekly therapy sessions at Midtown Mental Health Center and cleaned her home, case manager Sharon Renforth would refer her again to home-based counseling.

19. [Mother] began consistently attending her mental health treatment appointments, thought [sic] she was late on several occasions. As such, case manager Sharon Renforth agreed to do a home visit to inspect the

home prior to re-referring home-based counseling. [Mother] scheduled five different appointments, canceling four of them, before Sharon Renforth was able to meet with her at the home on May 10, 2005. At that time, Sharon Renforth found the home to be in complete disarray. She could barely open the front door. She advised [Mother] that the home was not adequate to either return the children to her care or refer her again to home-based counseling.

20. On or about May 24, 2005, [Mother] asked Guardian Ad Litem, Chris Mundy, to visit her home. An appointment was scheduled for May 25th, but was cancelled by [Mother] just prior to the visit. The appointment was rescheduled for the next day, but, again, [Mother] cancelled the appointment. As such, Chris Mundy was unable to observe the condition of the home.

21. The reasons why [K.D.] and [K.P.] were removed from [Mother] have not been remedied due to [Mother]'s inability to clean and maintain a safe home in which to live. Additionally, [Mother] never completed a parenting program, which was required to address her inadequate parenting skills, a factor which contributed to the children being removed from her care.

22. [K.D.] and [K.P.] need permanence and stability so that their mental, physical and emotional needs will be met by a consistent, permanent caretaker throughout their childhood.

23. There is a reasonable probability that the conditions which resulted in the removal of [K.D.] and [K.P.] and the reasons for their continued placement outside [Mother]'s care will not be remedied, and that continuation of the parent-child relationship poses a threat to [K.D.] and [K.P.]'s well-being.

24. Giving [Mother] additional time to complete services is not in the best interests of the children. Even if the children are not currently in physical or emotional danger as a result of the continuation of the parent-child bond, it is clear that a trial court need not wait until a child's physical, mental, and social development is permanently impaired, and the child is irreversibly harmed, before terminating the parent-child relationship. In re A.A.C., 682 N.E.2d 542, 544 (Ind. Ct. App. 1997).

25. Given [K.D.'s] and [K.P.]'s needs for permanency and need for a stable loving home free from neglect and [Mother]'s lack of demonstrated

> ability to provide for those needs, it is in their best interests to terminate the parent-child relationship.
>
> 26. The plan for [K.D.] and [K.P.] is adoption. They are currently placed with their maternal grandparents who wish to adopt them. This plan is satisfactory.
>
> CONCLUSIONS OF LAW
>
> 1. [K.D.] and [K.P.] were found to be children in need of services by order of the Marion County Superior Court, Juvenile Division.
>
> 2. [K.D.] and [K.P.] have been removed from [Mother] under the terms of a dispositional decree for more than six months.
>
> 3. There is a reasonable probability that the conditions that resulted in [K.D.] and [K.P.]'s removal from, and continued placement outside, the care and custody of [Mother] will not be remedied.
>
> 4. There is a reasonable probability that the continuation of the parent-child relationship between [K.D.] and [K.P.] and [Mother] poses a threat to their well-being.
>
> 5. Termination of the parent-child relationship between [K.D.] and [K.P.] and their mother, [Mother], is in their best interests.
>
> [6.] The plan of the Marion County Office of Family and Children for the care and treatment of [K.D.] and [K.P.], termination of parental rights and adoption, is acceptable and satisfactory.

Appellant's Appendix at 6-11.

The sole issue is whether the trial court's order terminating Mother's parental rights to the Children is supported by clear and convincing evidence. The traditional right of parents to establish a home and raise their children is protected by the Fourteenth Amendment of the United States Constitution. Bester v. Lake County Office of Family & Children, 839 N.E.2d 143, 147 (Ind. 2005). However, these parental interests are not absolute and must be subordinated to the child's interests in determining the proper

disposition of a petition to terminate parental rights. Id. Parental rights may be terminated when the parents are unable or unwilling to meet their parental responsibilities. Id. The purpose of terminating parental rights is not to punish parents, but to protect children. In re L.S., 717 N.E.2d 204, 208 (Ind. Ct. App. 1999), reh'g denied, trans. denied, cert. denied, 534 U.S. 1161, 122 S. Ct. 1197 (2002).

