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**IN THE
COURT OF APPEALS OF INDIANA**

IN THE MATTER OF J.C.)

ALBERTO CASILLAS,)

Appellant-Respondent,)

vs.)

MARION COUNTY OFFICE OF)
FAMILY AND CHILDREN,)

Appellee-Petitioner.)

) No. 49A02-0611-JV-1047

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Victoria Ransberger, Judge Pro-Tempore
Cause No. 49D09-0501-JT-863

July 5, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Appellant-Respondent Alberto Casillas (“Father”) appeals an order terminating his parental rights to J.C. upon the petition of the Appellee-Petitioner Marion County Office of Family and Children (“the OFC”). We affirm.

Issue

Father presents a single issue for review: Whether the OFC established, by clear and convincing evidence, the requisite statutory elements to support the termination of his parental rights.

Facts and Procedural History

On December 20, 1996, J.C. was born to Father and April Shelton (“Mother”). Father and Mother lived together until J.C. was three years old, when Mother was granted a restraining order against Father. J.C. and his younger sibling remained with Mother.

On December 12, 2002, the OFC filed a petition alleging that J.C. was a Child in Need of Services because he had “severe developmental disabilities” and was “sexually acting out” but Mother had not been providing “professional help in this regard.” (Pet. Ex. 1, pg. 3.) The OFC further alleged that Mother failed to provide a safe and clean living environment. Finally, the OFC alleged that Father had not been in contact with J.C. and his sibling and had demonstrated no ability or willingness to parent J.C. or his sibling.¹ Father admitted to the allegations in the petition, and he was ordered to complete services including home-based counseling and anger management classes. Father also was to obtain suitable housing and

¹ At that time, Father was the alleged or putative father of J.C. and J.C.’s younger sibling. Father

secure a stable source of income.

On January 10, 2005, the OFC petitioned to terminate Father's and Mother's parental rights to J.C. Mother consented to the termination of her parental rights. On September 19, 2006, a hearing regarding Father's parental rights commenced. Father was transported from the Johnson County Jail to attend. The termination hearing concluded on October 10, 2006. On October 31, 2006, the trial court entered an order terminating Father's parental rights to J.C. Father now appeals.

Discussion and Decision

A. Standard of Review

This court will not set aside the trial court's judgment terminating a parent-child relationship unless it is clearly erroneous. In re A.A.C., 682 N.E.2d 542, 544 (Ind. Ct. App. 1997). When reviewing the sufficiency of the evidence to support a judgment of involuntary termination of a parent-child relationship, this Court neither reweighs the evidence nor judges the credibility of the witnesses. Id. We consider only the evidence that supports the judgment and the reasonable inferences to be drawn therefrom. Id.

B. Requirements for Involuntary Termination of Parental Rights

Parental rights are of a constitutional dimension, but the law provides for the termination of those rights when the parents are unable or unwilling to meet their parental responsibilities. In re L.S., 717 N.E.2d 204, 208 (Ind. Ct. App. 1999), trans. denied. The purpose of terminating parental rights is not to punish the parents, but to protect their children. Id.

subsequently established his paternity of J.C.

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

(A) One (1) of the following exists:

- (i) the child has been removed from the parent for at least six (6) months under a dispositional decree;
- (ii) a court has entered a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification are not required, including a description of the court's finding, the date of the finding, and the manner in which the finding was made; or
- (iii) after July 1, 1999, the child has been removed from the parent and has been under the supervision of a county office of family and children for at least fifteen (15) months of the most recent twenty-two (22) months;

(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.

The trial court must subordinate the interests of a parent to those of the child when evaluating the circumstances surrounding the termination. In re A.A.C., 682 N.E.2d at 544. Termination of a parent-child relationship is proper where the child's emotional and physical development is threatened. Id. The trial court need not wait to terminate the parent-child relationship until the child is irreversibly harmed such that his or her physical, mental, and social development is permanently impaired. Id.

C. Analysis

Father contends that the OFC presented insufficient evidence to establish a reasonable probability that the conditions that resulted in J.C.'s removal will not be remedied or that the continuation of the parent-child relationship would pose a threat to J.C. More specifically, Father claims that the trial court made misleading findings of fact minimizing Father's efforts to maintain steady employment and housing.

It is well-settled that a parent's habitual pattern of conduct is relevant to determine whether there is a substantial probability of future neglect or deprivation of the child. In re M.M., 733 N.E.2d 6, 13 (Ind. Ct. App. 2000). Among the circumstances that a trial court may properly consider are a parent's criminal history, drug and alcohol abuse, historical failure to provide support, and lack of adequate housing and employment. McBride v. Monroe County Office of Family and Children, 798 N.E.2d 185, 199 (Ind. Ct. App. 2003).

At the termination hearing, J.C.'s therapist Deia Howell testified that J.C. is mildly mentally retarded, and has been diagnosed with pervasive developmental disorder, attention deficit/hyperactivity disorder, and anxiety disorder. He is in special education classes and requires "discipline and structure." (Tr. 49.) In Howell's opinion, Father had not demonstrated an ability to meet J.C.'s special needs.

Social worker and home-based counselor Amanda Deffner testified that she worked with Father with the goal of developing effective parenting skills, but found that Father became very defensive and "didn't want to take [her] advice on parenting his son." (Tr. 12.) She observed "complete chaos" during J.C.'s visits with Father. (Tr. 12.)

As of the termination hearing, J.C. had not been in Father's custody for the preceding

six years. During that time, Father had experienced several periods of unemployment and was sometimes homeless. Father would typically obtain temporary employment, but his temporary placements did not lead to permanent jobs. Father had ceased paying child support for J.C. in 2003. During the six months that home-based counseling was provided, Father lived in two different houses and a hotel. On the first day of the termination hearing, Father was in jail. When the hearing reconvened three weeks later, Father was staying with a friend and sleeping on the sofa. We may not reweigh the evidence, as Father urges, to find that he has taken adequate measures to secure stable employment and housing.

Accordingly, the OFC presented clear and convincing evidence that the conditions leading to J.C.'s removal would not, in reasonable probability, be remedied.

Conclusion

The OFC established by clear and convincing evidence the requisite elements to support the termination of Father's parental rights to J.C.

Affirmed.

SHARPNACK, J., and MAY, J., concur.