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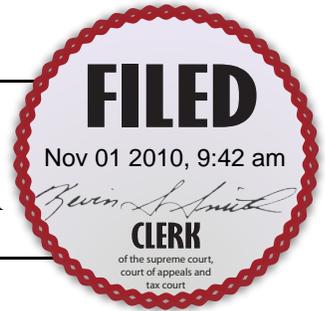
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**IN THE
COURT OF APPEALS OF INDIANA**



IN RE THE TERMINATION OF THE PARENT-)
CHILD RELATIONSHIP OF: D.M., Je.M.,)
and Ja.M. (minor children), H.M. (father) and)
D.M. (mother),)

Appellants,)

vs.)

THE INDIANA DEPARTMENT OF CHILD)
SERVICES,)

Appellee.)

No. 20A04-1003-JT-204

APPEAL FROM THE ELKHART CIRCUIT COURT
The Honorable Terry C. Shewmaker, Judge
And The Honorable Deborah A. Domine, Juvenile Magistrate
Cause Nos. 20C01-0909-JT-75, 76, and 77

November 1, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

DARDEN, Judge

STATEMENT OF THE CASE

H.M. (“Mother”) and D.M. (“Father”) appeal the involuntary termination of their respective parental rights to their children, D.M., Je.M., and Ja.M.

We affirm.¹

ISSUES

1. Whether the trial court’s judgment is supported by clear and convincing evidence.
2. Whether the trial court improperly admitted into evidence various documents from the underlying child in need of services (“CHINS”) proceedings and two prior terminations of parental rights proceedings involving different children.

FACTS

Mother and Father are the biological parents of D.M., born in February 2001, Je.M., born in August 2002, and Ja.M., born in June 2009. The facts most favorable to the trial court’s judgment reveal that in September 2008, the Indiana Department of Child Services, Elkhart County (“ECDCS”), received a report concerning D.M., Je.M., and a

¹ We observe that the Elkhart Circuit court reporter failed to adhere to several of our appellate rules in compiling the transcript and exhibits for appeal in this case. Specifically, Volume III of the Transcript contains 300 pages in violation of Appellate Rule 28(A)(6), three exhibits were not properly bound within the “Exhibit Book,” in violation of Appellate Rule 29, and the Table of Contents listed the specific page number, but not the volume, where each witness’s direct, cross, and redirect examination began in violation of Appellate Rule 28(A)(8). In addition, although not specifically required by our appellate rules, the Table of Contents also did not identify the beginning page numbers for *any* of the nine separate days of proceedings included in the three volumes of transcripts submitted on appeal, thereby frustrating our efficient review of this case.

domestic disturbance that had occurred in the children's presence at the family home. The report indicated Mother had been arrested on felony domestic battery charges and the children had spent the night with their grandmother.

During the ensuing ECDCS investigation, it was discovered that Father had also pushed the children down during his altercation with Mother, leaving several visible marks and/or cuts on both children. In addition, at the time of ECDCS's investigation, the family had been participating in services with ECDCS for over one month due to the filthy and uninhabitable living conditions of the family home and had only received approval to return to the home several days before the incident. As a result of the investigation, and the fact that the grandmother informed ECDCS she was unable to continue to care for D.M. and Je.M., as she had already adopted one of the children's older sibling, D.M. and Je.M. were taken into protective custody and placed in foster care. ECDCS thereafter filed petitions under separate cause numbers alleging D.M. and Je.M. were CHINS.

During a hearing on the CHINS petitions in September 2008, Mother and Father admitted to the allegations contained therein, including the allegations of domestic violence in the home. D.M. and Je.M. were adjudicated CHINS, and the trial court entered dispositional orders formally removing the children from Mother's and Father's care in October 2008. The trial court's dispositional orders also directed both parents to participate in a variety of services in order to achieve reunification with the children. Specifically, the parents were ordered to, among other things: (1) participate in regular supervised visitation with the children; (2) undergo psychological assessments and follow

all resulting recommendations; (3) successfully complete marriage and individual counseling; (4) successfully complete anger management counseling; and (5) cooperate with homemaker services.