When reviewing a termination of parental rights, we will not reweigh the evidence or judge the credibility of the witnesses. Bester, 839 N.E.2d at 147. We will consider only the evidence and reasonable inferences therefrom that are most favorable to the judgment. Id. Here, the trial court made findings in granting the termination of Mother's parental rights. When reviewing findings of fact and conclusions thereon entered in a case involving a termination of parental rights, we apply a two-tiered standard of review. Id. First, we first determine whether the evidence supports the findings. Id. Then, we determine whether the findings support the judgment. Id. The trial court's judgment will be set aside only if they are clearly erroneous. Id. "A judgment is clearly erroneous if the findings do not support the trial court's conclusions or the conclusions do not support the judgment." Id. (citation and internal quotations omitted).

Ind. Code § 31-35-2-8(a) (2004) provides that "if the court finds that the allegations in a petition described in [Ind. Code § 31-35-2-4] are true, the court shall terminate the parent-child relationship." Ind. Code § 31-35-2-4(b)(2) (2004) provides that a petition to terminate a parent-child relationship involving a child in need of services must allege that:

(A) one (1) of the following exists:

(i) the child has been removed from the parent for at least six (6) months under a dispositional decree;

(ii) a court has entered a finding under Ind. Code § 31-34-21-5.6 that reasonable efforts for family preservation or reunification are not required, including a description of the court's finding, the date of the finding, and the manner in which the finding was made; or

(iii) after July 1, 1999, the child has been removed from the parent and has been under the supervision of a county office of family and children for at least fifteen (15) months of the most recent twenty-two (22) months;

(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;

(C) termination is in the best interests of the child; and

(D) there is a satisfactory plan for the care and treatment of the child.

The State must establish these allegations by clear and convincing evidence. Bester, 839 N.E.2d at 148; Egly v. Blackford County Dep't. of Pub. Welfare, 592 N.E.2d 1232, 1234 (Ind. 1992).

Mother challenges the trial court's findings under subsections (B) and (C). Specifically, Mother argues that the following findings by the trial court are clearly erroneous: (1) there was a reasonable probability that the conditions that resulted in the

Children's removal from Mother's home would not be remedied;[2] and (2) the termination was in the Children's best interests. We will address each argument separately.

A. Conditions Remedied.

Mother argues that the evidence does not support the trial court's conclusion that the conditions that resulted in the Children's removal or the reasons for placement outside the home will not be remedied because she "had made considerable improvements in the condition of the house and in her mental health by the time of the termination hearing." Appellant's Brief at 14. To determine whether a reasonable probability exists that the conditions justifying a child's continued placement outside the home will not be remedied, the trial court must judge a parent's fitness to care for her children at the time of the termination hearing and take into consideration evidence of changed conditions. In re J.T., 742 N.E.2d 509, 512 (Ind. Ct. App. 2001), trans. denied. However, the trial court must also "evaluate the parent's habitual patterns of conduct to determine the probability of future neglect or deprivation of the child." Id. When assessing a parent's fitness to care for a child, the trial court should view the parent as of the time of the termination hearing and take into account any evidence of changed

[2] Mother also argues that the trial court erred by finding that the continuation of the parent-child relationship posed a threat to the well-being of the Children. Ind. Code § 31-35-2-4(b)(2)(B) required the MCDCS to demonstrate by clear and convincing evidence a reasonable probability that *either*: (1) 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* (2) the continuation of the parent-child relationship poses a threat to the well-being of the child. The trial court specifically found a reasonable probability that the conditions that resulted in the Children's removal would not be remedied, and there is sufficient evidence in the record to support the trial court's conclusion. See infra Part A. Thus, we need not determine whether the trial court's conclusion that there was a reasonable probability that the continuation of the parent-child relationship poses a threat to the well-being of the Children is clearly erroneous. See, e.g., Bester, 839 N.E.2d at 148 n.5; In re T.F., 743 N.E.2d 766, 774 (Ind. Ct. App. 2001), trans. denied.

conditions. In re C.C., 788 N.E.2d 847, 854 (Ind. Ct. App. 2003). The trial court can properly consider the services that the State offered to the parent and the parent's response to those services. Id.

