



In the Missouri Court of Appeals Eastern District

DIVISION FOUR

IN THE INTEREST OF: J.G.W.

) No. ED108803
)
) Appeal from the Circuit Court of
) St. Louis County
)
) Honorable Margaret T. Donnelly
)
)
) Filed: November 17, 2020

Introduction

L.M.W. (“Mother”) appeals the judgments of the trial court terminating her parental rights to her children, J.G.W. and D.R.W. (the “Children”).¹ The trial court concluded termination was proper on numerous grounds under section 211.447.5.² Mother appeals, challenging the sufficiency of the evidence to support the trial court’s finding that grounds for termination under sections 211.447.5(2) and 211.447.5(3) were satisfied. Mother also challenges the sufficiency of the evidence supporting the trial court’s finding that termination was in the Children’s best interests under section 211.447.7.

¹ A petition was filed on behalf of each child and a separate judgment was entered for each, though the cases were heard at a single trial. The individual cases for each child were consolidated for this appeal.

² All statutory references are to RSMo (2019), unless otherwise indicated.

We find substantial evidence supports termination of Mother's parental rights on the ground of neglect under section 211.447.5(2); thus, we need not address whether substantial evidence supports termination of Mother's parental rights on any other ground. We also find substantial evidence supports termination of Mother's parental rights was in the best interests of the Children under section 211.447.7. The trial court's judgment is affirmed.

Factual and Procedural Background³

Mother is the biological mother of the Children. On September 6, 2016, the Children came under the jurisdiction of the trial court after the trial court found the Children's two-year-old sibling sustained bruising to his face and abdomen and died of his injuries while under the care and custody of Mother and Mother's then-boyfriend.⁴ On November 14, 2016, legal and physical custody of the Children was transferred to the Missouri Department of Social Services, Children's Division ("Children's Division").

On August 1, 2018, Children's Division filed petitions to terminate Mother's parental rights. The petitions asserted, under section 211.447.5(2), the Children were abused or neglected and, under section 211.447.5(3), the Children had been under the trial court's jurisdiction continuously for at least one year and Mother failed to rectify the potentially harmful conditions that would allow the Children to return to Mother's care in the near future. In addition, the petitions asserted, under section 211.447.7, termination of Mother's parental rights was in the best interests of the Children. On July 15, 2019, the Children's Division filed amended petitions to terminate Mother's parental rights. The amended petitions also asserted that, under section 211.447.5(5),

³ We view the evidence and permissible inferences drawn from the evidence in the light most favorable to the trial court's judgments. *In Interest of T.T.G. v. K.S.G.*, 530 S.W.3d 489, 491 (Mo. banc 2017).

⁴ Mother's then-boyfriend was held criminally responsible for the two-year-old child's death and sentenced to twenty years in prison consecutive to life without parole.

Mother was unfit to be a party to the parent-child relationship because of a consistent pattern of committing a specific abuse.

A trial was held on July 30, July 31, and August 14, 2019, to determine whether there were statutory grounds to terminate Mother's parental rights and whether termination of Mother's parental rights was in the Children's best interests. The trial court took judicial notice of the records in the Children's underlying abuse and neglect proceedings.⁵ The Children's case manager, the Children's therapist, Mother's aunt, the Children's foster mother, Mother's therapist, Mother's psychologist, and several professionals supervising Mother's involvement in parenting education programs and visitation testified at trial. Mother did not testify.

On November 29, 2019, the trial court terminated Mother's rights to the Children. The trial court's judgment⁶ indicated that, according to section 211.447.5, there were three bases to terminate Mother's parental rights: abuse or neglect,⁷ failure to rectify,⁸ and parental unfitness.⁹ The trial court also found, under section 211.447.7, it was in the best interest of the Children that Mother's parental rights be terminated.

This appeal follows. Additional facts are discussed in the analysis portion of this Opinion as necessary.

⁵ The Children were adjudicated abused or neglected in Cause Nos. 16SL-JU00789 and 16SL-JU00790.

⁶ The trial court entered two judgments: one terminating Mother's parental rights to J.G.W. and one terminating Mother's parental rights to D.R.W. Because the judgments are nearly identical, we refer to them as one judgment.

⁷ The statutory requirements for abuse or neglect are found in section 211.447.5(2).

⁸ The statutory requirements for failure to rectify are found in section 211.447.5(3).

⁹ The statutory requirements for parental unfitness are found in section 211.447.5(5).

Standard of Review

“This Court reviews whether clear, cogent, and convincing evidence was presented to support a statutory ground for terminating parental rights under *Murphy v. Carron*, 536 S.W.3d 30 (Mo. banc 1976).” *J.A.R. v. D.G.R.*, 426 S.W.3d 624, 626 (Mo. banc 2014) (quoting *In re Adoption of C.M.B.R.*, 332 S.W.3d 793, 815-16 (Mo. banc 2011)). Accordingly, we will affirm the trial court’s judgment “unless there is no substantial evidence to support it, it is against the weight of the evidence, or it erroneously declares or applies the law.” *Id.* We will only reverse the trial court’s judgment “if we are left with a firm belief that the order is wrong.” *Id.*

Clear, cogent, and convincing evidence is “evidence that instantly tilts the scales in favor of termination when weighed against the evidence in opposition and the finder of fact is left with an abiding conviction that the evidence is true.” *Interest of J.L.D.*, 560 S.W.3d 906, 911 (Mo. App. E.D. 2018) (quotations omitted). “After this Court determines that one or more statutory ground has been proven by clear, convincing, and cogent evidence, this Court must ask whether termination of parental rights was in the best interest of the child.” *J.A.R.*, 426 S.W.3d at 626. “At the trial level, the standard of proof for this best interest inquiry is a preponderance of the evidence; on appeal, the standard of review is abuse of discretion.” *Id.* “Judicial discretion is abused when a court’s ruling is clearly against the logic of the circumstances then before the court and so arbitrarily and unreasonable as to shock the sense of justice and indicate a lack of careful consideration.” *In Interest of A.R.T.*, 496 S.W.3d 610, 618 (Mo. App. S.D. 2016). “If reasonable minds can differ about the propriety of the trial court’s ruling, there was no abuse of discretion.” *G.J.R.B. v. J.K.B.*, 269 S.W.3d 546, 556 (Mo. App. S.D. 2008). “We are . . . not permitted to substitute our judgment for that of the trial court, but must abide by its decision so long as reasonable minds may differ about the propriety of its ruling.” *Id.*

“In reviewing questions of fact, the reviewing court will defer to the trial court’s assessment of the evidence if any facts relevant to an issue are contested.” *Pearson v. Koster*, 367 S.W.3d 36, 44 (Mo. banc 2012) (citing *White v. Dir. of Revenue*, 321 S.W.3d 298, 308 (Mo. banc 2010)). “[A] trial court is free to disbelieve any, all, or none of the evidence and the appellate court’s role is not to re-evaluate testimony through its own perspective.” *Id.* at 308-09. “The trial court receives deference on factual issues because it is in a better position not only to judge the credibility of the witnesses and the persons directly, but also their sincerity and character and other intangibles which may not be completely revealed by the record.” *Id.*

Discussion

Point I: Abuse and Neglect (Section 211.447.5(2))

In her first point, Mother argues no clear, cogent, and convincing evidence exists to support the trial court’s finding Mother abused or neglected the Children under section 211.447.5(2). We disagree.

