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**IN THE
COURT OF APPEALS OF INDIANA**

In the Matter of the Termination of the)
Parent-Child Relationship of C.H. and T.H.,)
Children, and James Hodapp and Sarah Hodapp,)
Their Parents,)

JAMES HODAPP and)
SARAH HODAPP,)
Appellants-Respondents,)

vs.)

No. 03A05-0701-JV-63

BARTHOLOMEW COUNTY DEPARTMENT)
OF CHILD SERVICES,)
Appellee-Petitioner.)

APPEAL FROM THE BARTHOLOMEW SUPERIOR COURT
The Honorable Stephen R. Heimann, Judge
Cause No. 03C01-0408-JT-1155

September 25, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

DARDEN, Judge

STATEMENT OF THE CASE

James Hodapp (“Father”) and his wife, Sarah Hodapp (“Mother”), separately appeal the trial court’s order terminating their parental relationships with their children.

We affirm.

ISSUES

1. Whether the trial court erred when it terminated Mother’s and Father’s parental relationships with C.H. and T.H.
2. Whether the trial court’s refusal to grant a continuance to secure Mother’s and Father’s presence at a termination of parental rights hearing constituted a deprivation of due process.

FACTS

Mother and Father are the parents of C.H. (born March 25, 1999) and T.H. (born July 10, 2000). On August 13, 2000, the Bartholomew County Department of Child Services (“the BCDCS”) removed C.H. and T.H. because Father, who had been drinking, was physically abusive to Mother and C.H. Father “slapped [C.H.], choked her, shook her, hit her in the back and spanked her continually, yelled at her, forcibly held her down and poured water in her mouth,” as evidenced by red marks on C.H.’s neck, throat, back and buttocks. (Tr. 40). C.H. and T.H. were wards of the BCDCS from August 13, 2000, through November of 2001, during which time, Mother and Father received home-based services and counseling. The wardship was ultimately dismissed in November of 2001.

On November 2, 2002, the Columbus Police Department informed the BCDCS that Mother’s sister had taken the children to the hospital for investigation of bruises, lice,

a skin condition, and C.H.'s allegations of sexual abuse by Father. A BCDCS investigator interviewed C.H. at the hospital and substantiated her allegations. The attending physician examined C.H. for signs of sexual abuse, and determined that C.H.'s hymen was intact. He also determined that the children did not have lice; their bruises were not suspicious; and that the red marks on their bodies appeared to be a fungus, likely from unclean living conditions. The children were placed into protective custody on November 3, 2002, and subsequently, into foster care.¹

On November 25, 2002, the BCDCS filed a petition alleging that C.H. and T.H. were children in need of services (CHINS). The trial court held a dispositional hearing on March 26, 2003. Family case manager Carol Gwin asked that Mother and Father be ordered to undergo psychological evaluations because the children were back in foster care less than a year after the dismissal of the prior case.

Gwin also introduced case plans for reunifying C.H. and T.H. with their parents. Under the case plans, Mother and Father were to (1) participate in visitation; (2) successfully complete family counseling; (3) successfully complete individual counseling and work on accepting responsibility for the children being in foster care; (4) secure and maintain employment and demonstrate a steady source of income; (5) obtain G.E.D. certifications; (6) actively participate in recommended services; (7) participate in parenting assessments; (8) actively participate in the development of the case plan; (9) maintain weekly contact with Gwin; and (10) cooperate with the BCDCS and its

¹ The children have remained in foster care throughout the pendency of this action.

representatives. The BCDCS also required Father to successfully complete treatment for sexual offenders. The trial court adjudicated C.H. and T.H. to be CHINS and ordered that they be made wards of the Bartholomew County Office of Family and Children (BCOFC).

Between April of 2003 and July of 2004, the trial court conducted a series of review and status hearings, wherein the trial court heard the testimony and/or findings of various service providers and parties involved in the case, including family case manager Gwin; CASA Jack Rubino; sex abuse counselor Trudi Wolfe; Tera Smith of Pathways; Scott Noel of White's Institute; family assessor Diane Burks; and clinical social worker Pat Corbin. On August 4, 2004, the BCOFC filed a petition to terminate Mother's and Father's parent-child relationships with C.H. and T.H. at Burks' urging.

