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IN THE
COURT OF APPEALS OF INDIANA

IN THE MATTER OF THE INVOLUNTARY TERMINATION OF THE PARENT-CHILD RELATIONSHIP OF K.B., MINOR CHILD, AND MICHAEL BLACK, FATHER,

MICHAEL BLACK,

Appellant-Respondent,

vs.

MARION COUNTY DEPARTMENT OF CHILD SERVICES,

Appellee-Petitioner,

and

CHILD ADVOCATES, INC.,

Co-Appellee/Guardian ad Litem.

No. 49A02-0612-JV-1168

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Victoria Ransberger, Judge Pro Tempore
Cause No. 49D09-0503-JT-8766

August 17, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Judge

Michael Black appeals the involuntary termination of the parent-child relationship with his minor daughter, K.B., upon the petition of the Marion County Department of Child Services ("DCS"). The dispositive issue, which we raise *sua sponte*, is whether the trial court erred when it failed to issue written findings of fact and conclusions thereon in support of the termination.

We vacate and remand with instructions.

FACTS AND PROCEDURAL HISTORY

K.B. was born on December 17, 1999. In November 2003, the DCS filed a petition alleging that K.B. was a child in need of services ("CHINS"). In May 2004, the trial court determined that K.B. was a CHINS, and she was legally removed from Black's care pursuant to a dispositional decree. On March 8, 2005, the DCS filed a petition to terminate Black's parental rights.

The trial on the termination petition was in November 2006. Black appeared by counsel, but not in person. The trial court received evidence from the DCS, the guardian ad litem, and the social worker who performed a parental assessment. Following the hearing, the trial court terminated Black's parental rights as to K.B. Its order stated in pertinent part:

> 1. The child was found to be a Child In Need of Services…[.]
>
> 2. At the dispositional hearing, the Court determined that it was in the best interest of the child to remain in the wardship of the Marion County Office of Family and Children.
>
> 3 The child has been removed from the parent, Michael Black (Alleged Father) for at least six (6) months under the dispositional decree.
>
> 4. There is a reasonable probability that the conditions which resulted in the removal of the child will not be remedied, that the conditions which

require continued placement outside the home will not be remedied and that continuation of the parent-child relationship poses a threat to the child's well being.

5. Termination of the parent-child relationship is in the best interests of [K.B.].

6. The Marion County Office of Family and Children has a satisfactory plan for the care and treatment of the above named child.

Appellant's App. at 5, 13. Black now appeals.

DISCUSSION AND DECISION

IC 31-35-2-4(b)(2) sets out the following relevant elements that the DCS must allege and prove by clear and convincing evidence in order to terminate the parent-child relationship:

(A) the child has been removed from the parent for at least six month under a dispositional decree;

. . . .

(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.

Termination of the parent-child relationship is proper where the child's emotional and physical development is threatened. *In re R.S.*, 774 N.E.2d 927, 930 (Ind. Ct. App. 2002), *trans. denied* (2003). In judging a parent's fitness, the trial court should examine the parent's

fitness at the time of the termination hearing, as well as the parent's habitual patterns of conduct, to determine whether there is a substantial probability of future neglect or deprivation of the child. *In re A.L.H.*, 774 N.E.2d 896, 899 (Ind. Ct. App. 2002). A court may properly consider evidence of a parent's drug and alcohol abuse, history of neglect, failure to provide support, and lack of adequate housing and employment. *Id.* In this case, the problem we encounter is that, because the trial court made no findings in support of its conclusions, we do not know what evidence the trial court considered.

This court has observed the "interlocking" nature of the statutes governing CHINS cases and those governing involuntary termination of parental rights. *A.P. v. Porter County Office of Family & Children*, 734 N.E.2d 1107, 1112 (Ind. Ct. App. 2000), *trans. denied* (2001). According to IC 31-34-19-10, a CHINS dispositional decree must include written findings and conclusions on the record. We find that due to the extreme and permanent nature of involuntary termination proceedings, a termination order should likewise include written findings in support of its decision. *See A.P.*, 734 N.E.2d at 1118 ("[B]ecause termination of parental rights is such a serious matter, we insist that the procedural mandates of the CHINS and involuntary termination statutes be followed strictly."). In this case, we decline to speculate as to exactly what evidence the trial court heard or considered in terminating Black's parental rights. *See e.g.*, *In re J.Q.*, 836 N.E.2d 961, 966 (Ind. Ct. App. 2005) (CHINS case remanded where, although record contained evidence to support either outcome, appellate court was in "no position to read trial court's mind" in regard to its factual findings).

We remand this case to the trial court with instructions for the court to enter an order that includes findings of fact and conclusions thereon in support of the termination of Black's parental rights.

Vacated and remanded for proceedings consistent with this opinion.[1]

DARDEN, J., and MATHIAS, J., concur.

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[1] Black also challenges a statement that appeared in the court's order, which erroneously indicated that Black's counsel was not present at the trial. We observe that another order of the same date properly reflected that Black's counsel was present at the hearing, and, in fact, orally moved to continue the trial. Because we are remanding for other reasons, it is unnecessary for us to address the validity of Black's arguments about the effect of the trial court's misstatement; however, we direct the trial court to correct the error in its order issued pursuant to this opinion.