Under section 211.447.5(2), parental rights may be terminated if:

The child has been abused or neglected. In determining whether to terminate parental rights pursuant to this subdivision, the court shall consider and make findings on the following conditions or acts of the parent:

- (a) A mental condition which is shown by competent evidence either to be permanent or such that there is no reasonable likelihood that the condition can be reversed and which renders the parent unable to knowingly provide the child the necessary care, custody and control;
- (b) Chemical dependency which prevents the parent from consistently providing the necessary care, custody and control of the child and which cannot be treated so as to enable the parent to consistently provide such care, custody and control;
- (c) A severe act or recurrent acts of physical, emotional or sexual abuse toward the child or any child in the family by the parent, including an act of incest, or by another under circumstances that indicate that the parent knew or should have known that such acts were being committed toward the child or any child in the family; or

(d) Repeated or continuous failure by the parent, although physically or financially able, to provide the child with adequate food, clothing, shelter, or education as defined by law, or other care and control necessary for the child's physical, mental, or emotional health and development.

“While the trial court must make findings on each factor, parental rights may be terminated on the finding of *one* factor.” *In re B.J.H., Jr.*, 356 S.W.3d 816, 828 (Mo. App. W.D. 2012) (emphasis added) (citing *In re T.M.E.*, 169 S.W.3d 581, 585 (Mo. App. W.D. 2005)).

Trial Court’s Findings

The trial court found the Children were adjudicated abused or neglected on September 6, 2016, when the trial court found the allegation that the Children’s two-year-old sibling sustained bruising to his face and abdomen and died of his injuries while under the care and custody of Mother and Mother’s then-boyfriend was true. The trial court noted Mother does not challenge the validity of that adjudication and concluded Mother continued to neglect the Children at the time of the termination trial. The trial court then made specific findings regarding the factors set out in section 211.447.5(2).

Regarding Mother’s mental condition, the trial court found: “There was substantial evidence presented that Mother suffers from a mental condition which cannot be reversed and which renders Mother unable to knowingly provide the Child[ren] with necessary care, custody, and control.” The evidence showed Mother has “multiple diagnoses,” including “schizophrenia, multiple episodes, currently in partial remission (by history); major depressive disorder, recurrent (at times severe without psychotic features); posttraumatic stress disorder; ED NOS (eating disorder, not otherwise specified); ADHD and borderline personality disorder.” The evidence showed “Mother’s symptoms when not medicated include flashbacks, nightmares, suicidal

ideations, homicidal ideations, persistent sadness and crying, low energy and low motivation, and sleep disturbance.” Mother qualifies for psychiatric care through BJC Behavioral Health and is prescribed 100 milligrams of Haldol every month. Mother receives Social Security Disability payments because of a mental health diagnosis.

Specifically, the trial court found testimony from Dr. Lisa Emmenegger, a psychologist who evaluated Mother in 2016 and 2019 and opined Mother’s mental illness has affected her parenting capacity, functioning, and ability to make decisions, credible.

Dr. Emmenegger testified: In 2016, she diagnosed Mother with schizophrenia and continued that diagnosis after her 2019 evaluation of Mother. Schizophrenia is a psychotic disorder characterized by a range of cognitive, emotional behavior dysfunctions. According to the DSM-V, to diagnose a person with schizophrenia, schizophrenic symptoms must last for at least six months and affect a person’s work, self-care, and functioning. A person must experience two of these symptoms during that time: hallucinations, delusions, disorganized speech, diminished emotional expression, or catatonic behavior. In her 2016 evaluation of Mother, Mother described instances of hallucinations and delusions. Mother had a blunt affect, did not display empathy or upset regarding the abuse of the Children, and did not convey anger toward her ex-boyfriend who murdered her child. In her 2019 evaluation of Mother, Mother still described instances of hallucinations and delusions and was always worried and frustrated.

Mother’s mental illness can negatively affect her judgment and competency to parent, recognize problems, respond appropriately, protect the Children from unnecessary harm, and care for her own mental health. In 2016, Mother’s schizophrenia compromised her parenting decision-making, which was evidenced by Mother’s inability to protect the Children from abuse in the home because she was not aware of the abuse or she knew about the abuse but minimized or dismissed

it. Dr. Emmenegger recommended Mother attend counseling, comply with psychiatric treatments, consider long-acting contraception, and obtain “ongoing practical and specific parenting support” through a family member who could live with Mother. In 2016, Mother told Dr. Emmenegger she was not taking her medication for extended periods of time. Dr. Emmenegger described Mother’s judgment and insight as “marginal” and “questionable” in 2016.

In 2019, Dr. Emmenegger still had concerns about Mother’s judgment and insight. Mother allowed J.G.W.’s father to be around and discipline the Children’s older sibling while unsupervised, in violation of a court order. Dr. Emmenegger continued recommending Mother attend counseling, comply with psychiatric treatments, and consider long-acting contraception. In 2019, Mother told Dr. Emmenegger she was not taking her medication for at least four weeks at a time. Even though Mother had completed numerous parenting support services and programs since 2016, Dr. Emmenegger still had concerns about Mother’s judgment and insight. She continued her recommendation that another responsible adult be present in Mother’s home to assist Mother with parenting the Children.

