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**IN THE  
COURT OF APPEALS OF INDIANA**

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IN THE MATTER OF THE TERMINATION OF )  
THE PARENT-CHILD RELATIONSHIP OF )  
T.A.D., Minor Child, and DAWN M. DILLON, )  
Mother, )

DAWN M. DILLON, )  
Appellant-Respondent, )

vs. )

WHITE COUNTY DEPARTMENT )  
OF CHILD SERVICES )  
Appellee-Petitioner. )

No. 91A05-0702-JV-92

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APPEAL FROM THE WHITE CIRCUIT COURT  
The Honorable Robert W. Thacker, Judge  
Cause No. 91C01-0602-JT-1

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August 3, 2007

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BARNES, Judge**

**Case Summary**

Dawn Dillon appeals the termination of her parental rights. We affirm.

**Issue**

Dillon raises one issue, which we restate as whether there is sufficient evidence to support the termination of her parental rights to T.D.

**Facts**

In 2002, Dillon and her child, T.D., resided in Florida with Miguel Montilla, Dillon's then-boyfriend, when the Florida Department of Children and Families ("Florida DCF") determined that Montilla had abused T.D. An investigation by the Florida DCF revealed that Dillon failed to protect T.D., abused substances, and suffered domestic abuse that occurred in T.D.'s presence. T.D. was adjudicated as abused and neglected and was removed from Dillon's care from August 22, 2002, to July 14, 2003.

On July 14, 2003, T.D. was returned to Dillon. The pair moved to Indiana in December of that year. Soon thereafter, Dillon and T.D. moved in with Dillon's ill father. At Dillon's request, her brother Rand Dillon ("Rand") also moved in to provide care for the father and T.D.

On December 10, 2004, T.D.'s aunt observed bruises on T.D. after picking him up from Dillon's home. The aunt immediately contacted law enforcement. A medical

examination revealed extensive bruising over T.D.'s buttocks and upper posterior thigh that appeared to be in different stages of healing. Investigations by local law enforcement and the White County Department of Child Services ("DCS") revealed that Rand physically abused T.D. while Dillon was at work. Dillon admitted that she had seen the bruises but failed to inquire about the source of the bruises or provide any medical care. Rand admitted to striking T.D. at least twenty-six times with a three-inch thick board because T.D. recited the alphabet incorrectly. Rand was convicted of felony battery.

On December 14, 2004, DCS initiated child in need of services ("CHINS") proceedings. The CHINS petition alleged that T.D. had been abused with his mother's knowledge and concealment and that she was unable to care for and protect T.D. On January 12, 2005, the trial court found that T.D. was a CHINS and that placement out of Dillon's home was in his best interests. Dillon agreed to a parental participation plan ("Plan") with which the trial court ordered her to comply. The Plan required Dillon to participate in counseling, case management services, and regular visitation with T.D. while in foster care. The CHINS dispositional decree determined that T.D. needed medical care and counseling to help him deal with anger issues and his previous abuses. On February 11, 2005, T.D. was placed with his aunt and uncle where he has remained.

The Families United family preservation caseworker, Chrissie Allen, also recommended that Dillon receive psychological evaluation, parenting education, and participate in supervised visits with T.D. Allen scheduled regular weekly visits with Dillon but found Dillon to be uncooperative. In July 2005, Dillon became upset with

Allen and Dillon stated that she wished she had put T.D. up for adoption and expressed a desire to kill her family. After Dillon made violent threats toward the staff at Families United, it terminated its relationship with her.

On October 18, 2005, the CHINS court held a permanency hearing and determined that reunification of T.D. and Dillon was not currently in T.D.'s best interests.

In September 2006, the DCS appointed a clinical psychologist, Judith Anderson, to treat Dillon. After about forty sessions with Dillon, Anderson noted that T.D. exhibited sexually inappropriate behavior and showed signs of primitive behaviors including kicking, biting, growling, and licking. Anderson determined that T.D. suffered from behavior disorder, hyperactivity, emotional liability, and impulsivity.

On February 28, 2006, the DCS filed a petition for involuntary termination of parental rights. On November 28, 2006, a termination of parental rights hearing was conducted. Anderson testified at trial that she agreed with the recommendation to terminate Dillon's parental rights.

On January 9, 2007, Dillon's parental rights were terminated. Dillon now appeals.

### **Analysis**

"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, these parental interests are not absolute and must be subordinate to the child's interests in determining the proper disposition of a petition to terminate parental rights. Id. Parental rights may be terminated 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 parents but to protect children. In re D.D., 804 N.E.2d 258, 264-65 (Ind. Ct. App. 2004), trans. denied.

