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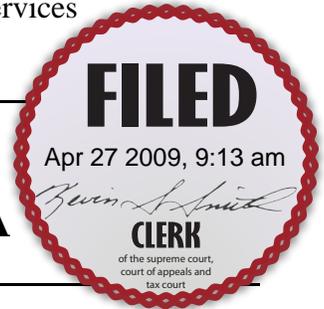
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**IN THE
COURT OF APPEALS OF INDIANA**



In the Matter of the Termination of the)
Parent-Child Relationship of)
Ky.B., Da.T., De.T. and Ko.B., the Minor Children,)
and B.T., Their Mother)

B.T.,)
)
Appellant-Respondent,)

vs.)

STATE OF INDIANA, DEPARTMENT OF)
CHILD SERVICES)
)
Appellee-Petitioner.)

No. 41A01-0812-JV-565

APPEAL FROM THE JOHNSON CIRCUIT COURT
The Honorable K. Mark Loyd, Judge
Cause No. 41C01-0712-JT-19, -20, -23, and -27

April 27, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Judge

B.T. (“Mother”) appeals the trial court’s termination of the parent-child relationship with her four children upon the petition of the Johnson County Department of Child Services (“DCS”). Mother’s sole issue is whether there is sufficient evidence to support the termination.

We affirm.

FACTS AND PROCEDURAL HISTORY

In June 2006, DCS received a report that twenty-four-year-old Mother and her four children, six-year-old Da., four-year-old Ky., two-year-old Ko., and one-year-old De., were living with an unregistered sex offender. The following month, Edinburgh Police Department officers were dispatched to Mother’s home to question her about suspected criminal activity. During a search of the home, officers found several items listed on recent theft reports. The officers also noticed an open container of alcohol, drug paraphernalia, a sharp knife, a pellet gun, and pornographic publications, all within reach of the children. The two youngest children were in soiled diapers that were so full they were soggy, and the older children were wearing soiled clothing that smelled like urine. Three of the children did not have shoes, and their feet were black on the bottoms. The children’s bodies were covered with bug bites. Mother was arrested for receiving stolen property, and the children were removed from the home and placed in foster families.¹ Shortly thereafter, DCS filed Child in Need of Services petitions regarding the four children.

¹ Biological siblings Da. and De. were placed together in one foster family, and biological siblings Ky. and Ko. were placed together in another foster family.

A few weeks later, the Court-Appointed Special Advocate (“CASA”) went to Mother’s home to interview her. Mother was having a yard sale and getting ready to move. She did not know where she was going, but she told the CASA she would call her when she found a new home. A few weeks later, Mother called the CASA from Oklahoma City. In August 2006, Mother asked the CASA to bring the children to a homeless shelter in Oklahoma. In December 2006, Mother notified the CASA she was living in a “fifth wheel” in Oregon. *Tr.* at 203. Three weeks later, Mother was in a homeless shelter in Oregon.

Mother eventually returned to Indiana in August 2007. She was homeless and jobless. DCS gave her the first month’s rent for an apartment that she later vacated without notice. During this time, service care providers set the following goals with Mother: 1) attend parenting education sessions; 2) attend individual counseling sessions; 3) maintain stable employment; 4) maintain stable housing; and 5) attend supervised visitation sessions with the children.

Mother’s initial visits with the four children she had not seen in over a year were “chaotic.” *Tr.* at 39. The children jumped on the furniture, and Mother was unable to discipline them. Because of concerns for the children’s safety during visitation, the children’s therapist, Becky Bickel, recommended therapeutic visitations where she would meet with Mother before each visit to coach her regarding how to interact with, control, and discipline the children. In addition, Mother met with one or two children at a time rather than all four at once. During the visits that followed, Mother and the children usually did not greet each other, and there was little eye contact or physical affection. After the visits with

Mother, the children began experiencing nightmares and intrusive memories of fear, hurt, hunger, and domestic violence. When Mother missed two visits, the children experienced fewer nightmares. During the two months between the two-day termination hearing, Mother missed three visits with the children, and there was still no bond between them. Further, Mother was still unable to manage all four of her children at the same time.