The trial court found “[t]he credible evidence is that since the Child[ren] have come into care there is an ongoing problem with Mother’s judgment about her relationships with non-family members, particularly men.” The trial court credited the testimony of Dan Fennewald, the Children’s case manager since October 2018, to support this finding. Fennewald testified: “[F]rom the onset of the case, Children’s Division [has been] concerned about [Mother]’s protective capacity in protecting her [C]hild[ren] from other men, other future men, that [are] in her life.” Although Mother completed the services Children’s Division requested,¹⁰ he does not believe

¹⁰ Fennewald testified Children’s Division created a written service agreement with Mother that required Mother to visit the Children; make child support payments; obtain sufficient income; maintain appropriate housing; notify Children’s Division of any changes of anyone living in her home within five days; sign releases of information

Mother has demonstrated an understanding of the risks of introducing new men to the Children. Before he became the Children's case manager, the case record revealed Mother put the interests of her boyfriends before the interests of the Children. While he has been the Children's case manager, Mother has asked him about boyfriends and whether they can have contact with the Children. Mother has introduced and attempted to introduce different men to the Children during visitation.

For example, Mother told him her boyfriend had contact with the Children during visitation two-to-three weeks before trial. Mother also asked Fennewald whether her boyfriend could drive her to Six Flags for a visit with the Children. Mother brought J.G.W.'s father around the Children during visitation in violation of a court order. Mother allowed J.G.W.'s father to discipline the Children's older sibling during that unauthorized visit. An adult male died from a heroin overdose while living in Mother's home in 2017, although Fennewald did not know whether the man was living with Mother or visiting Mother's home.

The trial court also credited testimony from Doris Irby, a family support specialist who had supervised visits between Mother and the Children for over one year at the time of trial, to support its finding. Irby testified that, a few weeks before trial, she arrived in her car with the Children for a visit at Mother's home as Mother's boyfriend was leaving the house. She testified "[t]he kids started panicking and wanted to know who was coming [out of] the house." She testified the Children were upset that Mother's boyfriend was present and did not want to get out of the car. Mother did not introduce her boyfriend to the Children. Irby told Mother she should introduce her boyfriend to the Children next time they see him leaving the house so they would not panic the

requested from Children's Division; attend a parenting program; attend individual therapy, and participate in psychiatric treatment.

next time they saw him. Ten minutes before the visit was over, Mother called her boyfriend and asked him to return to her house so she could introduce him to the Children. Irby testified the introduction did not go well. She testified J.G.W. did not want to meet Mother's boyfriend. She testified Mother told the Children, "This is my friend." She testified the interaction lasted no more than three minutes. She also testified Mother demonstrated no awareness the visit was not going well.

The trial court also found "[m]ultiple witnesses described Mother's inability to understand the Child[ren]'s trauma and effectively deal with [their] needs." The trial court credited testimony from Irby to support this finding. It noted Irby testified that, although she has worked with Mother on parenting skills and seen Mother make "a lot of progress" in applying techniques such as implementing "family rules" and a reward system for the Children's behavior, Mother has not improved in identifying the Children's triggers. For example, Irby testified she told Mother how to watch D.R.W.'s body language to identify his triggers and respond to them, but Mother does not engage or talk to D.R.W. when he is upset. Irby testified Mother also does not know how to identify or address J.G.W.'s triggers.

The trial court also credited the testimony of Ann McAndrew, a professional overseeing the parenting education program and child-parent relationship therapy program Mother completed, to support its finding. McAndrew testified Mother was sometimes disengaged during the sessions. Observers had to ask Mother to get off the phone and attend to the Children. Mother once left a session without asking anyone to watch the Children. Sometimes the Children misbehaved and became emotionally dysregulated and Mother did not attend to them. Mother was "more like a warm observer than someone who was really engaging" during the sessions.

During the sessions, McAndrew observed the Children demonstrated many trauma responses and Mother had difficulty knowing how to respond to them. At one session, D.R.W. was stabbing J.G.W. in the leg and she had to “physically take [D.R.W.] off” of J.G.W. McAndrew testified Mother was in tears and said, “I don’t know how to handle them. I don’t know what to do.” McAndrew testified that, after she coached Mother on how to handle the situation, Mother responded “very well, but it was a very overwhelming situation for [Mother], and it was very overwhelming for the [C]hildren. It wasn’t safe.”

Based on her observations, McAndrew felt the Children are not safe with Mother. Although McAndrew thinks Mother loves the Children, Mother could not respond proactively and care for them during the sessions. While McAndrew had not observed Mother and the Children interact outside the sessions, she noted the more stimulation, distractions, and potential trauma triggers that exist, the harder it will be for Mother to respond appropriately to the Children. In McAndrew’s professional opinion, Mother could not execute all the skills they worked on in the sessions by herself. She opined it would be best if a family member served as the primary caregiver for the Children and Mother lived with the family member and engaged with the Children emotionally. McAndrew expressed concern about Mother spending overnights alone with the Children or any longer period of time alone because of Mother’s tendency to become distracted, disengaged, and lost in her own thoughts.

The trial court concluded these incidents demonstrated Mother’s mental condition caused her to have poor judgment and lack insight regarding the Children’s needs. The trial court concluded Mother’s “continuing pattern of behavior creates safety concerns and an inability to protect [the C]hildren.”

Regarding Mother's failure to provide the Children with adequate food, clothing, shelter, or education, the trial court found: "Mother has repeatedly and continuously failed, although physically or financially able, to provide the Child[ren] with adequate food, clothing, shelter or other care and control necessary for the Child[ren]'s physical, mental, or emotional health and development." The trial court acknowledged Mother has maintained employment during some of the time the Children have been in care, the Children receive dependency benefits from Mother's Social Security Disability payments, and Mother provides some food and gifts during visits. However, the trial court concluded "the credible evidence is that Mother has not demonstrated an ability to maintain a home and working utilities on a consistent basis." The trial court credited the testimony of Irby to support this finding. Irby testified, although she has worked with Mother on budgeting, Mother's utilities have been shut off at various times and one time Mother lacked food. Mother's utilities were shut off as recently as April 2019, just a few months before trial. Mother struggled to keep a stable job.

The trial court further found Mother cannot meet the mental and emotional needs of the Children. The trial court credited the testimony of Ciarra Yancey, the Children's play and trauma therapist, to support this finding. Yancey testified the Children demonstrate defiant behaviors. She testified they run away, hide, scream, cry, and throw things when they are upset. Yancey testified she believes a structured environment would help the Children and their behaviors. She testified both the Children need "one-on-one attention . . . [so] they can deal with and cop[e] with their emotions appropriately." The trial court again credited McAndrew's testimony that Mother was sometimes disinterested, emotionally dysregulated, and would leave the room without asking anyone to supervise the Children during parenting-education sessions. The trial court also credited McAndrew's opinion that "Mother cannot execute on all the skills needed as a parent and needs

another adult to be the primary caretaker.” The trial court concluded the Children have special needs and show signs of trauma. The trial court found “[t]he credible evidence is that Mother has not shown an interest in or ability to meet the Child[ren]’s significant emotional needs.”