At a permanency hearing on September 16, 2004, Gwin asked the trial court to modify the permanency plan from reunification to termination of parental rights. She also asked the trial court to modify visitation from a weekly to a monthly basis. In its resulting order, the trial court modified the existing permanency plan and visitation. The trial court also conducted its initial hearing on the BCDCS' petition to terminate Mother's and Father's parent-child relationships with C.H. and T.H. The trial court appointed separate counsel to represent Mother and Father.

On February 22, 2006, the trial court conducted a fact-finding hearing on the petition to terminate Mother's and Father's parental relationships with C.H. and T.H. The hearing resumed on May 30, 2006. At the opening of the second day of the hearing, the trial court conducted a telephone conference with Mother, during which Mother

requested a continuance because neither she nor Father was able to get time off from work. The trial court denied the request for a continuance finding that it was not in the children's best interests to prolong the case further.² Thus, Mother and Father were not present for the second day of the fact-finding hearing; they were, however, represented by their respective counsel.

Clinical psychologist Jill Christopher testified that she conducted the psychological evaluations of Mother and Father to determine whether “[they] had any emotional or personality disorders or problems that could affect their parenting ability.” (Tr. 30). She concluded that although neither Mother nor Father had any intellectual problems that would limit their ability to work or take care of their children, they did not take responsibility for any of the reasons why the children were removed. She was also concerned that the services provided them in the past had not resolved their problems. Christopher recommended parenting classes and individual counseling for Mother to address depression following the children's removal, and “her unwillingness to admit that any problems had occurred.” (Tr. 33). Christopher also recommended counseling and parenting classes for Father.

Clinical social worker Pat Corbin testified that she worked with Mother from October of 2003 through the fall of 2004 on “situational depression issues surrounding the removal of her children,” self-esteem and adhering to the case plan. (Tr. 53). Corbin testified that Mother was capable of properly parenting C.H. and T.H. However, Corbin

² The trial court also reviewed the case file on the record and listed the continuances that had been granted throughout the pendency of this action: State: December 29, 2004; Mother and Father: March 28, 2005; Mother and Father: May 9, 2005; Joint motion: July 15, 2005; Mother and Father: April 3, 2006.

refused to recommend reunification with Mother as long as Mother remained with Father. Corbin testified that throughout their sessions, Mother “remained immovable as to the validity of the sexual abuse allegations [She] did not believe it occurred and viewed [Father] as a perpetual victim. If forced to choose between [Father] and her children, . . . [M]other would always choose to stand by her husband.” Mother’s App. 76.

Diane Burks of the Indiana Institute for Families testified that she performed an assessment regarding C.H.’s allegations and considered the appropriateness of pursuing reunification. Burks testified that she met with Mother and Father individually and together, met with C.H. individually, and observed visitations.

Burks testified that Father’s desire to get his children back appeared to be motivated by his “need to outwit the authorities and beat the system.” (Tr. 84-85). Burks noted that Father appeared to be devoid of conscience. She testified further that Father had little regard for societal rules and consequences, and “distracts, justifies, [and] explains away what he does.” (Tr. 85). She noted that Father’s inability to maintain eye contact and his constant physical motion, “suggest[ed], clinically, that he’s dishonest and uncomfortable in an assessment situation.” (Tr. 85). Burks concluded that Father lacked the motivation to change and was a high risk for continued alcohol use and violence.

Burks testified that Mother “says that she’s obsessed with [Father, and] minimizes the violent exchanges throughout their marriage.” (Tr. 87). Burks also testified that Mother blames the authorities, and not Father, for the removal of the children and “seems very naïve regarding the proceedings, her needs for protection for safety and security, relationships and parenting.” (Tr. 87-88). According to Burks, Mother

sees things for the way she wishes they would be instead of the way they really are and she has difficulty dealing with the real world. When she does that, that makes it much easier to return to [Father] each time there's been an incident of violence or disruption in their relationship.

(Tr. 88).

Burks testified that she was concerned by the lack of structure, supervision and discipline present for the children. She testified that Mother and Father “seem basically naïve or immature or deplete [sic] of information regarding the needs of their children, as well as detached and unable to process what these kids would need.” (Tr. 93). Burks added, “The risk in this situation is that it does produce anger and frustration of parents, that has a strong potential for escalating violence, both between the parents and from the parents to the children, particularly for [Father].” (Tr. 94).