Although both parents began participating in services, the trial court indicated in its subsequent review hearing orders that despite their participation, neither Father nor Mother had enhanced his or her ability to properly parent D.M. and Je.M. In December 2008, ECDCS requested that the trial court modify its dispositional decrees and suspend all visitation between both parents and the children. ECDCS made this request at the recommendation of the children's therapist, who was concerned about the disruptive impact family visits were having on Je.M. In January 2009, the trial court determined that visitation between the children and the parents would occur only at the discretion of the children.

In June 2009, Mother gave birth to Ja.M. Ja.M. was immediately taken into protective custody, and ECDCS filed a petition alleging Ja.M. was a CHINS. In its petition, ECDCS alleged that neither parent was fully participating in services, and domestic violence in the home had once again been reported. Both parents denied the allegations in the CHINS petition, and an evidentiary hearing was held in August 2009. At the conclusion of the hearing, the trial court adjudicated Ja.M. a CHINS.² ECDCS thereafter filed a petition seeking to waive reasonable efforts at reunification with regard

² Both parents appealed the CHINS determination as to Ja.M. in September 2009, and another panel of this court affirmed the trial court's CHINS determination in an unpublished Memorandum Decision. *See In re J.M.*, 928 N.E.2d 652 (Ind. Ct. App. 2010).

to Mother and Father and Ja.M., based largely on both parents' prior involuntary termination of parental rights cases involving two older children.³

The trial court granted ECDCS's petition to waive reasonable efforts at reunification as to the parents and Ja.M. pursuant to Indiana Code section 31-34-21-5.6. The court also modified its permanency plan as to D.M. and Je.M. from family reunification to termination of parental rights. Shortly thereafter, in September 2009, ECDCS filed petitions seeking the involuntary termination of Mother's and Father's parental rights to all three children.

A consolidated, two-day evidentiary hearing on the termination petitions commenced on February 24, 2010, and concluded on February 26, 2010. During the termination hearing, the trial court admitted, over the parents' objections, several documents pertaining to the underlying CHINS proceedings and to the two prior, unrelated termination of parental rights cases. At the conclusion of the evidentiary hearing, the trial court took the matter under advisement. On March 1, 2010, the trial court issued its judgment terminating both Mother's and Father's parental rights to D.M., Je.M, and Ja.M. This appeal ensued.

DECISION

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 the termination of

³ Mother and Father are the biological parents of one of these older children. The second child is Father's biological child from a prior relationship. Parental rights to both children were terminated prior to the underlying proceedings involving D.M., Je.M., and Ja.M.

parental rights, we will neither reweigh the evidence nor judge witness credibility. *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 most favorable to the judgment. *Id.* Moreover, in deference to the trial court's unique position to assess the evidence, we will set aside a 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 Mother's and Father's parental rights, the trial court entered specific findings and conclusions. When a trial 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 trial court's decision, we must affirm. *L.S.*, 717 N.E.2d at 208.

"The 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*. However, a trial court must subordinate the interests of the parent to those of the child when evaluating the circumstances surrounding a termination. *K.S.*, 750 N.E.2d at 837. Termination of a parent-child relationship is proper where a child's emotional and physical development is threatened. *Id.* 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. *Id.* at 836.

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

- (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; [and]
- (C) termination is in the best interests of the child[.]

Ind. Code § 31-35-2-4(b)(2)(B) and (C) (2008).⁴ “The 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). If the court finds the allegations in a petition described in section 4 of this chapter are true, the court shall terminate the parent-child relationship. Ind. Code § 31-35-2-8(a). Mother and Father challenge the sufficiency of the evidence supporting the trial court’s findings as to subsections 2(B) and (C) of the termination statute cited above. *See* I.C. § 31-35-2-4(b)(2). In a separate argument, the parents also assert the trial court erroneously admitted certain prejudicial documents during the termination hearing. The parents therefore contend they are entitled to reversal. We shall address each argument in turn.

