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FILED
Nov 24 2010, 10:28 am
CLERK
of the supreme court, court of appeals and tax court

IN THE COURT OF APPEALS OF INDIANA

IN THE MATTER OF THE INVOLUNTARY TERMINATION OF THE PARENT-CHILD RELATIONSHIP OF J.J., MINOR CHILD, AND V.B., MOTHER, AND K.J., FATHER,	)	
V.B. AND K.J.,	)	
Appellants/Respondents,	)	
vs.	)	No. 20A04-1004-JT-226
INDIANA DEPARTMENT OF CHILD SERVICES,	)	
Appellee/Petitioner.	)	

APPEAL FROM THE ELKHART CIRCUIT COURT
The Honorable Terry C. Shewmaker, Judge
The Honorable Deborah A. Domine, Juvenile Magistrate
Cause No. 20C01-1001-JT-1

November 24, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

BRADFORD, Judge

Appellants/Respondents V.B. ("Mother") and K.J. ("Father") appeal the juvenile court's termination of the parent-child relationship with their son J.J. Both parents allege that the Indiana Department of Child Services ("DCS") did not provide sufficient evidence to support the termination of their parental rights. Concluding that the evidence was sufficient to prove adoption is a satisfactory plan, we affirm.

FACTS AND PROCEDURAL HISTORY

In December 2006, two-year-old J.J. was removed from his parents's home because of domestic violence and drug use in the home and placed in foster care. He was adjudicated to be a Child in Need of Services ("CHINS") in February 2007. The dispositional decree ordered both parents to participate in services and to submit random urine drug screens.

Three years later, both parents continued to test positive on urine drug screens, and Father was incarcerated. J.J. was still in the same foster care placement. In January 2010, DCS filed a petition to terminate the parental rights of J.J's parents. Following a hearing, the juvenile court issued an order terminating the parental relationship between J.J. and his parents. In the order, the juvenile court concluded that DCS's plan for the adoption of J.J. was satisfactory. Both parents appeal.

DISCUSSION AND DECISION

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

children. *In re 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 juvenile 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 juvenile court need not wait until the child is irreversibly harmed before terminating the parent-child relationship. *Id.*

Both parents argue that there is insufficient evidence to support the termination of their parental rights. This court will not set aside the juvenile 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 an 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) (2009) 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.

Mother and Father argue that there is insufficient evidence of a satisfactory plan for J.J.'s care and treatment. Specifically, parents argue that adoption is not a satisfactory plan for J.J. because DCS did not notify family members when J.J. was removed from his parents's home. In support of their contention, Mother and Father direct us to Indiana Code section 31-34-3.4-5 (2009), which provides in relevant part as follows:

> If a child is removed from the child's parents . . . within thirty (30) days after the removal . . . the department shall exercise due diligence to identify and provide notice of the removal to . . . all adult relatives of the child.

However, this statute was not effective until July 1, 2009, more than two years after J.J. was removed from their home. Although Mother and Father argue the statute "should be applicable to this case because a petition for termination had not yet been filed," we find no authority to support his argument. Appellant's Br. 19.

In its termination order, the trial court concluded that DCS had a satisfactory plan for J.J.'s care and treatment because the foster family with whom J.J. has been placed for more than half of his life has expressed an interest in adopting him. Adoption is a satisfactory plan. *Matter of A.N.J.*, 690 N.E.2d 716, 722 (Ind. Ct. App. 1997).

The judgment of the juvenile court is affirmed.

KIRSCH, J., and CRONE, J., concur.