Burks testified that C.H.'s account of the alleged abuse was “considerably detailed³ for her age” and “consistent over the sessions.” (Tr. 99). Burks testified further that C.H. “was able to demonstrate [the abuse] using dolls and a considerable amount of

³ At one session, Burks presented C.H. with eight anatomically correct dolls – two adult males, two adult females, two male children and two female children – and asked C.H. to show her how Father had allegedly touched her.

[C.H.] took an adult male doll placed it on top of a child female doll with the female doll facing down to the floor and said, ‘[Father] put winkie in my poop place like a stick, it hurt.’ Continued to say ‘put in mouth, had to swallow the pee stuff and the blue soap.’ I asked her if she had her clothes on or off and she said off. I asked her if she had to touch him and she answered, ‘I didn’t have to touch it.’ I asked her how many times this happened and she said three (3) times. * * * I asked, is this the truth and [C.H.] answered, yes, the truth.

(Tr. 98). Asked to interpret C.H.'s remarks, Burks explained a child might perceive an erect penis as a “stick,” and that sex abuse victims often report about soap when their abusers employ it as a sexual lubricant. Burks also reconciled C.H.'s allegation of vaginal and anal penetration with the medical finding that C.H.'s hymen was intact, and acknowledged that penetration may not have occurred. Burks explained that it is not uncommon for young girls with intact hymens to erroneously report vaginal penetration, because (1) children often mistake painful pressure exerted on their private parts as penetration; and (2) many offenders pursue anal contact to ensure that the child's hymen remains intact.

time had passed since the incidents had occurred, but her expression of it, her disclosure of it, seemed fairly accurate.” (Tr. 99). Burks added that, “[children] don’t usually describe sexual behavior, unless something has happened to them.” (Tr. 105).

Regarding T.H., Burks testified that Mother and Father advised her that he “had talked and then stopped talking later in his development and he was not talking . . . when he was taken out of the home. * * * [T.H.] was [also] terrified of water, wouldn’t let anybody touch him and had difficulty after visits.” (Tr. 100). Burks concluded that T.H. suffered from an attachment disorder and that a significant trauma had manifested itself through the disruption in his development.

Burks testified that she ultimately concluded that “the ongoing conflict, violence, alcohol use and abuse and incongruent and inappropriate parenting by and between [Father] and [Mother], has enabled and facilitated the neglect and abuse of their minor children, resulting in the removal of the children on two (2) occasions.” (Tr. 100-01).

Reunification of [C.H. and T.H.] with [Mother and Father] is considered extremely high risk and would significantly endanger the children. I, therefore, recommend that visitation be concluded immediately, that all efforts toward reunification be concluded and permanency planning and termination of parental rights be initiated, that [C.H. and T.H.] and their foster or adoptive family participate in abuse, trauma and developmental specific treatment program that would provide them with individual care, foster and adoptive family services and parent to child group services.

(Tr. 103). Burks testified that Mother and Father were in denial about C.H.’s allegations and their turbulent relationship. She also noted Mother’s failure to hold Father accountable for his alcohol abuse by repeatedly forgiving his excesses and retreating

upon her ultimatums. Based upon Burks' conclusions, the BCDCS filed its petition for termination of parental rights.

Counselor Ronald Smith of the Indianapolis Counseling Center testified that on September 15, 2003, he interviewed Father and concluded that Father "should attend therapy for men who molest children and that he take a specialized polygraph evaluation by" an expert "certified to give polygraphs to sex offenders." (Tr. 132). Smith testified that "[t]he ultimate purpose [of therapy] is to equip a client with the tools that they can utilize to reduce their chances of re-offending." (Tr. 144). In order to do that, Smith testified, the client must first accept responsibility for what he or she has done. Smith testified that polygraphs are effective in helping sex offenders to "own their sex crime[s] so that they can move forward with treatment," and accordingly, have been used to assist therapists. (Tr. 134). Smith added that in the event that a person is actually innocent of the allegations, the treatment plan shifts its focus to developing a relapse plan designed to keep the client from being falsely accused of abuse in the future.

Smith testified that his clients typically deny the allegations at first, and later admit them. It was Smith's expectation that most of the participants in the group would be willing to admit to their sex offenses; however, he testified that throughout Father's two-month stint in therapy, Father remained in "adamant denial." (Tr. 134). Smith testified that he repeatedly asked Father to undergo the program's mandatory polygraph testing to no avail. Father ultimately advised Smith that he would not submit to the polygraph test and was subsequently discharged on November 28, 2003. Smith testified that in his clinical opinion, Father declined to take the polygraph because he feared legal sanction.