⁴ Indiana Code section 31-35-2-4 was amended by Pub. L. No. 21-2010, § 8 (eff. March 12, 2010). The changes to the statute became effective after the filing of the termination petition involved herein and are not applicable to this case.

1. Clear and Convincing Evidence

A. Conditions Remedied

Initially, we observe that Indiana Code section 31-35-2-4(b)(2)(B) is written in the disjunctive. It therefore requires the trial court to find only one of the two requirements of subsection 2(B) have been established by clear and convincing evidence. *See L.S.*, 717 N.E.2d at 209. Because we find it to be dispositive under the facts of this case, we need only consider whether ECDCS established, by clear and convincing evidence, that there is a reasonable probability the conditions resulting in the children's removal or continued placement outside the parents' care will not be remedied. *See I.C.* § 31-35-2-4(b)(2)(B)(i).

The parents assert that, at the time of the termination hearing, they “had been involved in counseling, anger management classes, and denied that domestic violence existed.” (Appellants' Brief p. 6). Mother and Father also assert that the evidence relied upon by the trial court “focused on past events” and that “the record lacks evidence of domestic violence at or near the time of the evidentiary hearing.” *Id.* The parents therefore contend the record does not support the trial court's findings that there is continuing violence in the home and that there is a reasonable probability the conditions resulting in the children's removal will not be remedied.

A trial 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*. 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.* 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 trial court may also consider any 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.* at 1252. Moreover, a county department of child services is not required to provide evidence ruling out all possibilities of change; rather, it need establish only that there is a reasonable probability the parent’s behavior will not change. *In re Kay L.*, 867 N.E.2d 236, 242 (Ind. Ct. App. 2007).

In determining there is a reasonable probability the conditions leading to the children’s removal and continued placement outside Mother’s and Father’s care will not be remedied, the trial court specifically found the children had been removed from Mother and Father “because of ongoing domestic violence between [the parents]. Thus, any analysis of the parenting skills of [the parents] . . . will be addressed in the context of the children’s best interests and not as part of the reasons for removal from the home and whether or not those conditions have been remedied.” (App. 30). The court also found multiple service providers and case workers who had provided counseling and other services to the parents throughout the underlying CHINS and termination cases had advised the court that Mother and Father had made “little progress” toward eliminating the domestic violence in the family home, and that there was “continued domestic

violence between the parents.” *Id.* at 31. In addition, the trial court found “the children themselves expressed fear over safety in the home” during therapy sessions, and one of the parents’ friends had admitted during the termination hearing that she had seen Mother and Father fight just “a couple of days ago.” *Id.* at 31-32. The trial court also found:

5.b.

* * *

- xiii. Parents presented evidence from two service providers who described [Mother] and [Father] as cooperative and eager to learn. . . . Neither of these service providers worked with [Mother] and [Father] on the issues that caused the children to be removed from the home. The children were not removed because of parenting skills. The children were not removed because the [family] house was dirty; in fact[,] [ECDCS] kept the children in the parents’ care and worked with the family even when it took 30 to 45 days to clean what had been described as an uninhabitable home. The children were removed from the care of their parents because of domestic violence.
- xiv. Multiple therapists and service providers have been assigned throughout this case to address the violence that resulted in the removal of the children from the home. Dr. Kent Hershberger, Ph.D., H.S.P.P., attempted to work with [Father] on this issue. But[,] Dr. Hershberger testified that when pushed to address key issues, [Father] made it clear that he no longer wanted to work with Dr. Hershberger and therapy ended. At the conclusion of therapy, Dr. Hershberger wrote on April 7, 2009: “[A]t this point in time significant change seems unlikely.” Exhibit 10a.
- xv. [Father] and [Mother] sought out another therapist with a similar result Cliff Miller, MSW, LCSW. However, of the eight appointments [the parents] scheduled, they attended two, and they were twenty minutes late to those two appointments. . . . Cliff Miller wrote on January 20, 2010, “I don’t see the willingness to commit themselves to look at marital and family issues.” He opined that the prognosis for [Father] and [Mother] was poor “in regards to establishing a healthy, stable marriage and family life in which to raise children.”

