IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
Assigned on Briefs July 10, 2014

IN RE AUSTIN C.

Appeal from the Chancery Court for Hickman County
No. 13-CV-4925 James G. Martin, III, Judge

No. M2013-02147-COA-R3-PT - Filed August 27, 2014

Mother appeals the termination of her parental rights contending the evidence is insufficient for this court to appropriately review the testimony in the trial court because a portion of the evidentiary record is set forth in a statement of the evidence. We have determined the record is sufficient for proper appellate review because the entirety of Mother's testimony is set forth in a verbatim transcript of the evidence, in which Mother admits knowing she had a duty to support her child, that she had the capacity to provide support during the relevant period, and she failed to do so. Thus, the record contains sufficient evidence to establish the ground of abandonment by failing to support the child. The evidence also supports the trial court's finding that termination of Mother's parental rights is in the child's best interest. We, therefore, affirm the termination of Mother's parental rights.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court Affirmed

FRANK G. CLEMENT, JR., P.J., M.S., delivered the opinion of the Court, in which ANDY D. BENNETT and RICHARD H. DINKINS, J.J., joined.

J. Reese Holley, Dickson, Tennessee, for the appellant, Robin S.[1]

Douglas Thompson Bates, IV, Centerville, Tennessee, for the appellees, Randy and Stacey C.

OPINION

Randy C. ("Father") had an extramarital affair with Robin S. ("Mother") which resulted in the birth of Austin C. in July 2011. Mother took care of Austin along with her

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[1]This court has a policy of protecting the identity of children in parental termination cases by initializing the last names of the parties and relatives.

daughter from a previous relationship until January 9, 2012, when a case worker went to Mother's home and discovered visible drug paraphernalia. As a result, the Department of Children's Services filed a Petition alleging that Austin and his half-sibling Allyssa B. were dependent and neglected; the Department also filed a Petition to Establish Paternity of Austin in the Juvenile Court of Hickman County.

During this time, Mother was involved in a romantic relationship with Christopher C., a relative of Father and a person known by all parties to be a drug user. Christopher C. was at Mother's home when the case worker visited and noticed the drug paraphernalia. After a lengthy hearing in connection with the dependent and neglect proceedings, the juvenile court placed custody of Austin with Mother's grandmother and additionally required Mother to have no contact, in the presence of either child, with Christopher C.

Father filed an emergency motion in the juvenile court seeking custody of Austin, based on information from a private investigator who observed Christopher C. leaving Mother's residence on January 25, 2012, early in the morning. That matter was heard on January 30, 2012, and due to Mother's violation of the no-contact order relating to Christopher C., the juvenile court entered an Order granting Father temporary custody of Austin with Mother to have parenting time by agreement of the parties.

In June 2012, Mother was arrested on charges relating to methamphetamine. As a result, Father sought emergency relief from the juvenile court, and the court entered an Order on July 5, 2012, finding Austin and Allyssa to be dependent and neglected, based upon the parties' stipulation of improper care, supervision, and guardianship; the court waived the adjudicatory hearing and concluded the pending matters in the dependent and neglect proceedings. In addition, the court ordered that Austin remain in the custody of Father and granted Mother supervised visitation every Sunday from 1:00 to 6:00 p.m.

The paternity proceedings were heard in the juvenile court in September 2012. Mother did not appear despite two notices being sent to her address. The court found Father to be the minor child's legal and biological father and set child support to be paid by Mother to Father at $536 per month beginning October 1, 2012.

On October 29, 2012, Mother filed a Petition for Civil Contempt contending that Father was violating Mother's court-ordered visitation by hindering Mother from seeing Austin during her visitation time and that she had only seen him five or six times since July 5, 2012. Father and his wife appeared for the hearing; however, Mother did not appear.

On December 15, 2012, Mother held a birthday party for Allyssa at a hotel. At her request, Father sent Austin to the party. When Mother did not answer her phone, Father went

looking for the child and could not find him at the hotel. He called the police and continued searching for Austin, until Mother returned him the following day. As a result, Father filed a petition to modify visitation alleging Mother had kidnaped the minor child. On December 21, 2012, the juvenile court entered an Ex Parte Order suspending Mother's visitation pending further orders of the court. Mother was charged with custodial interference in Dickson County, which was still pending at the time of trial.

On January 3, 2013, Father and his wife filed a Petition to Terminate Parental Rights and Adoption Petition in the Chancery Court of Hickman County, Tennessee. The parties also filed notice of that petition in the Juvenile Court of Hickman County, which stayed further proceedings in the juvenile court.