Heather Angebrandt of Healthy Families testified that she conducted an initial family assessment and formulated a treatment plan,⁴ under which she recommended that Mother and Father receive case management services⁵ from Pathways three or four times each week. Pathways case manager Tera Smith testified that from July of 2003 through September of 2004, she worked with Mother and Father on parenting skills and meeting their objectives. Smith was to help Mother and Father (1) provide a safe and stable home; (2) learn age-appropriate parenting skills; (3) maintain housing and income; (4) earn G.E.D. certifications; and (5) comply with the BCOFC's case plan. Smith testified that Mother and Father met most of their treatment goals, except the G.E.D. and sexual abuse treatment requirements. She declined to state whether she believed that Father molested C.H., but testified that she had heard C.H. tell lies on occasion.

Foster care social worker Crystal Nevins testified that she worked with the children's foster parents to address behavioral problems, as well as T.H.'s anger and C.H.'s self-esteem issues. Nevins testified that after several visitation sessions, the treatment team asked the trial court to terminate visitation. Nevins testified that after visits, the children's attitudes "completely changed"; in particular, Nevins cited "the

⁴ The treatment team was comprised of CASA Jack Rubino, BCDCS case manager Gwin, and the family and home-based service providers.

⁵ Case manager Smith would assist Mother and Father with securing employment, meeting educational goals, discussing appropriate child development stages, expectations and parenting issues, and providing a safe and stable home environment.

aggression, the anxiousness,⁶ the way they treated each other” (Tr. 171). Nevins testified further that during visits, Mother and Father exhibited inappropriate parenting skills, lack of discipline, and threatening and bribing behaviors to induce the children to behave. Asked to identify any impediments to Mother’s and Father’s effective parenting, Nevins responded, “[C.H.] is pretty adamant that she was abused and until that could be addressed and she could feel that she was going to be in a safe place, . . . [Mother and Father cannot] be effective because they are totally telling her that didn’t happen, you’re telling a lie.” (Tr. 191-92). Nevins testified that C.H. would be unable to function under such circumstances.

Foster care social worker Scott Noel testified that he provided therapeutic foster care at least twice each month to the children from February of 2003 to June of 2004. Noel testified that he counseled the children and their foster parents. Noel testified that, initially, C.H. “had major boundary issues” and was too affectionate with strangers. (Tr. 256). She also exhibited controlling behaviors and wanted to “take on a care taker type role over [T.H.]” (Tr. 258). In addition, C.H. and T.H. engaged in excessive “[f]ighting, kicking, biting, [and] scratching” and had been seen engaging in “simulated sexual behavior,” with C.H. initiating the activity. (Tr. 257, 258). Noel testified that the latter behavior indicated that C.H. had been “sexualized.” (Tr. 261).

Noel testified that T.H.’s anger management issues stemmed from his frustration at articulation problems and inability to verbalize. Noel testified that through speech

⁶ T.H. urinated on himself twice during one visit, and C.H., who was already toilet-trained, regressed to bedwetting. Nevins testified about T.H.’s reluctance to visit with Father, his physical aggression toward Mother, and the delay tactics that he has employed to avoid visits.

therapy, T.H. learned how to better communicate his feelings. C.H., however, regressed with regard to the sexual abuse issues, and Noel referred her to sexual abuse counseling with Trudi Wolfe. In her ensuing report, Wolfe reported that it was not in C.H.'s best interest to spend time with Father.

CASA Jack Rubino was appointed in mid-January of 2003. He testified that for the first eight months of the case, Mother and Father made "very slow" progress toward achieving the case plan objectives. (Tr. 312). Thereafter, however, Rubino testified that "[t]here was, candidly, some improvement" as Mother and Father enrolled in counseling and began to work towards their G.E.D.s. (Tr. 313). Rubino testified that the two major issues in the case were C.H.'s allegations of sexual abuse and Father's "reluctance to admit and do anything about the alcoholism." (Tr. 313). Rubino testified that he asked the service providers to consider "whether we should convert the case plan from reunification" to termination of parental rights." (Tr. 313).