The trial court noted there was no evidence presented at trial that Mother suffers from a chemical dependency or committed any severe or recurrent acts of physical, emotional, or sexual abuse toward the Children.

Analysis

Mother argues the trial court’s finding that her parental rights should be terminated under section 211.447.5(2) is unsupported by clear, cogent, and convincing evidence because there was no reliable evidence presented at trial that Mother has schizophrenia. She argues the trial court improperly assumed she had schizophrenia because she was prescribed Haldol. Mother argues she instead has PTSD. She argues the symptoms the trial court identified, which included “flashbacks, nightmares, suicidal ideations, homicidal ideations, persistent sadness and crying, low energy and low motivation, and sleep disturbance,” were “all symptoms of PTSD” according to the DSM-V. She argues PTSD is a treatable condition; therefore, she does not have a mental condition that is unlikely to be reversed.

We first note Mother does not challenge the trial court’s finding under section 211.447.5(2) that Mother failed “to provide the Child[ren] with adequate food, clothing, shelter or other care and control necessary for the Child[ren]’s physical, mental, or emotional health and development.” Mother’s brief is silent about the sufficiency of the evidence regarding her ability to provide the Children with food, clothing, or shelter or meet the Children’s mental and emotional needs. “While the trial court must make findings on each factor, parental rights may be terminated on the finding

of *one* factor.” *B.J.H., Jr.*, 356 S.W.3d at 828 (emphasis added). Mother’s failure to challenge this finding is fatal to the claim raised in her first point.

Notwithstanding Mother’s failure to challenge the trial court’s finding she failed to provide the Children with adequate food, clothing, or shelter, Mother’s argument regarding the trial court’s finding she had a mental condition with no reasonable likelihood of reversal is meritless. The trial court never found Mother had schizophrenia to the exclusion of other mental conditions. To the contrary, the trial court found the evidence showed Mother has “multiple diagnoses,” including schizophrenia *and* PTSD. The trial court found “the evidence from the records and testimony was clear that Mother’s symptoms when not medicated include flashbacks, nightmares, suicidal ideations, homicidal ideations, persistent sadness and crying, low energy and low motivation, and sleep disturbance.” The trial court found these symptoms existed regardless of Mother’s diagnosis and affected her “judgment about her relationships with non-family members, particularly men,” and her ability to “understand the Child[ren]’s trauma and effectively deal with [their] needs.”

Nevertheless, the evidence supports the trial court’s finding Mother was diagnosed with schizophrenia. As described above, Dr. Emmenegger first diagnosed Mother with schizophrenia in 2016 and continued that diagnosis at Mother’s second evaluation in 2019. Dr. Emmenegger explained what is required to diagnose a person with schizophrenia under the DSM-V. She explained Mother’s symptoms, such as hallucinations, delusions, blunt affect, unusual emotional responses, worry and frustration, that led her to that diagnosis. Dr. Emmenegger acknowledged the symptoms of schizophrenia may be similar to those described in the DSM-V for PTSD. Notably, Dr. Emmenegger testified, whether or not Mother was diagnosed with schizophrenia or PTSD, she recommended Mother undergo “the same services and treatment, which would be individual counseling, addressing her grief and loss.” Dr. Emmenegger testified that, while

schizophrenia is a treatable diagnosis, Mother did not take her medication for extended periods of time in both 2016 and 2019. The trial court did not assume Mother had schizophrenia based on her Haldol prescription, as Mother argues. The trial court's finding Mother has a mental condition with no reasonable likelihood of being reversed that renders her unable to knowingly provide the Children with necessary care, custody, and control is well-supported by the record.

There is clear, cogent, and convincing evidence to support the trial court's finding Mother neglected the Children under section 211.447.5(2).

Point I is denied.

Point II: Failure to Rectify (Section 211.447.5(3))

We need not address Mother's second point on appeal. "When the trial court finds multiple statutory grounds for termination of parental rights, in order to affirm the judgment this Court need only find that one of the statutory bases was proven and that termination was in the best interests of the child." *In Interest of J.A.F.*, 570 S.W.3d 77, 82 (Mo. App. W.D. 2019). Because substantial evidence supports the trial court's conclusion that Mother's parental rights should be terminated under section 211.447.5(2), we need not address the substantial evidence that supports termination of Mother's parental rights under section 211.447.5(3).¹¹

Point II is denied.

¹¹ We also note the trial court found a third basis for terminating Mother's parental rights: section 211.447.5(5), parental unfitness. Mother does not challenge parental unfitness as a basis for terminating her parental rights on appeal. Generally, when an appellant challenges the existence of some but not all statutory grounds for termination found by the trial court, this Court need not address the appellant's claims related to the existence of statutory grounds for termination on appeal. See *In re B.S.W.*, 108 S.W.3d 36, 43-44 (Mo. App. S.D. 2003), *abrogated on other grounds by In re M.D.R.*, 124 S.W.3d 469 (Mo. banc 2004). However, because the trial court's judgment "adopt[ed] fully" its previous findings relating to the abuse or neglect basis under section 211.447.5(2) in finding the statutory ground of parental unfitness was also satisfied, we addressed Mother's Point I challenging the abuse or neglect basis for terminating her parental rights.

Point III: Best Interests of the Children (Section 211.447.7)

In her third point, Mother argues “there was insufficient evidence to support the [trial court’s] findings made pursuant to Section 211.447.7”; thus, the trial court abused its discretion in finding termination was in the best interests of the Children. We disagree.

Section 211.447.7 provides the trial court with seven factors to consider when determining whether termination of the parent-child relationship is in the best interests of a child. See § 211.447.7(1)-(7). These factors include:

- (1) The emotional ties to the birth parent;
- (2) The extent to which the parent has maintained regular visitation or other contact with the child;
- (3) The extent of payment by the parent for the cost of care and maintenance of the child when financially able to do so including the time that the child is in the custody of the division or other child-placing agency;
- (4) Whether additional services would be likely to bring about lasting parental adjustments enabling the return of the child to the parent within an ascertainable period of time;
- (5) The parent’s disinterest in or lack of commitment to the child;
- (6) The conviction of the parent of a felony offense that the court finds is of such a nature that the child will be deprived of a stable home for a period of years . . . ;
- (7) Deliberate acts of the parent or acts of another of which the parent knew or should have known that subjects the child to a substantial risk of physical or mental harm.