Mother filed a motion in chancery court seeking parenting time with the minor child. On January 15, 2013, the court ruled that it was not in the best interest of the minor child for Mother to have parenting time during the adoption proceedings based upon her inability to comply with the prior orders of visitation, that she had not exercised all of her parenting time to the fullest extent, and that she had failed to ensure that the parenting time she exercised was supervised as required by the juvenile court order.

The case was tried in the chancery court over two days, on June 19, 2013, and July 1, 2013. The principal witnesses were Mother, Father, and his wife. While a transcript from the first day of trial, including Mother's complete testimony, was provided to this court on appeal, a transcript from the second day of trial has not been provided. In lieu of a verbatim transcript, a Statement of the Evidence was provided for the second day of trial pursuant to Tenn. R. App. P. 24(c), which includes the testimony of Father and his wife.

Mother testified that she worked as an exotic dancer until April 2012, when she was involved in a car accident that aggravated a previous back injury. She tried to continue working as an exotic dancer at other locations, but failed to work more than a few days in each location. Mother previously obtained a GED and received a medical assistant's degree in 2008 which allows her to work the front and back office of a doctor's office where she can make appointments and take calls as well as draw blood and give injections. Since receiving her degree, Mother has not pursued a career in that field. After leaving her job as an exotic dancer, a friend of Mother's, Russell T., began supporting her by paying her rent, utilities, and buying food and cigarettes for Mother. Despite this, Mother admitted that she never paid child support and never offered to pay support to Father or his wife for Austin's benefit.

Mother testified that she had a history of drug abuse, at least since 2009. She testified that she participated in a treatment program in 2009, but relapsed the following year. She admitted to using marijuana and methamphetamine, and, after being charged in June 2012

with manufacturing and promoting methamphetamine, she was granted judicial diversion and placed on six years of supervised probation after entering conditional guilty pleas to the offenses of attempting to manufacture methamphetamine and promoting the manufacture of methamphetamine. During her probation, she was involved in an altercation with her grandmother resulting in an aggravated domestic assault charge as well as a probation violation charge due to the alleged domestic assault. These, as well as the charge of custodial interference, were pending at the time of trial.

Mother also testified that Father and his wife denied her several of her court-ordered visitations. She stated that Father or Austin would be out of town on Sundays and that she sometimes failed to get a supervisor. Father and his wife testified that they fully cooperated with Mother in scheduling visits, and that Mother missed more visits than she exercised. Father stated that Austin was out of town once when Mother wanted to visit, and he rescheduled with Mother but she failed to show. Father's wife kept a visitation summary that was introduced as an exhibit and revealed that Mother visited her child only five times in the four months preceding the filing of the petition.

The trial court entered an order terminating Mother's parental rights on the grounds that she abandoned her child by failing to visit and failing to support and finding that termination of her rights was in the best interest of the child. This appeal followed.

STANDARD OF REVIEW

To terminate parental rights, a court must determine by clear and convincing evidence the existence of at least one of the statutory grounds for termination and that termination is in the best interest of the child. Tenn. Code Ann. § 36-1-113(c); *In re Adoption of Angela E.*, 402 S.W.3d 636, 639 (Tenn. 2013) (citing *In re Valentine*, 79 S.W.3d 539, 546 (Tenn. 2002)). When a trial court has made findings of fact, we review the findings de novo on the record with a presumption of correctness unless the preponderance of the evidence is otherwise. Tenn. R. App. P. 13(d); *In re Adoption of Angela E.*, 402 S.W.3d at 639 (citing *In re Taylor B. W.*, 397 S . W.3d 105, 112 (Tenn. 2013)). We next review the trial court's order de novo to determine whether the facts amount to clear and convincing evidence that one of the statutory grounds for termination exists and if so whether the termination of parental rights is in the best interests of the children. *Id*. Clear and convincing evidence is "evidence in which there is no serious or substantial doubt about the correctness of the conclusions drawn from the evidence." *Id*. (citing *In re Valentine*, 79 S.W.3d at 546 (quoting *Hodges v. S.C. Toof & Co.*, 833 S.W.2d 896, 901 n.3 (Tenn. 1992)) (internal quotation marks omitted).

ANALYSIS

I. THE SUFFICIENCY OF THE RECORD ON APPEAL

Mother contends that the evidentiary record before this court is insufficient because a portion of the evidence is set forth in a Statement of the Evidence, and not a verbatim transcript; as a result, she contends the trial court's order terminating her parental rights must be reversed.