- xvi. [ECDCS] case manager Angela Welles testified that the poor prognosis of success was shared by a majority of service providers assigned to these cases. Equally important, Welles testified that service providers not only opined that the family was unwilling to address anger and domestic violence, but providers reported that they observed [Mother] and [Father] display open anger and hostility toward service providers assigned to help. Welles described that “service providers were all frightened by the family.” She stated that she had never seen anything like the fear expressed in connection with this family.
- xvii. Welles was the second case manager assigned to the case. The first, [ECDCS] case manager Katie Sahlhoff, was replaced when she feared for her safety because [Father] told her that he would burn at the stake the case managers involved in the termination of rights on his two older children, followed by [Father] attempting to contact her on a social networking site. In addition, Sahlhoff testified that the parent aid[e] assigned to the case expressed that she feared for her safety and refused to go to the [family] home. Sahlhoff too testified that the foster parents were fearful of [Mother]and [Father].
- xviii. Welles . . . [also] describe[d] that [Father] left her an angry message on her phone sometime in the middle of the night stating that he did not want her around him or his family. After the message was left, [Welles] stated that she stopped doing home visits at the [family] home.
- ixx. Dr. Hershberger testified that he observed [Father] angry with staff at the Family and Children Center where he attempted to provide therapy to [Father] and [Mother]. But despite [Father’s] visible displays of anger, Dr. Hershberger described that in treatment [Father] had inaccurate recognition of his own anger, and denied it even existed. Dr. Hershberger opined that he would not want to expose children to the level of anger which he observed in [Father].
- xx. [Mother] denied the anger in other ways. She denied that it was harmful to her children. . . . Welles testified that she has tried to explain the harm . . . which could be caused by domestic violence, but [the] parents did not seem to understand. Welles described that [Mother] [indicated] . . .she protects her children from violence by standing between them and [Father] so they do not get hurt.

- xxi. While [the] parents testified that they have changed and that the violence in the home has ended, the weight of the evidence presented does not support that conclusion. To the contrary, the weight of the evidence supports a finding that the conditions that resulted in the removal of the children from the home will not be remedied.

Id. at 34-5. A thorough review of the record reveals that these findings are supported by the evidence. During the termination hearing, psychologist Ken Hershberger testified that when he first met Mother and Father, there “was a lot of marital discord. They seemed to be arguing a lot, and [Father] seemed to have some issues with his anger.” (Tr. 304). Dr. Hershberger also confirmed that his counseling services were terminated by Father, who was “quite upset” with Dr. Hershberger because he had allegedly been “overly critical” and had asked Father for information during therapy sessions about his marital relationship that was “too personal.” *Id.* at 309-10. When asked to explain why he had recommended nothing more than “closely supervised visitation” between Father and the children, Dr. Hershberger stated Father lacked self-awareness regarding his own anger and further explained, “Until one becomes aware of the fact that you’re angry, it’s difficult to control behavior that might come out of that.” *Id.* at 312. When asked if he had any concerns regarding the effect Father’s anger would have on the children, based on his own interactions with Father, Dr. Hershberger replied, “[Father] can be pretty intimidating when he’s angry, and I have seen him be angry before I wouldn’t want to expose children to that level of anger. It would be frightening” *Id.*

Similarly, ECDCS case managers Katie Sahlhoff and Angela Welles testified regarding Mother’s and Father’s unresolved domestic violence issues. Sahlhoff testified

that Father had threatened the case managers involved in the two previous termination proceedings, stating to Sahlhoff that if he ever found the previous case managers he would “attach them to a stake and burn them to the stake.” *Id.* at 539. Sahlhoff also confirmed that, in addition to herself, the current visiting supervisor and parent aide both expressed concerns regarding their own personal safety when dealing with the family.

