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IN THE
COURT OF APPEALS OF INDIANA

IN THE MATTER OF THE TERMINATION OF THE PARENT-CHILD RELATIONSHIP OF H.P., A CHILD, AND M.W., MOTHER, AND R.P., FATHER,	)	
R.P., Appellant-Respondent,	)	
vs.	)	No. 42A05-0901-JV-10
KNOX COUNTY DEPARTMENT OF CHILD SERVICES, Appellee-Petitioner.	)	

APPEAL FROM THE KNOX SUPERIOR COURT
The Honorable W. Timothy Crowley, Judge
Cause No. 42D01-0801-JT-006

August 12, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BRADFORD, Judge

R.P. ("Father") appeals the trial court's termination of his parent-child relationship with his daughter, H.P., upon the petition of the Knox County Department of Child Services ("DCS"). We affirm.

The sole issue for our review is whether there is sufficient evidence to support the termination.

FACTS AND PROCEDURAL HISTORY

Father has two daughters. A.P was born in November 1993, and H.P. was born in November 1996. Both girls were removed from their mother's home in April 2006 after their mother was arrested for possession of stolen property and neglect of a dependent. A.P. and H.P. were placed in foster care with their stepgrandfather N.R. The two girls were adjudicated to be CHINS in September 2006. Father attended the CHINS detention hearing but did not attend any of the other CHINS hearings. He did not participate in any services and had no contact with DCS until after the termination petition was filed.

In January 2008, DCS filed a petition to terminate the parental relationships between A.P. and H.P. and their parents. At the February 21, 2008, initial hearing on the termination petition, the girls' mother told the court that A.P. had run away from N.R.'s house and found her mother at a friend's house. A.P. did not want to return to N.R.'s house. Instead, she chose placement in Youth Village pending placement in a new foster home.

At the August 2008 hearing on the termination petitions, DCS Representative Mary Jane Humphrey revealed that A.P. was currently on a three-month trial home visit with her mother. Humphrey anticipated that the termination petition as to A.P. would be dropped at

the conclusion of the trial period. Also at the hearing, Mother agreed to voluntarily terminate her parental relationship with H.P. The court took both matters under advisement pending an evidentiary hearing on the termination petitions.

At the October 15, 2008, evidentiary hearing, Father admitted that he had not been a father to H.P. for five years. Father explained that he had rarely seen H.P. over the past five years because he did not get along with H.P.'s mother. Father did not know H.P.'s birthday or what grade she was in at school. Father was also $14,000.00 in arrears in child support.

The testimony further revealed that H.P. had been living with N.R. for the eighteen months leading up to the termination hearing. She had good grades and good school attendance. N.R. testified that he wanted to adopt H.P., and according to the guardian ad litem's report, H.P. enjoys living with N.R. and understands this is the best placement for her future. DCS Family Case Manager Melanie Flory testified that N.R. has provided H.P with a stable environment and that termination of the parent-child relationship was in H.P.'s best interests.

Following the hearing, the trial court issued an order wherein the court found that Father's long-term abandonment of H.P. has made a stable and nurturing relationship impossible. The court further found that Father has demonstrated an inability to regularly and consistently meet H.P.'s needs. In this order, the trial court terminated the parental relationship between H.P. and both parents. Father appeals.[1]

DISCUSSION AND DECISION

The purpose of terminating parental rights is not to punish parents but to protect their

[1] Mother does not appeal the voluntary termination of her parental rights.

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. *In re R.S.*, 774 N.E.2d 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) (2007) sets out the following relevant elements that the DCS 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.

Father contends that there is insufficient evidence to support the termination of his parental rights. Specifically, Father summarizes his argument as follows:

> Terminating rights on one (1) sibling out of two (2) and not both is bad for children because it confuses them and their understanding of the family structure. Father has two (2) children who were the subject of termination, namely [H.P.] and [A.P.]. KCDCS only proceeded to terminate his rights on [H.P.]. Father's relationship with [A.P.] did not pose a threat to her well-being and his relationship with [H.P.] would not either.

Appellant's Br. at 5.

Father's argument, however, misrepresents the nature of the termination proceedings. At the time of the termination hearing, A.P. was on a trial home visit with the girls' mother, and DCS Representative Humphrey anticipated that the termination petition as to A.P. would be dropped at the conclusion of the trial period. A.P. was not a "subject of termination" at this termination hearing. The hearing concerned only Father's parental relationship with H.P.

Further, evidence at the termination hearing revealed that Father has rarely seen H.P. over the past five years. At the time of the hearing, Father did not know H.P.'s birthday or what grade she was in at school. Father was also $14,000.00 in arrears in child support. The evidence further revealed that H.P. had been living with N.R. for eighteen months. She had

good grades and school attendance, and understood that this was the best placement for her future. Recognizing our deferential standard of review, we find that this evidence supports the trial court's termination of Father's parental rights.

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." *Egly 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.

The judgment of the trial court is affirmed.

CRONE, J., and BROWN, J., concur.