Mother relies on a line of cases in which this court explained that a record of sufficient completeness is required to permit proper appellate review of the parent's claims in termination of parental rights proceedings. *L.D.N. v. R.B.W.*, No. E2005-02057-COA-R3-PT, 2006 WL 369275 (Tenn. Ct. App. Feb. 17, 2006); *In re J.M.C.H.*, No. M2002-01097-COA-R3-CV, 2002 WL 31662347 (Tenn. Ct. App. Nov. 26, 2002); *In re Adoption of J.D.W.*, No. M2000-00151-COA-R3-CV, 2000 WL 1156628 (Tenn. Ct. App. Aug. 16, 2000). In each of these cases, the termination of one or both parents' rights was reversed due to the lack of a sufficient evidentiary record for appellate review and remanded for a new trial. *L.D.N.*, 2006 WL 369275, at *5; *In re J.M.C.H.*, 2002 WL 31662347, at *5; *In re Adoption of J.D.W.*, 2000 WL 1156628, at *7. Specifically, in *J.D.W.* this court explained:

> [I]n cases involving the termination of parental rights, a record of the proceeding of sufficient completeness to permit proper appellate consideration of the parent's claims must be made in order to preserve that parent's right to an effective appeal. If the parent whose rights are to be terminated is indigent, then the trial court must ensure that such a record is created and made available to a parent who seeks to appeal. Because the trial record does not constitute a record of sufficient completeness for appellate review, we vacate the orders terminating the father's parental rights and granting the subsequent adoption and remand this case to the trial court for a new trial on this matter.

In re Adoption of J.D.W., 2000 WL 1156628, at *4 (footnote omitted). We further explained on remand that the trial court must determine if the parent is indigent and, if so, ensure there is a record of trial evidence that is sufficiently complete to allow an appellate court to review the evidence in accordance with applicable standards, even when the petition to terminate parental rights is filed by a private party. *Id.* at *4, n.5.

The foregoing notwithstanding, we noted in *L.D.N.* that "a parental rights termination case where a Statement of the Evidence would be sufficient would be extremely rare." *L.D.N. v. R.B.W.*, 2006 WL 369275, at *5. However, no Tennessee court has held that an evidentiary record that is based solely on a statement of the evidence would automatically constitute an

insufficient record. *Id*. More specific to the evidence in this record, our courts have not held that an evidentiary record that is based, in part, on a statement of the evidence is automatically insufficient. To the contrary, our courts have "stopped just short of holding that a Statement of the Evidence never will be sufficient for proper appellate review in a parental rights termination case and that a transcript always must be provided." *Id.* Nevertheless, the best way to proceed in a termination of parental rights case is by providing the appellate court with a complete transcript of all evidence. *Id.*

What is required in appeals of parental termination cases is *an evidentiary record of sufficient completeness* to permit proper appellate review of the parent's claims. *See In re J.M.C.H.*, 2002 WL 31662347, at *4; *see also In re Adoption of J.D.W.*, 2000 WL 1156628, at *3-4. Thus, the issue here is whether the evidentiary record before this court, one that is partly based on a verbatim transcript of the evidence with the rest based on a statement of the evidence, is sufficiently complete to permit this court to conduct the appropriate review of Mother's claims in order to preserve her right to an effective appeal. *See In re Adoption of J.D.W.*, 2000 WL 1156628, at *4.

In this case, Mother's entire testimony has been provided in a verbatim transcript. As we discuss in more detail below, Mother's testimony reveals that she was aware of her obligation to support her child, she had the ability to support her child, and she failed to do so. Thus, we have the benefit of Mother's entire testimony to determine whether the record provides clear and convincing evidence that she willfully failed to support her child during the requisite period. Moreover, Mother does not contend that any other witness testified to support her contention that her failure to support was not willful; thus, the evidentiary record on this issue is sufficient for an appropriate review by this court.

In addition, the Statement of the Evidence before us is more complete than that provided in previous cases. In the case of *L.D.N.*, the statement of the evidence contained only two pages and included little to no detail regarding the grounds for termination.[2] *L.D.N.*,

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[2]As for the insufficiency of the two-page statement of the evidence in *L.D.N.*, the court stated:

> The Statement of the Evidence is quite sparse concerning Mother's visitation with her children. For example, the testimony of Petitioner M.B.N. reveals that Mother "came to visit occasionally on Saturdays and/or Sundays." During these visits Mother would talk to the children and help give them baths. M.B.N. acknowledged that she and Mother often argued and it was for this reason that Mother claims she did not visit the children more often. Mother's sister testified that Mother would visit her children two to three times a month, but did not interact with them as much as the sister thought she should. One of Mother's brother's testimony was summarized in its entirety as follows:

(continued...)