. . . I thought that because there was no progress on the sexual allegations training and the alcoholism and because the kids had been out of the house for such a long time, that it was foolish to try to continue and pretend that we were . . . going to be recommending reunification. * * * Saying to [Mother and Father] very clearly in a hearing, that how could they possibly expect that any professionals and myself would recommend reunification if they didn't deal with these two (2) issues? And saying to them very, very clearly that if they wanted their children back, . . . that they needed to deal with these two issues. * * * The professionals were unanimous that we should convert this and take steps towards a termination of parental rights.

(Tr. 314).

Rubino testified that termination of parental rights was necessary "for the children's welfare" and "in order to continue [their] development." (Tr. 324-25). He

testified that he has observed an improvement in C.H.'s self-esteem, T.H.'s speech, and the children's interaction. Rubino testified that he could not recommend reunification of children with their parents because the allegations that had led to their removal – molestation and alcoholism – had not been addressed. He also testified that, in his view, Pathways case manager Smith was too complimentary in her assessment of Mother and Father's progress.

BCDCS family case manager Gwin testified that under their case plans, Mother and Father were to (1) actively participate in recommended services; (2) adhere to the visitation plan; (3) complete individual and family counseling; (4) actively participate in the development of the case plan; (5) appropriately parent during visitation; (6) cooperate with the BCDCS; (7) secure and maintain employment; (8) earn their G.E.D. certifications; and (9) maintain contact with Gwin. She testified that, in addition, Father was to complete sex abuse treatment and attend a sex offender treatment group.

Gwin testified that Mother and Father did not maintain regular contact or earn their G.E.D. certifications. Further, she testified, Mother did not complete her individual counseling and Father did not complete sexual abuse counseling. Regarding the latter, Gwin testified,

My main concern is that we've never really addressed the reason that we got involved in this case to begin with and that is the sexual abuse and I know that they've not ever had treatment for that. [Mother] hasn't followed through with counseling to even talk about that. There's not [sic] safety plan in place for either one of them. You know, I think, if that had been done, that we might be in a different position here today, because I think there are some things that they have accomplished, like maintaining a home and maintaining jobs and maintaining visitation . . . that we could have built upon to try to work on reunification and have this case go in a

different direction. We couldn't ever do that because the main reason why we were involved never was addressed.

(Tr. 405). Gwin testified that after Father rejected Ronald Smith's psychosexual treatment program, she recommended that he undergo an assessment with Burks. In Burks' assessment, she strongly advised that the BCDCS pursue termination of Mother's and Father's parental relationships with the children.

When asked about the possibility that C.H. had lied about the alleged sexual abuse, Gwin responded,

It's a possibility, but I think you have to look at the whole big picture of this case. See what happened in the beginning, the interview, and the consistency that [C.H.] has had in saying that Daddy touched her in her privates and hurt her and having also, then, been assessed and evaluated by Diane Burks, that she's been in counseling with Trudi Wolfe, that throughout all of this, she continues to say that something happened to her with Dad. I also think you have to take into consideration that when we stopped having visitations with Dad, she seemed to do better, wasn't as anxious.

(Tr. 463). In response to another question about whether Mother was being punished for supporting Father, Gwin said, "[Father] has not participated in any counseling that had to do with sexual abuse and . . . [Mother] has supported him through that[,] . . . we can't be sure that those kids would be safe in that home." (Tr. 478).

On January 3, 2007, the trial court entered a judgment of involuntary termination of parent-child relationship, wherein the trial court found that termination of parental rights was in the best interests of both C.H. and T.H. Mother and Father now appeal separately from the trial court's order.

DECISION

Mother and Father argue that the trial court erred when it terminated their parental relationships with C.H. and T.H. Specifically, they challenge the trial court's finding that the BCDCS established, by clear and convincing evidence, a reasonable probability that the conditions that resulted in the children's removal would not be remedied and that continuation of the parent-children relationship posed a threat to the children's well-being. In addition, Father contends that his rights to due process were violated when the trial court denied his request for a continuance of the fact-finding hearing.

