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**IN THE
COURT OF APPEALS OF INDIANA**

IN THE MATTER OF THE TERMINATION)
OF THE PARENT-CHILD RELATIONSHIP)
OF C.M. and D.M., MILAH MARCUM, Mother,)
and CHRISTOPHER MARCUM, Father,)
)
Appellants-Respondents,)
)
vs.)
)
FAYETTE COUNTY DEPARTMENT OF)
CHILD SERVICES,)
)
Appellee-Petitioner.)

No. 21A01-0701-JV-14

APPEAL FROM THE FAYETTE CIRCUIT COURT
The Honorable Daniel Lee Pflum, Judge
Cause Nos. 21C01-0603-JT-88, 21C01-0603-JT-89

July 20, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Milah Marcum and Christopher Marcum appeal the termination of their parental rights to their two youngest children, C.M. and D.M. Parents raise one issue, whether the evidence is sufficient to find that the conditions resulting in removal of the children will not be remedied. We affirm.

FACTS AND PROCEDURAL HISTORY

Christopher and Milah Marcum have four children: P.M was born May 6, 1997; D.J.M. was born December 12, 1998; D.M. was born October 26, 2001; and C.M. was born October 9, 2002. D.J.M. and P.M. are wards of Rush County Department of Child Services (“Rush County”). Milah’s parental rights to them were terminated November 26, 2002. In June, 2004, they were returned to the care of Christopher Marcum. He then had custody of all four children.

Christopher Marcum received services from Rush County including parenting classes, anger management classes, counseling, and homemaker services. Nevertheless, the Fayette County Department of Child Services (“DCS”) continued to receive complaints regarding abuse and neglect of all four children. When DCS went to Christopher’s home to investigate, they discovered Milah in the home despite the Rush County termination order including an order that Milah not have contact with D.J.M. and P.M. All four children were removed from the home for substantiated abuse and neglect on November 23, 2004.

C.M. and D.M. were determined to be children in need of services (“CHINS”) on April 29, 2005. On July 1, 2005, the court entered an order terminating visitation and requiring Milah complete psychological therapy and parenting skills training.

Christopher was not ordered to complete services as he was incarcerated. Milah did not complete all the required services.

Psychological evaluations were performed on the Marcums after Christopher was released from jail in September 2005. On March 8, 2006, DCS filed two petitions for involuntary termination of parental rights. An initial hearing was held on June 16, 2006. The petitions were consolidated and trial was held in Fayette Circuit Court on October 18, 2006. On October 30, 2006, the Fayette Circuit Court entered an order terminating the parental rights of both Milah and Christopher that included the following findings:

- c. There is reasonable probability that:
 - (1) the conditions that resulted in the child's removal or the reasons for the placement outside the parent's home will not be remedied in that
 - a. In 2001, the parents had Petitions Alleging Child in Need of Services filed against them with regard to their two older children, [P.M.] and [D.J.M.], in which dispositional decrees were entered on July 11, 2001.
 - b. D.M. was born on October 26, 2001, and his brother C.M. was born on October 9, 2002.
 - c. Intensive services including homemaker services, homebased services, anger management classes and parenting classes were provided to the parents, however a Petition for Involuntary Termination of Parental Rights was filed in April, 2002.
 - d. Milah Marcum's parental rights were terminated as to her older children, P.M. and D.J.M., on November 26, 2002.
 - e. Homemaker and home based services continued for Christopher Marcum from 2002 to 2004 when all four children were removed from his care.
 - f. Milah Marcum continued to reside with Christopher Marcum and the four children until November 23, 2004 when all four children were removed.
 - g. Christopher Marcum was convicted of battery and neglect of his two older children on May 13, 2005.
 - h. Christopher Marcum failed to complete parenting classes or individual counseling as directed in the CHINS case of D.M., Cause No. 21C01-0411-JC-441.