2006 WL 369275, at *3. In other cases, the statement of the evidence was either insufficient or not provided on appeal. *In re A.L.N.*, No. M2004-02830-COA-R3-PT, 2005 WL 2043632, at *3 (Tenn. Ct. App. Aug. 24, 2005) (no transcript, but two competing Statements of the Evidence neither of which the trial judge certified); *In re J.M.C.H.*, No. M2002-01097-COA-R3-JV, 2002 WL 31662347, at *1 (Tenn. Ct. App. Nov. 26, 2002) (no transcript or statement of the evidence of the trial court proceedings); *In re Adoption of J.D.W.*, 2000 WL 1156628, at *3 (trial court's findings of fact adopted as statement of the evidence deemed insufficient). Here, the Statement of the Evidence includes specific testimony from Father and his wife regarding the grounds for termination and the child's best interest. This testimony, in addition to Mother's testimony in the verbatim transcript, allows us to properly review the issue of the child's best interest.

The record before us is also distinguishable from those in *L.D.N.*, *In re J.M.C.H.*, and *In re Adoption of J.D.W.* because we not only have a verbatim transcript of all of Mother's testimony and a thorough statement of the evidence reporting the testimony of Father and his wife, we also have the benefit of extensive and specific findings of fact and conclusions of law by the trial court which mirror the testimony of Mother, as reported in the verbatim transcript of her testimony, and that of Father and his wife as set forth in the Statement of the Evidence. In the cases we referenced above wherein we reversed the termination of a parent's rights due to an insufficient record, those cases did not contain a verbatim transcript of the parent's entire testimony; moreover, the statements of the evidence were found to be insufficient for various reasons. *See L.D.N.*, 2006 WL 369275, at *3; *In re A.L.N.*, 2005 WL 2043632, at *3; *In re J.M.C.H.*, 2002 WL 31662347, at *1.

As this court noted in *J.D.W.*, the federal courts have recognized that a "record of sufficient completeness" is what is required, not necessarily a "transcript." *See In re Adoption of J.D.W.*, 2000 WL 1156628, at *3 (citing *M.L.B. v. S.L.J.*, 519 U.S. 102, 128 (1996)). As the United States Supreme Court indicated in a footnote, a full verbatim transcript may not be required. *See M.L.B.*, 519 U.S. at 112, n.5 (quoting *Draper v. Washington*, 372 U.S. 487, 495 (1963) ("Alternative methods of reporting trial proceedings are permissible if they place before the appellate court an equivalent report of the events at trial from which the

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[2](...continued)

> [M.N., Mother's] brother, testified that he lived near his parents and visited with them every other Sunday. He testified that [Mother] did visit with her children at her parents' home.

L.D.N., 2006 WL 369275, at *3.

appellant's contentions arise.")); *Mayer v. Chicago*, 404 U.S. 189, 194 (1971) ("A record of sufficient completeness does not translate automatically into a complete verbatim transcript."). Thus, the mere fact the evidentiary record before us is partially based on a statement of the evidence does not make it an insufficient record of the evidence or events at trial.

For the foregoing reasons, we have determined that the record before us constitutes a rare occasion in which the evidentiary record, that is comprised in part of a statement of the evidence, provides a sufficient record for appellate review in a parental termination case. *See In re Adoption of J.D.W.*, 2000 WL 1156628 at *3-4.

II. ABANDONMENT

Abandonment is defined as the willful failure to visit, to support, or to make reasonable payments toward the support of the child during the four-month period preceding the filing of the petition to terminate parental rights. Tenn. Code Ann. § 36-1-102(1)(A)(i). To prove the ground of abandonment, a petitioner must establish by clear and convincing evidence that a parent who failed to visit or support had the capacity to do so, made no attempt to do so, and had no justifiable excuse for not doing so. *In re Adoption of Angela E.*, 402 S.W.3d at 639 (citing *In re Audrey S.*, 182 S.W.3d 838, 864 (Tenn. Ct. App. 2005)). Whether a parent failed to visit or support a child is a question of fact. Whether a parent's failure to visit or support constitutes willful abandonment, however, is a question of law. *Id*. (citing *In re Adoption of A.M.H.*, 215 S.W.3d 793, 810 (Tenn. 2007)). We review questions of law de novo with no presumption of correctness. *Id*. (citing *In re Adoption of A.M.H.*, 215 S.W.3d at 810).