In reviewing proceedings to terminate parental rights, we neither reweigh the evidence nor assess the credibility of the witnesses. Bester v. Lake County Office of Family & Children, 839 N.E.2d 143, 147 (Ind. 2005). We consider only the evidence and reasonable inferences that are most favorable to the judgment. Id. Where a trial court enters findings and conclusions granting a petition to terminate parental rights, we apply a two-tiered standard of review. Id. First, we determine whether the evidence supports the findings. Id. Then we determine whether the findings support the judgment. Id. In deference to the trial court's unique position to assess the evidence, we will only set aside a judgment that is clearly erroneous. Id. A judgment is clearly erroneous when the findings do not support the trial court's conclusions or the conclusions do not support the judgment. Id.

A petition to terminate the parent-child relationship must allege:

(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.

Ind. Code § 31-35-2-4(b)(2).

The DCS had the burden of proving these allegations by clear and convincing evidence. See Bester, 839 N.E.2d at 148. Clear and convincing evidence need not show that the continued custody of the parent is wholly inadequate for the child's very survival. Id. Instead, it is sufficient to show by clear and convincing evidence that the child's emotional and physical development is threatened by the parent's custody. Id.

Dillon argues there is insufficient evidence that the reasons for placement outside of her home will not be remedied and that termination was in T.D.'s best interests. In determining whether the conditions will be remedied, the trial court first should determine what conditions led the State to place the child outside the home, and second if there is a reasonable probability that those conditions will be remedied. In re C.C., 788 N.E.2d 847, 854 (Ind. Ct. App. 2003), trans. denied. "When assessing a parent's fitness to care for a child, the trial court should view the parent as of the time of the termination

hearing and take into account any evidence of changed conditions.” Id. “However, the trial court should also take into account the parent’s habitual patterns of conduct as a means of determining the probability of future detrimental behavior, as well as the services offered by [DCS] to the parent and the parent’s response to those services.” In re K.S., 750 N.E.2d 832, 837 (Ind. Ct. App. 2001).

Here, the evidence demonstrated that the conditions leading to removal of T.D. would not be remedied. In 2002 and 2004, T.D. was severely beaten by men with whom Dillon lived. Both times Dillon was aware of the abuse inflicted upon T.D. and failed to protect him. Dillon chose not to report the abuse or provide T.D. with any medical care. In fact, Dillon instructed T.D. not to tell anyone that he had been abused. Dillon stipulated to two counts of abuse and neglect and agreed to comply with the Plan issued at the conclusion of the CHINS proceedings.

Dillon also has failed to cooperate with her caseworker and support providers. Dillon did not complete her counseling sessions. Dillon’s therapist testified that she did not see much improvement in her condition. Moreover, Dillon demonstrated angry and violent behavior, expressing a desire to kill her family and responding to the support staff at Families United by threatening them. Dillon’s behavior sabotaged her own parenting education by forcing Families United to terminate services.

This evidence is sufficient to show that the conditions that resulted in T.D.’s removal will not be remedied. To the extent Dillon argues otherwise, she is asking us to reweigh the evidence. We may not do so.

There is also sufficient evidence to support the trial court's finding that the termination of Dillon's parental rights was in T.D.'s best interests. In determining what is in the best interests of the child, we are required to look to the totality of the evidence. In re D.D., 804 N.E.2d 258, 267 (Ind. Ct. App. 2004) trans denied. In so doing, the trial court must subordinate the interests of the parents to those of the children. Id. Testimony of a child's guardian ad litem regarding the child's need for permanency supports a finding that termination is in the child's best interests. Id.

Here, the evidence demonstrated that termination was in T.D.'s best interests. The evidence revealed that Dillon has a history of witnessing physical and mental abuse of T.D. and has chosen to conceal the abuse. Significantly, Dillon has failed to provide T.D. with medical care after learning that he had serious bruises in various stages of healing on his body. After comprehensive examination, Dillon's DCS appointed psychologist, Judith Anderson, concluded that termination of parental rights was in T.D.'s best interests. The guardian ad litem concurred with Anderson and explained that Dillon was too self-absorbed to provide T.D. with adequate care on a permanent basis. The DCS caseworker also agreed with termination. This evidence supports the trial court's finding that termination was in T.D.'s best interests.

### **Conclusion**

The evidence presented at trial is sufficient to support termination of Dillon's parental rights. We affirm.

Affirmed.

NAJAM, J., and RILEY, J., concur.