Id. “There is no requirement, statutory or otherwise, that all seven of these factors must be negated before termination can take place; likewise, there is no minimum number of negative factors necessary for termination.” *In Interest of M.J.M.*, 553 S.W.3d 327, 333 (Mo. App. S.D. 2018) (quoting *In re C.A.M.*, 282 S.W.3d 398, 409 (Mo. App. S.D. 2009)). “The determination of the child’s best interest is an ultimate conclusion for the trial court based on the totality of the

circumstances.” *In re H.N.S.*, 342 S.W.3d 344, 351 (Mo. App. S.D. 2011) (citing *In re D.L.W.*, 133 S.W.3d 582, 585 (Mo. App. S.D. 2004)), *abrogated on other grounds by S.S.S. v. C.V.S.*, (Mo. banc 2017). “It is the duty of the trial court to weigh the evidence presented relating to best interest, and we will not reweigh that evidence.” *Id.* (citing *In re L.A.M.R.*, 179 S.W.3d 418, 421 (Mo. App. S.D. 2005)).

Trial Court’s Findings

The trial court made these findings regarding the Children’s best interests:

(1) The Child[ren] ha[ve] had contact with Mother since the Child[ren]’s birth, thus there is a bond between . . . Child[ren] and Mother. Both the foster mother and the Children’s Division worker testified that . . . Child[ren] speak positively about visits with Mother, but also were uncertain as to whether some of the positive reaction is the result of time with Mother or the activities and presents they are provided at the visits.

(2) Mother visited regularly with the Child[ren].

(3) Mother contributed to the costs of care and maintenance for the Child[ren] since September 6, 2016, through involuntary child support payments or through Social Security Disability Payments dependency benefits. The parties agreed that Mother’s Social Security Disability Payments for the Child[ren] would continue until the Child[ren are] adopted and that Termination of Parental Rights would not affect those benefits for Child[ren].

(4) Based upon the evidence presented, there is reasonable cause to believe that additional services would be unlikely to bring about lasting adjustment by . . . Mother . . . so as to enable the placement of the Child[ren] with . . . [her] within an ascertainable period of time. Mother failed to make enough progress in her Court ordered services to enable the return of the Child[ren]. Despite [M]other’s love for the Child[ren], Mother reached the limit of her capabilities in services. Additional services would not move . . . [M]other beyond the point the Court offered services already have.

(5) Mother demonstrated some interest in and commitment to the Child[ren]; however, Mother lacks the insight and judgment to protect the Child[ren]. The credible evidence is that Mother puts her need to have a romantic relationship over the needs of her Child[ren] and that demonstrates a lack of commitment to the Child[ren].

(6) There is no evidence that mother was convicted of a felony offense that the Court finds of such a nature that the Child[ren] will be deprived of a stable home for a period of years.

The trial court made no findings regarding the seventh factor.

Analysis

Mother argues the trial court's findings regarding (1) the Children's emotional ties to Mother; (3) Mother's contribution to the costs of care and maintenance of the Children; (4) lasting parental adjustment; and (5) lack of commitment to the Children are unsupported by sufficient evidence, rendering the trial court's finding termination was in the best interests of the Children an abuse of discretion. We address each of her arguments.

(1) Emotional Ties

Mother argues the trial court's findings regarding the Children's emotional ties to Mother are conclusory and contradictory to the evidence presented at trial. She argues "[t]he trial court cites no specific facts to support the conclusion that the [C]hildren only wanted gifts, that they received excessive gifts, or that the activities with Mother were more important than their love for her." Mother argues that, "[b]ecause of the lack of specificity in the trial court's finding [regarding emotional ties], this Court cannot determine whether the [trial] court weighed [the emotional ties] factor in favor of termination or against it." Mother also highlights Sharon Flowers, her aunt, testified at trial that Mother and the Children are "[a] loving, caring, joyful, happy family that interacts together."

The record supports the trial court's finding that Mother and the Children are bonded but it is uncertain whether the Children enjoy their visits with Mother because they get to spend time with her or receive gifts and do activities. The trial court cited the testimony of Joanie Paxton, the Children's foster mother, to support this finding. Paxton testified the Children always tell her what

food they ate or activities they did during visits with Mother. When asked whether she thought the Children have a bond with Mother, Paxton responded, “I don’t know. I know they love her.” The trial court also cited the testimony of Fennewald to support this finding. Fennewald testified the Children have a bond with Mother, but D.R.W. has expressed happiness after some of his weekend visits with Mother about an activity he got to do. The trial court’s finding regarding the Children’s emotional ties to Mother is not conclusory and is sufficiently specific.

Mother’s argument the trial court’s findings regarding the Children’s emotional ties to Mother are contradictory to Flowers’ testimony is also without merit. The trial court does not have to discuss evidence favorable to Mother; “rather, . . . its judgment must include findings on the factors such that a reviewing court can be assured the trial court properly considered the statutory factors in deciding whether to terminate parental rights.” *In re A.S.O.*, 52 S.W.3d 59, 66 (Mo. App. W.D. 2001). Mother simply highlights evidence conflicting with the trial court’s judgment. In termination of parental rights cases, we defer to the trial court’s ability to choose between conflicting evidence. *In re A.A.R.*, 39 S.W.3d 847, 850 (Mo. App. 2001) (citing *In re A.H.*, 9 S.W.3d 56, 59 (Mo. App. W.D. 2000)). We are assured the trial court properly considered the Children’s emotional ties to Mother in deciding whether to terminate Mother’s parental rights.

(3) Contribution to Costs and Care of Maintenance

Mother argues the trial court found, under section 211.447.7, that “Mother failed to provide for the Children.” She argues these findings regarding Mother’s contribution to the Children’s care and maintenance are unsupported by sufficient evidence because the record shows Mother has maintained employment consistently and contributed to the cost of the Children’s care. We note the trial court makes no finding under section 211.447.7 that “Mother failed to provide for the Children,” as Mother suggests. Instead, the trial court found “Mother contributed to the costs

of care and maintenance for the Child[ren] since September 6, 2016, through involuntary child support payments or through Social Security Disability Payments dependency benefits” and those payments would continue until the Children’s adoption. To the extent Mother argues the trial court’s best interests finding is unsupported by the evidence and an abuse of discretion because the trial court’s findings do not negate this factor, her argument misses the mark. “There is no requirement, statutory or otherwise, that all seven of these factors must be negated before termination can take place[.]” *M.J.M.*, 553 S.W.3d at 333 (quoting *C.A.M.*, 282 S.W.3d at 409).