The Children were initially removed from Mother's care in October 2003 due to physical abuse and the condition of Mother's house. At the time of the removal, an MCDCS investigator visited Mother's house and found Mother's house in "complete disarray." Transcript at 197. The floor of the house was covered with trash, including food, food containers, and newspapers, flies were swarming around the kitchen, and cleaning supplies were left next to the Children's toothbrushes.

The MCDCS then filed a petition alleging that the Children were CHINS based on the incident of physical abuse and "the condition of the family home." Exhibits at 2. Mother admitted the allegations of the petition, and the trial court determined that the Children were CHINS. Thereafter, the trial court ordered Mother to "[o]btain and maintain suitable housing" that was "safe for all residing within." Id. at 14. Mother was also required to successfully complete her home based counseling with parenting classes and participate in mental health treatment.

Mother, however, did not obtain and maintain suitable housing and did not successfully complete her home based counseling with parenting classes. During the termination hearing, Mother's mother, Melanie Davis, testified that she had concerns about Mother's ability to provide a safe home environment for the Children eight to nine months before the MCDCS removed the Children from Mother's house and that she had warned Mother that someone would take the Children if she did not clean her house. The

parenting assessor testified that in November 2003, when Mother's parenting assessment was conducted, Mother's house contained a "large amount of debris" that was "knee high." Transcript at 11. Testimony from two of the home based counselors reveals that between March 2004, which was three to four months after the Children had been removed and Mother had been ordered to obtain and maintain a suitable home, and August 2004, which was when Mother was closed out of home based counseling as unsuccessful, Mother's home was always "in disarray." Id. at 139, 153, 171, 179. The counselors testified that they could not walk through various rooms in Mother's house or find a place to sit because of the debris and trash that covered Mother's house. Mother's house was filled with gnats, leftover food, soiled dishes, and trash. Despite Mother's frequent cancellations of appointments with the home based counselors, a case aide from the home based counseling group did help Mother clean her house. However, Mother was not able to maintain any cleaning that was done, and when the case aide returned to Mother's house after a cleaning, the house "was dirty all over again." Id. at 148. In fact, in April 2004, Mother stepped on a knife in her kitchen, cut her foot, and had to go to the emergency room for stitches. Finally, Mother's case manager visited Mother's house approximately three weeks before the termination hearing, and the case manager could not walk in the living area, the bathroom, kitchen, or up the stairs because they were blocked with debris. Id. at 280. The case manager determined that Mother's house was a "safety hazard" and a "fire hazard[.]" Id. at 281. Although Mother may have cleaned out a closet or a bedroom during the eighteen months between the time the Children were

declared CHINS and the termination hearing, the record reveals that her house continued to be in disarray, filled with debris, and a safety hazard.

Mother also did not comply with her requirements regarding obtaining mental health treatment. Around November 2003, pursuant to recommendations by her parenting assessment and psychological assessment, Mother was required to obtain individual psychological therapy. During the summer of 2004, one of the home based counselors worked with Mother to assist her in setting up therapy at Midtown. Mother told the home based counselor multiple times that she was going to attend a therapy session at Midtown, but Mother failed to keep any of her appointments. In January 2005, Mother started seeing a therapist at Midtown after having cancelled ten appointments between September 2004 and December 2004. In January 2005, Mother's case manager sent Mother a letter describing what services Mother needed to complete, including participating with mental health services on a consistent basis. From January 2005 to March 2005, Mother missed one appointment and was late for three appointments. In March 2005, a pretrial conference was held, and Mother was instructed that she needed to have "[n]o lates, no misses, [and attend her therapy] every other week[.]" Transcript at 276. From that pre-trial conference until the termination hearing, Mother was late for four of her eight therapy sessions.

