ATTORNEY FOR APPELLANT:

JAN B. BERG
Indianapolis, Indiana

ATTORNEY FOR APPELLEE MARION COUNTY DEPARTMENT OF CHILD SERVICES:

TAMMI FORSTER
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

IN THE MATTER OF THE INVOLUNTARY TERMINATION OF THE PARENT-CHILD RELATIONSHIP OF SH.B. AND S.B., MINOR CHILDREN, AND THEIR MOTHER, INDIA BASSETT,	)	
INDIA BASSETT,	)	
Appellant-Respondent,	)	
vs.	)	No. 49A05-0702-JV-91
MARION COUNTY DEPARTMENT OF CHILD SERVICES,	)	
Appellee-Petitioner,	)	
CHILD ADVOCATES, INC.,	)	
Co-Appellee (Guardian Ad Litem).	)	

APPEAL FROM THE MARION SUPERIOR COURT – JUVENILE DIVISION
The Honorable Deborah Shook, Commissioner
Cause No. 49D09-0508-JT-033685

September 5, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

VAIDIK, Judge

Case Summary

India Bassett ("Bassett") appeals the termination of her parental rights to S.B. and Sh.B. Specifically, she contends that the Marion County Department of Child Services' ("MCDCS") plan for the care and treatment of her children—adoption—is not satisfactory. Because the MCDCS proved by clear and convincing evidence that adoption is a satisfactory plan, the trial court's finding that the plan for the care and treatment of the children is satisfactory is not clearly erroneous. We therefore affirm the trial court.

Facts and Procedural History

Bassett is the mother of S.B., who was born September 19, 1994, and Sh.B., who was born January 16, 1992. On November 5, 2004, the MCDCS filed a petition alleging that S.B. and Sh.B. were Children in Need of Services ("CHINS"). The petition alleged that the children were CHINS because Bassett "had left the children along [sic] in the home, with no food, and no one to care for them." Tr. p. 143. The allegations in the CHINS petition include: using crack cocaine in the home, engaging in physical altercations in the home, and having a history of leaving the children unattended for several days at a time. Ex. p. 4. Bassett admitted to the allegations in the CHINS petition, and the trial court found the children to be CHINS.

S.B. and Sh.B. were removed from Bassett, and she was ordered to participate in services to work toward reunification with her children. Bassett completed a parenting

assessment; however, she never completed any of the three referrals for intensive outpatient drug treatment. Additionally, she was granted supervised visitation with her children, but she only participated on a very sporadic basis. Eventually, her visits were suspended. Although she could have had the visitation reinstated, Bassett failed to provide three consecutive clean drug screens. Thus, Bassett's chief obstacle to reunification was "her drug abuse, and her not being able to parent her children." Tr. p. 155.

Since being removed from Bassett's care, S.B. has been placed in a few different locations. Most recently, in August 2006, he was placed in a pre-adoptive therapeutic foster home. S.B. had a comfortable relationship with his foster mother and was receiving support from his school. At some point, however, S.B. was suspended from school and began being cared for by a respite care provider during school hours. Eventually, he ran away from the respite care home. S.B. is believed to be with his grandmother, and a request has been filed to remove him from her home. S.B. needs an individualized education plan; however, he cannot get the plan he needs because Bassett refused to sign for the testing, and only a parent's or educational surrogate's signature will suffice. As a result, S.B. was put on a waitlist for an educational surrogate, but his school had been providing him with services as though he already had a plan in place.

As for Sh.B., she has been placed in Lutherwood, a residential facility, since June 2006, where she receives therapy and has expressed an interest in being adopted. The MCDCS attempted to reunify her with her father,[1] but that attempt failed; however, the

[1] Sh.B. has a different father than S.B. The parties do not indicate that there was an attempt to reunify S.B. with his father.

MCDCS has begun the process of working with Sh.B.'s aunt to be her new pre-adoptive placement.

On August 26, 2005, the MCDCS filed a Petition for Involuntary Termination of the Parent-Child Relationship between Bassett and S.B. and Sh.B.[2] The MCDCS' plan for S.B. is that he be found, returned to his pre-adoptive home, and ultimately adopted by his pre-adoptive foster parent. There is evidence that his foster mother is willing to take him back. *Id*. at 161. Similarly, the plan for Sh.B. is adoption, perhaps by her aunt.[3] Additionally, the MCDCS is considering placing Sh.B. in the "My Forever Family" book for adoptive children.

The final termination hearing was set for July 28, 2006, but the guardian ad litem requested and received a continuance because the children were "not in a stable pre-adoptive situation" and needed "a permanency plan that is viable." Appellant's App. p. 55-56. However, on the final day of the termination hearing on November 3, 2006, the guardian ad litem recommended that adoption was the best option for both children. *Id*. at 208. Likewise, the trial court was initially skeptical that the children would be adopted, stating, "My concern is that there is no clear pre-adoptive home for either child." Tr. p. 214. Nevertheless, on January 18, 2007, the trial court entered Findings of Fact and Conclusions of Law terminating the parent-child relationship between Bassett

---

[2] The MCDCS also sought to terminate Bassett's parental rights to another daughter, Sh.E. However, the proceedings against Bassett with regard to Sh.E. were dismissed because Sh.E. reached the age of eighteen.