(4) Lasting Parental Adjustment

Mother next argues the trial court’s findings regarding whether additional services are likely to bring about lasting parental adjustment by Mother to allow the Children to return to her care in the ascertainable future are conclusory and contradictory to the evidence presented at trial. She argues she completed the services Children’s Division requested of her and the evidence showed she made progress in her parent-education sessions.

We are assured the trial court properly considered this factor in deciding whether to terminate Mother’s parental rights. *A.S.O.*, 52 S.W.3d at 66. The trial court found:

Mother failed to make *enough* progress in her Court ordered services to enable the return of the Child[ren]. Despite [M]other’s love for the Child[ren], Mother reached the limit of her capabilities in services. Additional services would not move . . . [M]other beyond the point the Court offered services already have.

(emphasis added).

The trial court’s analysis of this factor is well-supported by the record. Irby testified that, although she has worked with Mother on parenting skills and seen Mother make “a lot of progress” in applying techniques such as implementing “family rules” and a reward system for the Children’s behavior, Mother has not improved in identifying the Children’s triggers. McAndrew testified that, although she thinks Mother loves the Children, Mother could not respond proactively and

care for them during parenting education sessions. McAndrew testified she had not observed Mother and the Children interact outside the sessions, but she noted the more stimulation, distractions, and potential trauma triggers that exist, the harder it will be for Mother to respond appropriately to the Children. In McAndrew's professional opinion, Mother could not execute all the skills they worked on in the sessions by herself. She testified it would be best if a family member served as the primary caregiver for the Children and Mother lived with the family member and engaged with the Children emotionally. McAndrew testified she was concerned about Mother spending overnights alone with the Children or any longer period of time alone because of Mother's tendency to become distracted, disengaged, and lost in her own thoughts.

In her 2019 evaluation of Mother, Dr. Emmenegger stated she was aware Mother had completed numerous parenting support services and programs but felt Mother "had probably gotten all that she was going to get from those interventions." Because other professionals working with Mother still expressed concerns about her ability to parent alone, Dr. Emmenegger recommended that another responsible adult be present in Mother's home to assist Mother with parenting the Children.

Fennwald testified he did not believe that, if Mother were given additional time and services, she could provide for the care, custody, and control of the Children. He testified "[t]he same issues that have come up prior in the case record have been reported in the case and are continuing to come up." He testified, based on the reports Children's Division has received from the professionals working with Mother, Children's Division is still concerned Mother does not have the "protective capacity to protect [the C]hildren from future harm or danger."

Mother also summarily states the trial court's finding that additional services are unlikely to bring about lasting parental adjustment by Mother is "based entirely on past facts." She argues

the trial court failed to “engage[] in prospective analysis” in detailing its finding regarding lasting parental adjustment, as required by Missouri law.¹² We disagree. Contrary to Mother’s assertion, the trial court’s findings are based on Mother’s parenting abilities after her participation in and completion of parenting support programs during the time the Children were in the care of Children’s Division, not her past acts that resulted in the Children being adjudicated abused or neglected in 2016. The trial court properly considered Mother’s conduct at the time of termination when terminating her parental rights.

(5) Lack of Commitment to the Children

Mother argues the trial court’s finding that Mother lacks commitment to the Children is unsupported by sufficient evidence. She argues “there was no specific evidence before the trial court that Mother had any romantic relationship.” She argues Fennewald “spoke generally about adults he could not identify who had driven Mother or come with Mother when she arrived . . . for visits.” She argues that, although she was seen with J.G.W.’s father around the Children, she had no romantic relationship with him. She also argues that, while Fennewald testified an adult male died in her home in 2017, Fennewald could not state whether he resided in Mother’s residence “or whether she even knew him.”

The trial court’s finding Mother “puts her need to have a romantic relationship over the needs of her Child[ren]” is sufficiently supported by the evidence presented at trial. Contrary to Mother’s argument, Fennewald provided examples of Mother exposing or attempting to expose the Children to different men while he was the Children’s case manager. Fennewald testified that,

¹² The trial court must engage in a prospective analysis to determine whether grounds for termination exist. *In re K.A.W.*, 133 S.W.3d 1, 9 (Mo. banc 2004). “An essential part of any determination whether to terminate parental rights is whether, considering at the time of the termination and looking to the future, the child would be harmed by a continued relationship with the parent.” *Id.* The trial court may consider the parent’s past conduct, but “it is insufficient to merely point to past acts, note that they resulted in abuse or neglect and then terminate parental rights.” *Id.*

two-to-three weeks before trial, Mother told him her boyfriend had contact with the Children during visitation. Around the same time, Mother also asked Fennewald whether her boyfriend could drive her to Six Flags for a visit with the Children. Mother brought J.G.W.'s father around the Children in violation of a court order. This visit resulted in J.G.W.'s father disciplining the Children's older sibling.

Testimony from several other witnesses supports the trial court's finding Mother lacks commitment to the Children because of her need to put romantic relationships before the Children. Irby testified that, a few weeks before trial, she saw an unknown man Mother said was her boyfriend leaving Mother's home as she arrived with the Children for a scheduled visit. She testified "[t]he kids started panicking and wanted to know who was coming [out of] the house." Mother did not introduce her boyfriend to the Children. Ten minutes before the visit was over, Mother called her boyfriend and asked him to return to her house so she could introduce him to the Children, but the introduction did not go well. J.G.W. did not want to meet Mother's boyfriend. The interaction lasted no more than three minutes. Mother demonstrated no awareness the visit was not going well.

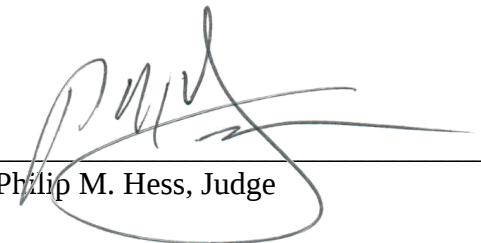
McAndrew testified she and Mother discussed the importance of recognizing healthy versus unhealthy people in her life. McAndrew testified that when she told Mother she did not think she was supposed to spend time with J.G.W.'s father around the Children, Mother responded "It's not fair. I can't see anyone." Dr. Emmenegger also testified that, as of her 2019 evaluation of Mother, she still had concerns about Mother's judgment and insight because Mother allowed J.G.W.'s father to be around the Children and discipline one of the Children. This testimony sufficiently supports the trial court's finding that Mother "puts her need to have a romantic relationship over the needs of her Child[ren]," resulting in a lack of commitment to the Children.