Welles testified that both parents had made little progress towards resolving their domestic problems in the home and recounted several specific incidents of domestic violence that had occurred following the children’s removal, including one incident during which Father had been drinking alcohol and then chased one of Mother’s friends throughout the house with a knife, leaving visible cut marks on a door to the room where the person tried to escape. Welles also confirmed that she had recommended the children’s permanency plan be changed from reunification to adoption shortly after Ja.M.’s birth because of the continuing incidents of violence in the home and because “there was just no[] progress being made [S]ervice providers didn’t feel like the parents were being totally honest about the domestic violence and . . . by not admitting there was a continued problem, they were not able to make said progress.” *Id.* at 565. In addition, testimony from parent aide Melody Holmes, school social worker Jan Beuter, play therapist Michelle Thomas, and Mother’s therapist, Carrie Sommer, indicates both parents were unwilling to acknowledge and/or address the domestic violence issues in their relationship and home during the underlying proceedings, and instead “minimized” or “blamed others” for their circumstances. *Id.* at 437.

As noted earlier, a trial court must judge a parent's fitness to care for his or her child 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 child. *D.D.*, 804 N.E.2d at 266. Moreover, where there are only temporary improvements and a parent's "pattern of conduct shows no overall progress, the court might reasonably find that under the circumstances, the problematic situation will not improve." *In re A.H.*, 832 N.E.2d 563, 570 (Ind. Ct. App. 2005). Here, the record reveals that despite a wealth of services available to both parents for approximately one-and-a-half years, Mother's and Father's circumstances regarding domestic violence in their relationship and family home remained largely unchanged, notwithstanding the parents' participation in anger management and domestic violence counseling. Moreover, both parents remained incapable of demonstrating an ability to provide the children with a safe and stable home environment. We therefore conclude that ECDCS presented clear and convincing evidence to support the trial court's findings and ultimate determination that there is a reasonable probability the conditions resulting in the children's removal and continued placement outside the family home will not be remedied. *See Bergman v. Knox County Office of Family & Children*, 750 N.E.2d 809, 812 (Ind. Ct. App. 2001) (concluding trial court permitted to give more weight to abundant evidence of mother's pattern of conduct in neglecting children during years prior to termination hearing than to mother's testimony of changed conditions). Mother's and Father's arguments to the contrary, emphasizing their self-serving testimony concerning the services they did participate in, rather than the evidenced relied upon by

the trial court, amount to an invitation to reweigh the evidence, and this we may not do. *D.D.*, 804 N.E.2d at 264.

B. Best Interests

We next consider Mother's and Father's assertion that ECDCS failed to prove termination of their parental rights is in the children's best interests. In determining what is in the best interests of a child, the trial court is required to look beyond the factors identified by the Indiana Department of Child Services and look to the totality of the evidence. *McBride v. Monroe County Office of Family & Children*, 798 N.E.2d 185, 203 (Ind. Ct. App. 2003). In so doing, the trial court must subordinate the interests of the parent to those of the child. *Id.* The court need not wait until a child is irreversibly harmed before terminating the parent-child relationship. *Id.* Moreover, we have previously held that the recommendations of both the case manager and child advocate to terminate parental rights, in addition to evidence that the conditions resulting in removal will not be remedied, is sufficient to show by clear and convincing evidence that termination is in the child's best interests. *In re M.M.*, 733 N.E.2d 6, 13 (Ind. Ct. App. 2000).

In addition to the findings and conclusions previously cited, the trial court also recognized in its findings that court-appointed special advocate ("CASA") Anne Hostetler had recommended termination of Mother's and Father's parental rights to all three children as in the children's best interests. In so doing, the trial court specifically acknowledged Hostetler's testimony that she believed the family was "no closer to reunification today than they were when [D.M. and Je.M.] were first removed from the

care of the parents seventeen months ago.” (App. at 35). The trial court also made the following pertinent findings and conclusion in determining that termination of Mother’s and Father’s parental rights is in the children’s best interests:

5.c.