[3] Notably, because Sh.B. is over the age of fourteen, her consent is required for adoption to occur. Ind. Code § 31-19-9-1(a)(5).

and S.B., who was twelve years old, and Sh.B, who was fifteen years old. As to the MCDCS' plan for the care and treatment of the children, the trial court found:

> 3. The Department of Child Services has a satisfactory plan for the current and future care of the child [S.B.], which is adoption by the current pre-adoptive foster parent for [S.B.].
>
> 4. The Department of Child Services has a satisfactory plan for the current and future care of child [Sh.B.], which is current placement at Lutherwood and adoption by her maternal aunt or another licensed pre-adoptive foster family.

Appellant's App. p. 21. Bassett now appeals.

Discussion and Decision

Bassett appeals the termination of her parental rights to S.B. and Sh.B. When reviewing the termination of parental rights, we do not reweigh the evidence or judge witness credibility. *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.* Here, the trial court entered findings of fact and conclusions of law in granting the MCDCS' petition to terminate Bassett's parental rights. When reviewing findings of fact and conclusions of law entered in a case involving a termination of parental rights, we apply a two-tiered standard of review. First, we determine whether the evidence supports the findings, and second, we determine whether the findings support the judgment. *Id.* We will set aside the trial court's judgment only if it is clearly erroneous. *Id.* A judgment is "clearly erroneous if the findings do not support the trial court's conclusions or the conclusions do not support the judgment." *Id.* (quotation omitted).

Indiana Code § 31-35-2-4(b)(2) provides that a petition to terminate parental rights must allege, in pertinent part, that:

> (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 Department of Child Services must prove each of these elements by clear and convincing evidence. Ind. Code § 31-37-14-2; *In re D.L.*, 814 N.E.2d 1022, 1026 (Ind. Ct. App. 2004), *trans. denied*. On appeal, Bassett challenges only one of these elements: that there is a satisfactory plan for the care and treatment of the children. Specifically, Bassett maintains: "Simply stating that the plan is 'adoption,' without any foreseeable means of accomplishing that plan, does not amount to a satisfactory plan for the care of the children." Appellant's Br. p. 12. Bassett argues that adoption for S.B. is not a viable or realistic plan because no evidence was produced proving that he will be adopted. Furthermore, because the MCDCS has not located S.B. since he ran away, Bassett contends that adoption is even less likely. Likewise, Bassett maintains that the MCDCS has made no progress with Sh.B.'s adoption; therefore, it is doubtful that she will find permanent placement.

A satisfactory plan for the care and treatment of the children "need not be detailed, so long as it offers a general sense of the direction in which the child[ren] will be going after the parent-child relationship is terminated." *In re D.D.*, 804 N.E.2d 258, 268 (Ind. Ct. App. 2004) (citing *In re B.D.J.*, 728 N.E.2d 195, 204 (Ind. Ct. App. 2000)), *trans.*

denied. Notably, this Court has held that the fact that there is not a specific family in place to adopt the children does not make the plan unsatisfactory. *In re B.D.J.*, 728 N.E.2d at 204 (explaining that it is sufficient that the foster parents expressed some interest because if that avenue does not work the children can pursue other options). Moreover, "Attempting to find suitable parents to adopt the children is clearly a satisfactory plan." *Lang v. Stark County Office of Family & Children*, 861 N.E.2d 366, 375 (Ind. Ct. App. 2007) (citing *Matter of A.N.J.*, 690 N.E.2d 716, 722 (Ind. Ct. App. 1997)), *trans. denied*.

Here, as to S.B., although he did run away, the MCDCS was in the process of retrieving him, and the guardian ad litem testified that "[S.B.] should be located in the very near future. I don't think it's been a big mystery as to where he's been, it's just been difficult to get him back." Tr. p. 210. Additionally, S.B.'s pre-adoptive home is willing to take him back, he is taken good care of by his foster mother, and his school is willing to help him succeed. *Id*. at 161, 210. As to Sh.B., the MCDCS is considering Sh.B.'s aunt as a pre-adoptive placement along with other avenues. *Id.* at 162. Although there is no guarantee that specific families will adopt these children, such is not required. *In re B.D.J.*, 728 N.E.2d at 204. The MCDCS is "attempting to find suitable parents to adopt the children," and this is "clearly a satisfactory plan." *Lang*, 861 N.E.2d at 375.

Finally, Bassett claims that the guardian ad litem and the trial judge's initial hesitancy regarding MCDCS' plan prove that it is unsatisfactory. But, the guardian ad litem ultimately found that reunification with Bassett is not a possibility and that adoption

is the best plan for both children. Tr. p. 208-09. Likewise, the trial judge concluded, in the end, that the MCDCS has a satisfactory plan.

The MCDCS proved by clear and convincing evidence that the plan for the care and treatment of the children—adoption—is satisfactory. As such, the trial court's judgment terminating the parent-child relationship is not clearly erroneous. We therefore affirm the trial court.

Affirmed.

BAKER, C.J., and BAILEY, J., concur.