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IN THE
COURT OF APPEALS OF INDIANA

IN THE MATTER OF THE TERMINATION OF THE PARENT-CHILD RELATIONSHIP:	)	
A.O. and C.O., (Minor Children)	)	
T.T., (Mother)	)	
Appellants-Respondents,	)	
vs.	)	No. 10A01-1011-JT-611
INDIANA DEPARTMENT OF CHILD SERVICES,	)	
Appellee-Petitioner.	)	

APPEAL FROM THE CLARK SUPERIOR COURT
The Honorable Vicki L. Carmichael, Judge
Cause No. 10D01-0902-JT-156; 10D01-0902-JT-157

July 19, 2011

MEMORANDUM DECISION – NOT FOR PUBLICATION

BAKER, Judge

Appellant T.T. (Mother) appeals the trial court's termination of the parent-child relationship with her two daughters, C.O. and A.O., upon the petition of the Clark County Department of Child Services (DCS). Mother argues the evidence is insufficient to support the termination because DCS failed to prove that there is a reasonable probability that the conditions that resulted in the children's removal will not be remedied. Finding the evidence sufficient, we affirm the judgment of the trial court.

FACTS

Mother and S.O. (Father) are the parents of A.O., who was born on April 16, 1999, and C.O., who was born on March 1, 2001. In 2004, after Mother bit five-year-old A.O., DCS referred the family to the Family Preservation Program. In 2005, DCS substantiated that Mother failed to supervise A.O. and C.O. In April 2006, DCS substantiated physical abuse after Mother put hot peppers in the girls' mouths to discipline them. Mother also allegedly contacted Father and told him that she was "going to beat [the girls] to death" if he did not come and get them. Appellant's App. p. 45. Also in 2006, DCS substantiated life and health endangerment when Father inappropriately disciplined one of the girls with a belt.

At some point in 2006, the girls were returned to Mother's care. In October 2006, Mother told guardian ad litem in her dissolution case that the girls were too difficult for

her to handle, and that she wanted them removed from her care. Apparently, the girls were still living with Mother in July 2007, when DCS received a report that they were being hit and smacked by Mother and her current boyfriend. In July 2007, Mother refused to pick up the girls from Father's home despite a court order that Father was not to have unsupervised visitation with the girls because of his Schizophrenia.

On November 29, 2007, in an apparent effort to provide services to the family, the State filed a petition alleging that A.O. and C.O were Children in Need of Services. The State was awarded custody of the children, but they were placed with Father. Following a January 15, 2008, dispositional hearing, the juvenile court ordered Mother to participate in supervised visitation, complete a psychological evaluation, participate in home-based services, participate in parenting classes, and maintain contact with the DCS case manager.

On March 25, 2008, the two girls were removed from Father's home after Father grabbed A.O. by her hair and threw her against the wall. The DCS case manager noted in her "Periodic Review to the Court" on May 1, 2008, that there were also reports of domestic violence between Father and his live-in girlfriend, who appeared over-medicated on Methadone. Appellant's Appendix p. 73. At the time, Mother was living in Vincennes with her husband, who stabbed someone while he was intoxicated and was alleged to have molested C.O. Both girls were placed in foster care.

In February 2009, the State filed petitions to terminate the parent-child relationship between both girls and both parents. Evidence presented at the August 26,

2010, termination hearing revealed that thirty-nine-year-old Mother lived in a one-bedroom apartment in Washington, Indiana, and earned $100.00 per week as a babysitter. She suffers from bipolar and borderline personality disorders, but was not taking medication or receiving mental health treatment, although DCS had offered to pay for it. Mother admitted that her participation in the court-ordered services was not consistent and that the only program she completed was the parenting class. Mother has not had consistent housing and did not keep DCS updated with her current address and phone number.

The DCS case manager testified that in the past she had numerous conversations with Mother about her failure to participate in services. According to the case manager, Mother became "combative" when asked about her lack of participation. Tr. p. 153. The case manager explained that:

> I've had the same conversation with [Mother] since . . . 2008 . . . regarding housing, regarding getting a job, regarding her GED, regarding doing services. This has been repeatedly spoken to her. I just, I feel like that if, you know, the desire was there, it would have been done by now. We have provided services.

Id. at 155. The case manager concluded that she had seen Mother with the girls on only four or five occasions over the past two and one-half years.

The evidence further revealed that eleven-year-old A.O. suffers from attention deficit, post-traumatic stress, impulse control, and oppositional defiant disorders. At one point, she suffered nightly tantrums that lasted one to three hours and included kicking and screaming. Both girls need clear and consistent boundaries.

Following the hearing, the trial court terminated the parent-child relationship between the two girls and their parents. Mother appeals.[1]

DISCUSSION AND DECISION

Mother's sole argument is that there is insufficient evidence to support the termination of her parental relationship with C.O. and A.O. 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. In re R.S., 774 N.E.2d 927, 930 (Ind. Ct. App. 2002). We consider only the evidence that supports the judgment and the reasonable inferences to be drawn therefrom. Id. at 929-30. This court will not set aside the trial court's judgment terminating a parent-child relationship unless the judgment is clearly erroneous. Id.

Initially we note that 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. 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 at 930. Termination of the parent-child relationship is proper where the child's emotional

[1] Father is not a party to this appeal.

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.

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

> (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.

Here, Mother specifically 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. The gravamen of her argument is that the children were removed from her because she was unable to care for them, and these conditions have been remedied because she has made "considerable improvement . . . in dealing with a child with mental disorders." Appellant's Br. p. 11.

To determine whether the conditions are likely to 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 any evidence of changed conditions. In re 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. The trial court can properly consider the services that the State offered to the parent and the parent's response to those services. In re M.W., 943 N.E.2d 848, 854 (Ind. Ct. App. 2011).

Our review of the evidence reveals that DCS offered Mother many services, but she refused to participate. For example, Mother suffers from bipolar and borderline personality disorders but refused DCS's offer of mental health treatment. In addition, Mother became "combative" when questioned about her lack of participation in these services. Tr. p. 153. Mother has not had consistent housing or employment and did not keep DCS updated with her current address and phone number. We further note that A.O. suffers from attention deficit, post-traumatic stress, impulse control, and oppositional defiant disorders, and, along with her younger sister, needs clear and consistent boundaries. Recognizing our deferential standard of review, we find this evidence supports the juvenile court's finding that there is a reasonable probability that the conditions that resulted in the children's removal will not be remedied.[2] Consequently, we affirm the decision of the juvenile court.

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[2] Mother further argues DCS failed to prove the continuation of the parent-child relationship poses a threat to the well-being of her daughters. However, because it is written in the disjunctive, the statute requires the juvenile court to find only one of the two requirements of subsection (B) by clear and convincing evidence. In re L.S., 717 N.E.2d 204, 209 (Ind. Ct. App. 1999). Standing alone, the finding that there is a reasonable probability that the conditions that resulted in the girls' removal will not be remedied satisfies the requirement listed in subsection (B). Id. We therefore need not address Mother's argument that DCS failed to prove the continuation of the parent-child relationship poses a threat to the well-being of A.O. and C.O.

The judgment of the trial court is affirmed.

MAY, J., and BRADFORD, J., concur.