- i. Hostetler pointed out that the family has not only not addressed domestic violence, they deny that domestic violence is even an issue in these cases. . . . Hostetler opined the children need permanency now.
- ii. Michelle Thomas, MSW, is a therapist assigned to work with [D.M.] and [Je.M.]. She described that the . . . children need consistent limits [and] boundaries. [T]hey need nurtur[ing], someone who can remain calm as they provide care and guidance for the children[.] [T]hey need care[.] givers who can keep their own emotional levels in check[.] [T]he children need consequences, but no physical or verbal violence[.] [A]nd they need two parents who can work together to provide for the children’s needs.
- iii. To this day, the foster mother, therapist, case manager, and CASA all report that [Je.M.] remains fearful of attending visits with her parents.

* * *

- v. [Foster Mother] relayed that the children have come a long way[.] . . . [but] for the children to continue to make progress[,] a care[.]giver must have a lot of patience and be able to advocate for their children’s special needs.

* * *

- vii. Visit supervisor Linda Juarez . . . described that she had seen improvement in [the parents’] abilities to parent their children. But[,] Juarez also stated that the frustration level in visits is so high that she does not believe the changes are sustainable. She testified that [Father] has told her that when [ECDCS] is no longer involved with his family[,] he and [Mother] will go back to parenting “the way it was.”

- viii. [D.M.] and [Je.M.] have special needs which require parenting in a manner improved from the “way it was.” Based on the parenting needs described by the children’s therapist, in order to thrive, they need, among other things, a violence[-]free home.
- ix. Welles testified that she has tried to explain the harm caused by domestic violence to the children living in the home, but [the] parents do not seem to understand. [Mother] has insisted that it is OK because she gets hurt, not the children.
- x. Welles testified that to this day, service providers are all frightened of [Mother] and [Father]. She described that she “has never seen such fear.” Welles described that the children need to be protected from domestic violence, and for that reason[,] termination is in the children’s best interests[s].

Id. at 36-7. These findings, too, are supported by the evidence. Family therapist Thomas informed the court that, due to the children’s special needs, they need “a consistent home with limits and boundaries.” (Tr. 462). Thomas went on to explain that the children “know how to push buttons” and need caregivers who “can remain calm when [the children are] misbehaving.” *Id.* Thomas also indicated that the children “have enough aggression and fear that they need to be in a place where none of that is happening . . . hopefully a two-parent household with co-parenting abilities.” *Id.*

When asked why she never recommended that visits be moved to unsupervised visits, case manager Welles stated that she based her decision in part on the “reports from the service providers.” *Id.* at 569. Welles further explained that when she first took over the case, she was “really surprised” at how “frightened everybody was,” stating she had “never seen such a group of people basically freak out in the six years I’ve been there [-] never saw it.” *Id.* Welles also testified that she had tried to explain to the parents how domestic violence in the home “damages” children and that she could “see the anger in

[D.M].” *Id.* at 594. Welles also informed the parents that studies have shown domestic violence can “change the chemistry in kids’ brains,” preventing them from learning because the children become either “hyper[-]vigilant” or “de[-]sensitized,” but felt Mother did not even “grasp” this concept. *Id.* at 594-95. Finally, in recommending termination of Mother’s and Father’s parental rights, Welles testified that the parents had “displayed very little progress,” and that the children, who still needed therapy to process their “past experience with domestic violence in the home,” needed “permanency” and caregivers who are able to provide the children with the “structure, stability, [and] consistency” they need. *Id.* at 599-600.

CASA Hostetler informed the trial court that she had been assigned to the children “since the beginning of the case.” *Id.* at 646. Hostetler testified that she had visited with the children several days before the termination hearing, that she had played a game with them, that the visit went “very well,” and that the children were doing “great.” *Id.* at 646-47. Hostetler contrasted this recent visit to her initial visits with the children, explaining that initially D.M. “acted like a wild animal,” and looked like he was “going to attack [her],” while Je.M. would not look at or speak to Hostetler and wanted “nothing to do with [her].” *Id.* at 647. In recommending termination of parental rights as in the children’s best interests, Hostetler testified:

I just don’t feel like we’re any closer than we were in September 2008. I don’t feel like the children would be any safer. I don’t feel like the parents have made any changes. I’ve often heard [the] parents say that they don’t need to make changes. That everything is fine. . . . [T]hat it’s everybody else’s fault. . . . [And] they completely deny that there’s domestic violence even though we’ve had . . . pretty significant proof that there is. . . . [T]hese kids need to be in a permanent placement as quickly as possible.