- i. Milah Marcum attended some individual counseling but failed to successfully complete it.
- j. Leslie Jacobs, M.S.W., therapist for Milah Marcum testified that Milah Marcum would fail to protect her children.
- k. Tim Armstrong, M.A., ABD, completed a psychological assessment of Milah Marcum and stated that she did not possess personality characteristics sufficient to parent. He stated that she has an antisocial, histrionic personality and lacks empathy and compassion.
- l. Tim Armstrong, M.A., ABD completed a psychological assessment of Christopher Marcum and stated he was unable to appreciate the negative effect his actions or his relationships had upon his children.

(2) continuation of the parent-child relationship poses a threat to the well-being of the child in that:

- a. Jason Moore, Jessica Morris and Shannan McCane of Whitewater Valley Care Pavilion supervised visits between Milah Marcum, Christopher Marcum and D.M. Each testified that the children became physically aggressive, biting, hitting, kicking, and used profanity during visitation. Neither Parent was able to appropriately redirect the child's behaviors. Jessica Morris testified that D.M. was calm prior to the visit, became aggressive during visit, and became calmer when the visit ended.
- b. Leslie Jacobs, M.S.W., therapist for Milah Marcum, testified that Milah Marcum would fail to protect her children.
- c. Tim Armstrong, M.A., ABD, completed a psychological assessment of Milah Marcum and stated that she did not possess personality characteristics sufficient to parent. He stated that she has an antisocial, histrionic personality and lacks empathy and compassion. He stated further that Milah Marcum would continue to place her child at risk.
- d. Tim Armstrong, M.A., ABD completed a psychological assessment of Christopher Marcum and stated that he was unable to appreciate the negative effect his actions or his relationships had upon his children.
- e. Debra VanMeter, Family Case Manager, testified that based upon her observations that a continued parent-child relationship would pose a threat to the well-being of the child.
- f. Tim Armstrong, M.A., ABD., testified that based upon his psychological assessments of both parents that a continued

- parent-child relationship for either parent would pose a threat to the well-being of the child.
- g. Shannan McCane, M.S.W., testified that based upon her observations and discussions with staff and foster parents that a continued parent-child relationship for either parent would pose a threat to the well-being of the child. Continuation would cause regression in the child's emotional and cognitive development.
 - h. Christopher Marcum has not visited with the child since March, 2005.
 - i. Milah Macum has not visited with the child since July 2, 2005.

(App. at 129-131.)¹

DISCUSSION AND DECISION

We will not reverse a termination of parental rights unless it is clearly erroneous. *M.H.C. v. Hill*, 750 N.E.2d 872, 875 (Ind. Ct. App. 2001). When determining whether the evidence supports the findings and judgment, we may not reweigh the evidence or reassess the credibility of the witnesses. *Id.* We will set aside the trial court's findings only if they are clearly erroneous; that is, if the record lacks any evidence or reasonable inferences to support them. *Id.* We consider only the evidence and reasonable inferences therefrom that support the judgment. *In re D.G.*, 702 N.E.2d 777, 780 (Ind. Ct. App. 1998).

A trial court may not terminate a parent's rights unless the State demonstrates by clear and convincing evidence "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." Ind. Code § 31-35-2-4(b); *see also In re*

¹ We quote the language in the court's order regarding D.M.. The language in the order regarding C.M. is identical.

W.B., 772 N.E.2d 522, 529 (Ind. Ct. App. 2002) (noting State's burden of proof). Because the statute was written in the alternative, the State needs to prove only one. Therefore, when the evidence supports one of the trial court's conclusions, we need not determine whether the evidence supports the remaining portions of the statute. *See In re J.W.*, 779 N.E.2d 954, 962 (Ind. Ct. App. 2002), *trans. denied sub nom. Weldishofer v. Dearborn County Div. of Family & Children*, 792 N.E.2d 40 (Ind. 2003).

Milah and Christopher challenge only whether the evidence supports the finding that the conditions resulting in removal of the children will not be remedied. However, the court also found a reasonable probability that the continuation of the parent-child relationship poses a threat to the well-being of the child. The court entered a number of independent findings to support that ultimate finding, and the Marcums have not challenged any of those findings. Those findings are sufficient to support the judgment. Accordingly, we affirm.

Affirmed.

SHARPNACK, J., and BAILEY, J., concur.