1. Sufficiency of the Evidence to Warrant Termination of the Parental Relationships

When reviewing termination of parental rights proceedings on appeal, we neither reweigh the evidence nor judge the credibility of witnesses. *In re T.F.*, 743 N.E.2d 766, 773 (Ind. Ct. App. 2001). We consider only the evidence that supports the trial court's decision and the reasonable inferences that may be drawn from that evidence. *Id.* In deference to the trial court's unique position to assess the evidence, we set aside the judgment terminating a parent-child relationship only if it is clearly erroneous. *Id.* If the evidence and inferences support the trial court's decision, we must affirm. *Id.*

"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 E.E.*, 736 N.E.2d 791, 793-94 (Ind. Ct. App. 2000). The purpose of terminating parental rights is not to punish the parents, but to protect their children. *Id.* at 794. To effect the involuntary termination of a parent-child relationship, the State must present clear and convincing evidence establishing the elements of Indiana Code

section 31-35-2-4(b)(2). *In re D.D.*, 804 N.E.2d 258, 265 (Ind. Ct. App. 2004). Thus, the State must prove that:

- (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;

* * * * *
- (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.

I.C. § 31-35-2-4(b)(2).

We note that subsection (b)(2)(B) is written in the disjunctive, and therefore requires the BCDCS to establish by clear and convincing evidence only one of the two requirements of subparagraph (B). Termination was proper if the BCDCS established that the conditions leading to removal would probably not be remedied or that the continuation of the parent-child relationship posed a threat to C.H. and T.H. Here, the trial court concluded that the BCDCS proved both of these requirements. However, for our review, we only need to find that the evidence supports one of the requirements. Thus, we turn to review the evidence that supports the trial court's finding that the continuation of the parent-child relationship posed a threat to C.H.'s and T.H.'s well-being.

First, clinical social worker Corbin testified that she could not recommend reunification as long as Mother remained with Father, because Mother refused to

consider the possibility that Father had molested C.H. and, instead, viewed Father as a “perpetual victim.” Order 3. Corbin testified that she feared that if Mother were forced to choose between Father and the children, she would always stand by Father.

Second, family assessor Burks testified that (1) Father lacked motivation to change and was at high risk for continued alcohol use and violence; (2) Mother and Father were in denial about C.H.’s allegations and their problems; (3) Mother was “obsessed” with Father, and minimized and repeatedly forgave his excesses; (4) Mother and Father did not provide proper supervision, structure and discipline, and “seem[ed] basically naïve or immature or deplete [sic] of information regarding the needs of their children” (Tr. 93); (5) C.H.’s considerably detailed and consistent account of the sexual behavior between herself and Father indicated that “something had happened to [her]” (Tr. 105); and (6) reunification was an “extremely high risk” option and “would significantly endanger the children.” (Tr. 103). When Father declined to comply with the polygraph requirement, family case manager Gwin sent him to Burks for an assessment. Thereafter, Burks strongly advised the BCDCS to seek termination of Mother’s and Father’s parental rights.

Next, foster care social worker Nevins testified that the children reacted negatively to visitation, as evidenced by their aggressive behavior and anxiety. T.H. urinated on himself twice during one session, and C.H. reverted to bedwetting behavior. Nevins also testified that, in her view, C.H. would neither feel safe nor be able to function or feel safe in a setting in which she was accused of fabricating her claim of sexual abuse. Also, foster care social worker Noel testified that C.H. was observed initiating “simulated sexual behavior” with T.H. (Tr. 258). When Noel referred C.H. to counseling with Trudi

Wolfe, Wolfe recommended that visitation be terminated because it was not in C.H.'s best interests to spend time with Father.

Then, sex abuse counselor Ronald Smith interviewed Father and recommended that he undergo "therapy for men who molest children." (Tr. 132). He described Father as being in "adamant denial" about the allegations. (Tr. 134). Also, CASA Rubino testified that termination was necessary for the children's welfare and to continue their development, citing improvements in C.H.'s self-esteem, T.H.'s speech, and their interaction. Finally, family case manager Gwin testified that she could not recommend reunification because she was not "sure that those kids would be safe in that home." (Tr. 478).

We have previously held that termination of the parent-child relationship is appropriate "when the evidence shows that the child's emotional and physical development is threatened." *In re A.H.*, 832 N.E.2d 563, 570 (Ind. Ct. App. 2005). We note further that 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. *Rowlett v. Vanderburgh County Office of Family and Children*, 841 N.E.2d 615, 620 (Ind. Ct. App. 2006).