A. FAILURE TO VISIT

Abandonment for willfully failing to visit the child is defined as when a parent "willfully failed to visit . . . the child for the period of four consecutive months preceding the filing of the petition to terminate that parent's rights." Tenn. Code Ann. § 36-1-102(1)(A)(i). Failure to visit a child is "willful" when a parent is aware of his or her duty to visit, has the capacity to do so, makes no attempt to do so, and has no justifiable excuse for not doing so. *In re Audrey S.*, 182 S.W.3d 838, 864 (Tenn. Ct. App. 2005). However, where the failure to visit is not willful, a failure to visit a child for four months does not constitute abandonment. *R.G.W. v. S.M.*, No. M2009-01153-COA-R3-PT, 2009 WL 4801686, at *7 (Tenn. Ct. App. Dec. 14, 2009) (citing *In re Adoption of A.M.H.*, 215 S.W.3d at 810). "A parent who attempted to visit and maintain relations with his child, but was thwarted by the acts of others and circumstances beyond his control, did not willfully abandon his child." *Id*. (citing *In re Swanson*, 2 S.W.3d 180, 189 (Tenn. 1999)).

Mother contends that she did not willfully fail to visit the child because Father and his wife failed to cooperate with her court-ordered visitation. In fact, Mother testified that on several occasions Father or his wife would be out of town with the child on the day she was allowed to visit. However, Father and his wife testified that Mother missed more visitations than she exercised, and that they were out of town on one occasion because they assumed Mother would not utilize her visit. Father's wife kept a visitation summary that was introduced as an exhibit and revealed that Mother visited her child five times in the four months preceding the filing of the petition; however, Mother vehemently denied the accuracy of the document, testifying that she visited more times than documented by the summary of visitation, and that she was thwarted in her efforts to see Austin by Father and his wife. Mother also relied on the fact that she found it necessary to file a Petition for Civil Contempt in order to obtain visitation.

Based on our review of the record, the evidence is insufficient to prove, clearly and convincingly, that Mother abandoned her son by willfully failing to visit the child during the requisite four-month period.

B. FAILURE TO SUPPORT

To find that Mother abandoned her child by failing to support him financially, it must be established that the failure to support was "willful." *In re R.L.F.*, 278 S.W.3d 305, 320 (Tenn. Ct. App. 2008). Failure to pay support is "willful" if the parent "is aware of his or her duty to support, has the capacity to provide the support, makes no attempt to provide support, and has no justifiable excuse for not providing the support ." *In Re J.J.C.*, 148 S.W.3d 919, 926 (Tenn. Ct. App. 2004) (quoting *In re Adoption of Muir*, No. M2002-02963-COA-R3-CV, 2003 WL 22794524, at *5 (Tenn. Ct. App. Nov. 25, 2003)). A parent must pay more than token support, "support [which] under the circumstances of the individual case, is insignificant given the parent's means." Tenn. Code Ann. § 36-1-102(1)(B).

Mother first contends that she was not aware of the child support order until January 2013; however, the Supreme Court has held that, in the context of termination proceedings initiated by a private party as opposed to DCS, there need not be a showing that the biological parent was aware of the consequences of a failure to support their child in order to find willfulness. *In re Joshua S.*, No. E2010-01331-COA-R3-PT, 2011 WL 2464720, at *14 (Tenn. Ct. App. June 16, 2011) (citing *In Matter of M.L.P.*, 281 S.W.3d 387, 392 (Tenn. 2009)). Persons are presumed to know the law, and a parent should know that he or she has such responsibilities for the child. *Id*. Moreover, Mother admitted that she had a duty to financially support Austin; thus, it is clear that Mother was aware of her legal obligation to pay child support for Austin.

Mother next contends that she was unable to work because of her back injury caused by a car accident in April 2012. She claims she was unable to work as an exotic dancer or in any other field because her back injury was so severe. After the car accident, Mother's friend, Russell T., began fully supporting her.