Based on the record before us, reasonable minds can differ as to whether termination of Mother's parental rights was in the best interests of the Children. *See G.J.R.B.*, 269 S.W.3d at 556. Thus, we cannot find the trial court's decision was "so arbitrary and unreasonable as to shock the sense of justice and indicate a lack of careful consideration." *A.R.T.*, 496 S.W.3d at 618.

Point III is denied.

Conclusion

The case presents a story of family tragedy. We commend Mother for her efforts to try to keep her family together. We empathize with her and the Children. However, after a thorough review of the record, we are not left with a firm belief that the trial court's decision is wrong. *See J.A.R.*, 426 S.W.3d at 626. The record supports the abuse or neglect ground for termination of parental rights and that termination was in the best interests of the Children. The trial court's judgment terminating Mother's parental rights to the Children is affirmed.



Philip M. Hess, Judge

Michael E. Gardner, J. concurs.

Gary M. Gaertner, Jr., P.J. dissents in a separate opinion.



In the Missouri Court of Appeals Eastern District

DIVISION FOUR

	)	No. ED108803
	)	
	)	Appeal from the Circuit Court
IN THE INTEREST OF: J.G.W.	)	of St. Louis County
	)	
	)	Honorable Margaret T. Donnelly
	)	
	)	Filed: November 17, 2020

DISSENT

This case concerns a very poor woman with mental issues, circumstances which she did not choose. She is not a drug addict or a convicted felon. She is a loving Mother who was never on the radar screen of Children's Division until a vile boyfriend killed her two-year-old son while she was working to support her children. Our State judges, Children's Division workers, and the employees of our Juvenile Courts throughout Missouri deal with gut-wrenching family and children crises daily and do the very best they can to help children in often unfathomable situations. Often they are faced with a Hobson's choice.

I dissent not to malign anyone in our Juvenile Court system, as it is easy to criticize, but to point out that sometimes it is better to slow down the process and give a loving Mother more time, especially when her children are not likely to be adopted, but instead

sent to separate foster homes, only to eventually age out of foster care. This is a special case in which this Mother has done virtually everything asked of her, but that is still found not to be enough unless the Juvenile Court system takes a harder look at these types of cases.

Expediting this case is not the answer. This case does not involve an eventual family member adoption where Mother has the opportunity to remain in the picture, a parent who is incarcerated for many years, a crack-addicted Mother who is jeopardizing her children's safety, or a very young child who has a good chance of adoption into a stable home. In this particular case, these two children have enormous hurdles in front of them, regardless of the outcome. No one who reads this opinion, no matter how one thinks it should be decided, is but pained for these children. When I read the record and review the circumstances of this case, I cannot agree that it is in these children's best interests to terminate their Mother's parental rights.

The late, most compassionate Judge "Rick" Teitelman of our Missouri Supreme Court so aptly described the termination of parental rights as "tantamount to a civil death penalty," in what has become one of the most cited and important opinions in this area of law. In re K.A.W., 133 S.W.3d 1, 12 (Mo. banc 2004) (quoting In re N.R.C., 94 S.W.3d 799, 811 (Tex. App. Houston 14th Dist. 2002)). Such a description is especially poignant here, where Mother experienced the actual death of her two-year-old child, only then to lose her other children to the custody of the State. When we undertake to determine the solemn question of whether to terminate parental rights, the best interests of the children are "[o]f utmost concern." In re S.M.H., 160 S.W.3d 355, 362 (Mo. banc 2005). The trial court makes its determination of the children's best interests based on the totality of the

circumstances. In re B.L.H., 158 S.W.3d 269, 283 (Mo. App. E.D. 2005) (abrogated on other grounds). Here, I would find the trial court abused its discretion in its analysis of the best interests of these two children.

I do not ignore the facts found by the trial court and which the majority emphasizes: Mother suffers from a mental condition that includes diagnoses of schizophrenia¹ and post-traumatic stress disorder (PTSD), for which she receives Social Security Disability benefits; she has neglected her prescribed medication at times; she struggles to engage with her children when they have difficulty, and she can become overwhelmed when they act out; she has made poor choices in male partners, one of whom murdered her two-year-old child while Mother was at work; and she has had difficulty maintaining a suitable home in the past. However, the circumstances surrounding these facts and others in the record leads me to the firm belief a mistake has been made here.

D.R.W. is almost 10 years old, and J.G.W. is almost 7 years old. Having lived through the trauma of losing their younger brother and then immediately being placed into foster care, they display a number of behavioral issues including defiance, anger, and throwing things at school and daycare. Some of these issues are due to the instability of moving from foster home to foster home, according to Ann McAndrew, who provided parenting education to Mother and observed and coached Mother with the children on multiple occasions. At the time of trial, the children were together in a foster home, but it was not a preadoptive home. Children's Division did not identify any potential permanent placements for them at trial. At the time of oral argument before this Court, the children,

¹ While I do not delve into Mother's legal argument regarding the competency of Dr. Lisa Emmenegger's schizophrenia diagnosis, I note that Dr. Emmenegger was the court-appointed psychiatrist who evaluated Mother. Mother's personal psychiatrist who had treated her for years made no such diagnosis.

who had a very strong bond to one another, had been moved from the foster home where they had resided at the time of trial. They had been separated and placed in different foster homes, neither of them preadoptive homes.

Mother lives in a high-crime neighborhood. She cannot afford otherwise. The therapist initially assigned to Mother declined to provide in-home therapy due to safety concerns about the neighborhood. The children's case manager, Daniel Fennewald, did not make the requisite monthly visits to Mother's residence, though he did testify that her housing was adequate. Mother's therapist at the time of trial, Sally Prost, testified that she had been providing in-home therapy to Mother for the previous four and one-half months, and that Mother's home was clean and furnished.