Here, the overwhelming consensus among the various service providers is that it was in the children's best interests that Mother's and Father's parental rights be terminated. Moreover, the record is replete with considerable testimony, voluminous reports, and clinical findings that indicate that the children's physical, mental, and social development would be threatened if they were reunited with Mother and Father. Given

the foregoing facts, the trial court's finding that a reasonable probability existed that the continuation of the parent-child relationship threatened C.H.'s and T.H.'s well-being is not clearly erroneous.⁷

2. Motion to Continue

Next, Father argues that the trial court erred when it refused to grant him a continuance to ensure that he could attend the termination hearing. He argues that his right to due process was thereby violated because he had no opportunity to state his case after the BCDCS concluded its case-in-chief.

The Due Process Clause of the United States Constitution prohibits state action that deprives a person of life, liberty, or property without a fair proceeding. *In re E.E.*, 853 N.E.2d 1037, 1043 (Ind. Ct. App. 2006). When the State seeks to terminate the parent-child relationship, it must do so in a manner that comports with the requirements of due process. *Id.* The nature of the process due in a termination of parental rights proceeding turns on the balancing of three factors: (1) the private interests affected by the proceeding; (2) the risk of error created by the State's chosen procedure; and (3) the countervailing governmental interest supporting use of the challenged procedure. *In re*

⁷ Throughout his brief, Father argues that services were discontinued and visitation limited because he refused to take the polygraph test. We disagree with this characterization of the facts. The facts reveal that the decision to restrict visitation and pursue termination of parental rights was taken at the behest of several psychologists, case workers, therapists and other service providers who interviewed, assessed, and/or observed C.H., and concluded – based upon C.H.'s considerably detailed accounts of sexual abuse, her self-esteem and depression, and her negative response to visitation – that a permanency plan of reunification was inappropriate. Under the facts of the instant case, we find that the trial court had ample bases – independent of Father's refusal to take a polygraph – upon which to conclude that termination of parental rights was appropriate.

That said, however, we leave for another day the question of whether a parent accused of sexual abuse can be ordered to subject him- or herself to mandatory polygraph testing as part of a court-ordered sexual abuse treatment program.

C.C., 788 N.E.2d 847, 852 (Ind. Ct. App. 2003). We must identify the precise nature of the private interest threatened by the State before we can properly evaluate the adequacy of the State's process. *Id.*

In this case, both the private interests and the countervailing governmental interests affected by the proceeding are substantial. This action involves “a parent’s interest in the care, custody, and control of [his] child, which as been recognized as one of the most valued relationships in our culture.” *E.E.*, 853 N.E.2d at 1043.

Moreover, it is well settled that the right to raise one’s child is an essential, basic right that is much more precious than property rights. As such a parent’s interest in the accuracy and justice of the decision is commanding.

Id. Also noteworthy, however, is the State’s *parens patriae* power to intervene when parents neglect, abuse, or abandon their children. *In re T.H.*, 856 N.E.2d 1247, 1250 (Ind. Ct. App. 2006). “Delays in the adjudication of a case impose significant costs upon the functions of government as well as an intangible cost to the lives of the children involved.” *E.E.*, 853 N.E.2d at 1043.

The trial court denied Mother’s and Father’s continuance because the matter had been pending for a significant period of time. The trial court also cited the need for permanency in the children’s lives, and the trial court’s impression that the parents had not expended appreciable effort toward ensuring their attendance, maintaining contact with counsel, or preparing their cases. The trial court noted further that the May 30, 2006, hearing date was set on April 3, 2006, and that Mother and Father had received notice.

When balancing the competing interests of a parent and the State, we must also consider the risk of error created by the challenged procedure. Despite Father's contention that, had he been present, he could have presented evidence pertaining to "his present ability to properly care for his children," we find that his rights were not significantly compromised. Father's Br. 28. In Father's absence, his counsel cross-examined the State's witnesses, heard the State's evidence, and objected on his behalf. Further, we note that Father had no constitutional right to be present at the termination hearing. *E.E.*, 853 N.E.2d at 1044.

After balancing Father's substantial interest with that of the State, and in light of the minimal risk of error by the trial court's denial of Father's request for a continuance, we find that the trial court's denial of Father's requested continuance and its decision to proceed in Father's absence did not deny Father procedural due process.

Affirmed.

MAY, J., and CRONE, J., concur.