As to Mother's other goals, the testimony at the termination hearing revealed that Mother was oppositional in parenting education sessions and remained convinced that she did not need individual counseling. Mother also refused to work on a budget, did not pay bills even when she had the money to do so, and frequently had no food in the home. Although Mother had a job at McDonald's and was living in a trailer at the time of the May 2008 hearing, two months later, at the July hearing, Mother had lost her job and the utilities in her trailer were scheduled to be disconnected. During her two-year history with DCS, Mother was unable to show the ability to maintain stable employment or housing, and never demonstrated the financial ability to support her children.

Following the termination hearing, the trial court issued an order terminating Mother's parental relationship with all four children. Mother now appeals the termination.

DISCUSSION AND DECISION

The purpose of terminating parental rights is not to punish parents but to protect their children. *In re Termination of the Parent-Child Relationship of D.D.*, 804 N.E.2d 258, 264 (Ind. Ct. App. 2004), *trans. denied*. Although parental rights are of a constitutional dimension, the law allows for the termination of those rights when parties are unable or

unwilling to meet their responsibility as parents. *Id.*

The trial court must subordinate the interests of the parents to those of the child when evaluating the circumstances surrounding the termination. *In re R.S.*, 774 N.E.2d 927, 930 (Ind. Ct. App. 2002), *trans. denied*. Termination of the parent-child relationship is proper where the child's emotional and physical development is threatened. *Id.* The trial court need not wait until the child is irreversibly harmed before terminating the parent-child relationship. *Id.*

This court will not set aside the trial court's judgment terminating a parent-child relationship unless the judgment is clearly erroneous. *Id.* at 929-30. When reviewing the sufficiency of the evidence to support a judgment of involuntary termination of a parent-child relationship, we neither reweigh the evidence nor judge the credibility of the witnesses. *Id.* at 930. We consider only the evidence that supports the judgment and the reasonable inferences to be drawn therefrom. *Id.*

Indiana Code section 31-35-2-4(b)(2) sets out the following relevant elements that the Department of Child Services must allege and prove by clear and convincing evidence in order to terminate a parent-child relationship:

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

* * * * *

- (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.

Mother contends that there is insufficient evidence to support the termination of her parental rights. Specifically, she contends that DCS failed to prove that there is a reasonable probability that the conditions that resulted in her children's removal will not be remedied. To determine whether the conditions are likely to be remedied, the trial court must judge a parent's fitness to care for the child at the termination hearing and take into consideration any evidence of changed conditions. *D.D.*, 804 N.E.2d at 266. 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.*

Our review of the evidence reveals that Mother has been involved with DCS for two years. During this time, she has failed to demonstrate the ability to maintain stable employment or housing. She was also oppositional in parenting education sessions and remained convinced that she did not need individual counseling. Although her children's counselor coached her how to interact with, control, and discipline her children, Mother was still unable to visit with all four of her children at the same time. In addition, there was no bonding between Mother and her children. Recognizing our deferential standard of review, we find that this evidence supports the trial court's finding that there is a reasonable probability that the conditions that resulted in the children's removal will not be remedied.

We further note that although Mother complains that DCS did not file an interstate compact when she was in Oklahoma and Oregon, we agree with the State that “there is no evidence [Mother] stayed in one location long enough for DCS to conduct the proper checks to determine whether placement could be made in another state.” *Appellee’s Br.* at 12.

We reverse a termination of parental rights “only upon a showing of ‘clear error’ – that which leaves us with a definite and firm conviction that a mistake has been made.” *Egley v. Blackford County Dep’t of Pub. Welfare*, 592 N.E.2d 1232, 1235 (Ind. 1992). We find no such error here and therefore affirm the trial court.

Affirmed.

BAKER, C.J., and NAJAM, J., concur.