Moreover, Mother completed everything outlined by the Children's Division in her service agreement, including regular visits with the children, providing them with snacks and gifts at visits as well as child support with her disability payments, and court-ordered therapy. Mother went even further and requested family therapy with her children. Prost testified that Mother wants to know how her children are doing and be involved with everything they are doing.² Mother has taken advantage of all the services offered her and has made significant progress in a short amount of time. The evidence was undisputed that

² I acknowledge the trial court's finding that Mother lacks commitment to the children in that she puts her need to have a romantic relationship over the needs of her children. Two main events in the record support this finding: that Mother allowed J.G.W.'s biological father to attend a visit in violation of a court order, and that when the children arrived for a visit on one occasion, Mother's boyfriend was leaving, and the children became distressed in seeing an unknown man there. When parent aide Doris Irby recommended introducing the man because the children had seen him, the introduction did not go well. Fennewald noted a recent occasion when Mother asked whether her boyfriend could drive her and the children to Six Flags, as Mother does not have a car. While these are not wise decisions by Mother, the record shows she learned that she should ask permission before bringing a man around the children. Prost testified that Mother would not bring a man around the children if told not to, and that she desires to put her children first. I see no reason Mother could not continue to improve in this area, as she has in others. Regardless, the trial court is not obligated to terminate parental rights even if one of the statutory factors is negated. See In re G.G.B., 394 S.W.3d 457, 472 (Mo. App. E.D. 2013) (factors are 'merely an aid to the 'best interests' determination").

the children love Mother and look forward to spending time with her.³

While the trial court relied on the testimony of McAndrew, who opined that Mother would not improve with further treatment, to make its finding to that effect, there was much contrary evidence in the record. McAndrew had not seen Mother or the children since February of 2018, nearly a year and a half before the trial commenced in July of 2019, when McAndrew testified. Prost, who treated Mother in the months leading up to trial, believed that further services would be beneficial. Additionally, the children's play therapist, Ciarra Yancey, observed Mother with the children and opined that with continued education in dealing with children who have experienced trauma, Mother would be able to help the children regulate their emotions. The parent aide, Doris Irby, testified regarding an occasion when her supervisor observed Mother with the children. Irby's supervisor had been the previous parent aide for Mother and the children. After the latter visit, Irby's supervisor said "that's a whole different person than I started with." She told Irby to "keep the work up . . . if you can get her to recognize these triggers and to stop them before they get bad and the meltdowns, then she'll be awesome."

With such a litany of positive evidence in the record concerning Mother's efforts and progress, not to mention the undisputed love that Mother has for her children and that her children have for her, I have trouble seeing how reasonable minds can differ on whether termination was in the best interests of these children, especially given the result of

³ I recognize the trial court made a finding based on Fennewald's testimony that cast doubt on the children's emotional bond to Mother. Fennewald was uncertain whether the children view visits positively only due to the activities and gifts they receive at the visits. The trial court also attributed this sentiment to the children's foster mother. However, her testimony was, "They love visiting their mom. They love her. So it's always a treat for them." There was no evidence that the children did not want to visit Mother or were afraid to see her. The fact that the children were excited about activities or treats does not alone discount any bond that they have with their Mother. Most parents attempt to provide enjoyable activities for their children and enjoy giving them gifts. I would imagine this is all the more true when a Mother is limited to a few hours per week with her children.

termination, which I will discuss further below. We simply are not dealing with an absent parent, an addicted parent, a criminal parent, or even a parent who herself has ever harmed her children. We have before us a Mother who loves her children deeply, longs for their good, and has done her best, as the Juvenile Officer affirmed during oral argument before this Court. Prost testified that Mother suffers from PTSD due to events in her childhood, and the death of her child compounded with the removal of her other children to trigger PTSD. Mother has walked through unimaginable grief, and she has been asked to heal and provide skilled emotional care for her grieving and traumatized children under a timeline that I doubt few, if any, could accomplish. Moreover, Mother is poor and often without basic resources, such that those of us exercising judgment over her may not be able to fully relate.⁴ She has nevertheless made every effort to overcome such circumstances so that she can be reunified with her children, who have a strong bond to her and to each other.

Our current state of the law in Missouri seems to provide a tragic and unjust all-or-nothing situation for parents like Mother. Either she must get herself into shape enough to care for her children without help⁵ within a prescribed timeline, or she will lose her children and have no further permitted contact with them. This is not in the children's best interests here. This is not a family that is beyond hope. These are not children who should be

⁴ In my over 11 years on this Court, I have yet to see the termination of the parental rights of a Mother who was a resident of any tony suburb in the Eastern District. Such a woman would likely have a wealth of resources available to assist with the effects of PTSD and the difficulties of parenting children through trauma. Mental illness does not affect only the poor.

⁵ That is, without state-provided services. The trial court noted McAndrew's recommendation that a family member take over primary care of the children and be there to help Mother through the children's emotional triggers and behavioral outbursts. Had such a family member been available, the trial court may well have not terminated Mother's parental rights. While no family member was available on a live-in basis, Mother does have family support through her aunt, who testified that she would be available on a daily basis to help care for the children or assist Mother if needed. Regardless, coming to a place of not needing court-ordered services in a few short years is an unreasonable expectation for a family that has experienced this kind of trauma.

protected from their Mother because she harms them. This family simply has suffered unfathomable trauma. They have made progress, but they need more time and help.

The result of the trial court's decision here is that these children will have no further contact with their Mother, and thus receive another traumatizing blow. They have now been separated from each other: yet another blow. The Juvenile Officer acknowledged at oral argument that there is little chance that these children will be adopted. Now that they are separated, it is possible they will never be in a home together again. Every therapist who worked with these children testified that stability is what they need, and they have shown improvement when they have had consistency. Yet their consistency has been short-lived in foster care. Further, the State will now spend resources on multiple foster care placements for these children rather than on resources for them and their Mother, investing in the stability of their family. This is tragic.

Unfortunately, Missouri currently has no middle-ground service, such as a group home for parents and children who need the ongoing care Mother needs as she continues with therapy, parenting education, and practice caring for her children through their trauma. Nor does Missouri recognize open adoptions, which could provide another avenue to, at the very least, maintain the family relationships in absence of maintaining family rights and responsibilities. While we do not have these options currently, we certainly have at our disposal the ability to simply give this family more time and continue providing the services that have undoubtedly helped them to this point, as they continue to work through their grief. We need not heap on more grief at this time, which is what I feel the trial court's decision does, with no plan for a stable future for these children.

Given the foregoing, I would find that the trial court abused its discretion in finding that termination was in the best interests of the children here. For these reasons, I respectfully dissent.

A handwritten signature in black ink, appearing to read "Gary M. Gaertner, Jr.", is written over a horizontal line.

Gary M. Gaertner, Jr., Judge