Mother contends that there is no pattern of behavior that demonstrates her inability to parent. Mother appears to argue that the trial court failed to consider her testimony that the condition of her house was related to her depression and that her "depression symptoms abated once she started individual counsel[ing] and drug therapy in March

[2005]." Appellant's Brief at 13. The trial court was permitted to judge Mother's credibility and weigh the evidence of changed conditions against the testimony demonstrating Mother's pattern of failing to keep her house in a safe condition and her conduct in failing to complete the required services. On appeal, we cannot reweigh the evidence or judge the credibility of the witnesses. There is substantial evidence of Mother's failure to comply with the required services and failure to remedy the issue resulting in the Children's removal. Under these circumstances, the trial court's finding of a reasonable probability that the conditions that resulted in the Children's removal would not be remedied was supported by clear and convincing evidence. See, e.g., In re D.J., 755 N.E.2d 679, 685 (Ind. Ct. App. 2001) (holding that the mother's pattern of conduct both before and during the termination proceedings supported the trial court's determination that the conditions that resulted in removal would not be remedied), reh'g denied, trans. denied; In re T.F., 743 N.E.2d 766, 776 (Ind. Ct. App. 2001) (holding that the evidence, which included the parents' failure to demonstrate an ability to provide their children with a safe and clean home environment, supported the trial court's finding that the conditions that resulted in the children's removal would not be remedied), trans. denied.

B. Best Interest.

Mother contends that termination is not in the Children's best interests because there was no evidence that she did not provide for the Children prior to their removal and that she "did not move from place to place – she maintained the same home for several years." Appellant's Brief at 16. In determining what is in the best interests of the child,

the trial court is required to look at the totality of the evidence. A.F. v. Marion County Office of Family & Children, 762 N.E.2d 1244, 1253 (Ind. Ct. App. 2002), trans. denied. In doing so, the trial court must subordinate the interests of the parents to those of the child involved. Id.

During the termination hearing, the guardian ad litem and the case manager testified that termination was in the Children's best interests. The guardian ad litem testified that before making a recommendation in termination cases, he considers "why the children were removed, if the reason for removal has been remedied, how long they've been in their current placement and out of their actual home, if the home is preadoptive, if the parent has a job[,] . . . the bond that they have developed within the home that they're in." Transcript at 252-253. Based on these factors, the guardian ad litem recommended that Mother's parental rights to the Children be terminated and that the Children remain with the grandparents. Mother's case manager also recommended that Mother's parental rights be terminated. The case manager testified that she did not think that Mother should be given any additional time to try and complete services, that her concern was for the interest and welfare of the Children, and that the best interest of the Children was to have permanency.

Despite numerous opportunities and services, Mother failed to maintain appropriate housing for the Children and failed to fully cooperate with counseling to address mental health issues. Based upon the totality of the evidence in this case, the trial court's finding that termination was in the Children's best interest was supported by clear and convincing evidence. See, e.g., In re T.F., 743 N.E.2d at 776 (holding that the

testimony of guardian ad litem and the family case manager, along with evidence of the mother's behavior, supported the trial court's conclusion that termination was in the children's best interests); In re M.M., 733 N.E.2d 6, 13 (Ind. Ct. App. 2000) (holding that the testimony of the court appointed special advocate and the case manager, coupled with the evidence that the conditions resulting in the placement outside the home will not be remedied, was sufficient to prove by clear and convincing evidence that termination was in a child's best interest).

For the foregoing reasons, we affirm the trial court's involuntary termination of Mother's parental rights.

Affirmed.

RILEY, J. and BARNES, J. concur