They need consistency. They need somebody . . . to advocate for them [and] to give them all that they need . . . and I don't feel like [Mother] and [Father] can do that.

Id. at 654-55.

Based on the totality of the evidence, including Mother's and Father's failure to successfully complete and benefit from a majority of the trial court's dispositional services, unresolved domestic violence and anger management issues, history of involvement with ECDCS, and current inability to provide the children with a safe and stable home environment, coupled with the testimony from Welles and Hostetler, we conclude that clear and convincing evidence supports the trial court's determination that termination of Mother's and Father's parental rights is in all three children's best interests.

2. Admissibility of Evidence

We next address Mother's and Father's argument that the trial court improperly admitted documents from the underlying CHINS proceedings and two prior termination of parental rights cases with respect to different children not involved herein. Specifically, Mother and Father argue that the complained of documents should not have been admitted into evidence because said documents "contain[] hearsay, and although it is not clear which of the documents contain[] hearsay[,] it was possible the documents were, or would be, utilized in making the decision to terminate parental rights, and, as a result . . . may have contributed to the termination ruling." (App. 7).

We point out that decisions regarding the admission of evidence are entrusted to the sound discretion of the trial court. *In re A.J.*, 877 N.E.2d 805, 813 (Ind. Ct. App.

2007), *trans. denied*. An abuse of discretion occurs only if a trial court's decision is clearly against the logic and effect of the facts and circumstances before the court. *In re P.E.M.*, 818 N.E.2d 32, 38 (Ind. Ct. App. 2004). *Id.* Moreover, “[e]rror may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected” Ind. Evidence Rule 103(a).

In admitting the underlying CHINS and previous termination of parental rights case documents, the trial court stated:

I will admit them for the purpose of verifying the record of the CHINS [cases,] not for the purpose of the truth of the matter of the contents of the hearings that are documented within those CHINS orders. I don't think there's an issue with the termination [orders] because that's not based on hearsay.

(Tr. 299). We have previously held that evidence of a parent's prior involvement with the Indiana Department of Child Services, including the filing of CHINS petitions and previous termination proceedings, is “admissible character evidence in a subsequent termination proceeding” and may be helpful in both “assessing a parent's fitness and in determining the child's best interest[s].” *In re D.G.*, 702 N.E.2d 777, 780 (Ind. Ct. App. 1998); *see also* Ind. Evidence R. 201(b)(5) (providing that a court may take judicial notice of “records of a court of this state”). Nevertheless, the trial court's statement set forth above makes clear that the certified CHINS and termination documents were admitted for the sole purpose of verifying that the proceedings had occurred, not for the truth of the matters asserted therein. Moreover, Mother and Father acknowledge in their Appellants' Brief that they did not provide the trial court with any specific examples of inadmissible hearsay contained within the CHINS and/or termination documents, nor do

they offer any explanation as to how their substantive rights were negatively affected as a result of the admission of said documents into evidence. Thus, even assuming, *arguendo*, that admission of the CHINS and termination documents constituted error, said error would amount to harmless error in the present case because there is nothing in the record to suggest that the parents' substantive rights were adversely affected. *See A.J.*, 877 N.E.2d at 813.

Conclusion

This court will 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.” *Matter of A.N.J.*, 690 N.E.2d 716, 722 (Ind. Ct. App. 1997) (quoting *Egley v. Blackford County Dep’t of Pub. Welfare*, 592 N.E.2d 1232, 1235 (Ind. 1992)). We find no such error here.

Affirmed.

BRADFORD, J., and BROWN, J., concur.