Mother's testimony, however, is inconsistent regarding her capacity to work. Mother testified that she quit working as an exotic dancer due to a conflict with management, rather than back pain. She further testified that she planned on working as an exotic dancer one day a week to take some of the load off Russell T., and that she would find a way to support herself if Russell T. stopped supporting her. She testified that, as a precaution, she had renewed her sexually-oriented business license to continue work as an exotic dancer. She also obtained a GED and a medical assistant's degree in 2008, which allowed her to work as a secretary in a doctor's office as well as draw blood and give injections. Nevertheless, she admitted that she did not pursue a career in the medical field because she feared she would not get a job with her criminal background. Consequently, Mother continued to work intermittently as an exotic dancer earning $500 to $600 dollars on a good night. Mother's only attempts to work elsewhere consisted of a few online applications to truck stops and other places; moreover, she never applied for disability or unemployment.

Mother also contends that she bought things for her son every time she visited. However, when asked to list those items, she could only recall one specific event occurring after the pertinent four-month period in which she bought a pair of shoes and two outfits for her son that she gave to her mother to give to Father in April 2013. She testified that Russell T. would pay for anything she requested, but she never asked him to support her child. Moreover, Mother stated that she did not pay child support, and she admitted that it was her financial responsibility to support her child. She also never offered to help pay Father and his wife for the support of the minor child.

The evidence established that Mother was aware of her financial responsibility to support her child, she had the capacity to do so, either through her own employment or through the support of Russell T., and she failed to do so. Despite her back injury which may preclude her from working full-time as an exotic dancer, she continues to perform intermittently and she has obtained specialized training as a medical assistant and can seek employment in that field. Furthermore, as Mother stated, Russell T. would pay for anything she requested, but she never asked him to help her support her child.

Having reviewed the record in its entirety, the evidence clearly and convincingly established that Mother willfully failed to support her child during the pertinent four-month period. Accordingly, we affirm the trial court's finding that Mother abandoned her child by failing to support him.

Parental rights may be terminated when only one statutorily defined ground is established. *See* Tenn. Code Ann. § 36-1-113(c)(1); *Jones v. Garrett*, 92 S.W.3d 835, 838 (Tenn. 2002); *In re M. W.A.*, 980 S.W.2d 620, 622 (Tenn. Ct. App. 1998). Therefore, we shall address whether termination of Mother's parental rights is in the best interest of the child.

II. BEST INTEREST OF THE CHILD

The General Assembly has provided a list of factors for the court to consider when conducting an analysis of the best interests of the child. *See* Tenn. Code Ann. § 36-1-113(i)(1)-(9). The nine statutory factors, which are well known and need not be repeated here, are not exclusive or exhaustive, and other factors may be considered by the court. *In re M.A.R.*, 183 S.W.3d 652, 667 (Tenn. Ct. App. 2005). Moreover, not every statutory factor need apply; a finding of but a few significant factors may be sufficient to justify a finding that termination of the parent-child relationship is in the child's best interests. *See In re M.A.R.*, 183 S.W.3d at 667. The child's best interests are to be determined from the perspective of the child rather than the parent. *See State Dep't of Children's Servs. v. L.H.*, No. M2007-00170-COA-R3-PT, 2007 WL 2471500, at *7 (Tenn. Ct. App. Dec. 3, 2007) (citing *White v. Moody*, 171 S.W.3d 187, 194 (Tenn. Ct. App. 2004)).

The trial court found that termination of Mother's parental rights was in the best interest of the child. Specifically, the court noted Mother's lack of a commitment to a drug-free lifestyle and her pending criminal charges suggest Mother has failed to make an adjustment of circumstance to make her home safe for the minor child. In fact, Mother testified that she had a history of drug abuse, at least since 2009. She testified that she participated in a treatment program in 2009, but relapsed the following year. Her drug use led to the removal of the minor child from her home, and her testimony reveals that she continues to partake in drug use and that she has failed to take steps to successfully treat her drug use. She also continued to live with Christopher C., a known drug user, in violation of the trial court's order; the trial court found that Mother has been unable to place her children's well-being over her own desires to use drugs and for sexual satisfaction. The trial court determined that this, coupled with Mother's drug addiction, would prevent Mother from effectively providing safe and stable care for Austin. Furthermore, the court found that the minor child has been in a stable and loving home since he was seven months old, and to change his current situation is likely to negatively affect the child's well-being.

Considering these relevant factors from the perspective of the child, the evidence clearly and convincingly established that it is in the child's best interest that Mother's parental rights be terminated.

IN CONCLUSION

The judgment of the trial court is affirmed, and this matter is remanded with costs of appeal assessed against Mother.

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FRANK G. CLEMENT, JR., JUDGE