

FILED

06/24/2025

Clerk of the
Appellate Courts

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE
Assigned on Briefs April 2, 2025

IN RE MEADOW L., ET AL.

Appeal from the Juvenile Court for Sullivan County
No. J20411 Teresa Ann Nelson, Judge

No. E2024-01425-COA-R3-PT

This is an appeal of the termination of a mother’s parental rights to her children. The Juvenile Court for Sullivan County (“the Juvenile Court”) terminated the parental rights of Angela B. (“Mother”) to her two children, Meadow L. and Greyson L. (“the Children”).¹ Mother appeals, contesting the Juvenile Court’s finding that termination was in the Children’s best interest. Discerning no reversible error, we affirm.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Juvenile Court
Affirmed; Case Remanded

D. MICHAEL SWINEY, C.J., delivered the opinion of the court, in which J. STEVEN STAFFORD, P.J., W.S., and W. NEAL MCBRAYER, J., joined.

Gerry C. Collins, Abingdon, Virginia, for the appellant, Angela B.

Jonathan Skrmetti, Attorney General and Reporter, and Clifton Wade Barnett, Assistant Attorney General, for the appellee, Tennessee Department of Children’s Services.

¹ Greyson’s name is spelled “Grayson” on his birth certificate, but his name is spelled as “Greyson” in the parties’ briefs, the Juvenile Court’s orders, and on his social security card, entered as an exhibit. For consistency, we will use “Greyson,” the spelling used by the parties and the Juvenile Court.

OPINION

Background

In July 2019, the Tennessee Department of Children's Services ("DCS") filed a petition to adjudicate the Children dependent and neglected, alleging that John L. ("Father") abused alcohol and that Father's paramour psychologically and physically abused the Children.² DCS asked the Juvenile Court to award temporary custody of the Children to Mother, who would soon be discharged from an alcohol and drug treatment facility and planned to live in a "sober living house" for at least a year. The Juvenile Court placed the Children in Mother's temporary custody.

Only two months later, DCS filed another petition to adjudicate the Children dependent and neglected, alleging that Mother was no longer fit to care for the Children. DCS alleged that Mother had been evicted from the sober living house due to the Children's behaviors; allowed the Children to stay unsupervised with Father for four days in contravention of a court order; failed to attend her Alcoholics Anonymous/Narcotics Anonymous meetings; stopped taking her mental health medication; and tested positive for methamphetamine. The Juvenile Court granted temporary custody to the Children's paternal half-sister.

In a January 2020 order, the Juvenile Court adjudicated the Children dependent and neglected. Mother stipulated that the Children were dependent and neglected due to her inability to provide the Children with a home and her need to attend substance abuse treatment and live a drug-free lifestyle before they could return to her custody.

In July 2022, DCS filed another petition to adjudicate the Children dependent and neglected because the Children's half-sister was no longer willing to be the Children's caregiver. At DCS's request, the Juvenile Court placed the Children in the temporary custody of their paternal great-aunt. Shortly thereafter, DCS filed a petition to modify temporary custody, stating that the Children's paternal great-aunt was no longer willing to maintain custody of the Children, citing Greyson's behavioral issues. The Juvenile Court placed the Children in DCS's temporary custody on July 28, 2022.

In November 2022, the Juvenile Court found that neither parent had made any progress since the last hearing or passed any drug screens. The Juvenile Court prohibited Mother from having contact with the Children until she passed two consecutive drug screens.

² Father is not a party to this appeal and will be mentioned only insofar as it is necessary for the context of the case.

On July 12, 2023, DCS filed a petition to terminate Mother's parental rights, alleging the following statutory grounds: (1) abandonment by failure to visit children four years of age or older, (2) abandonment by failure to support children four years of age or older, (3) abandonment by failure to provide a suitable home, (4) substantial noncompliance with permanency plan, (5) persistent conditions, and (6) failure to manifest an ability and willingness to assume custody. DCS further alleged that termination was in the Children's best interest.

In October 2023, the Juvenile Court entered an order reiterating that Mother was to have no contact with the Children until she passed two consecutive random drug screens, adding that even then Mother shall have contact with the Children only when recommended by the Children's therapists.

The Juvenile Court held a trial on July 18, 2024. At the time of trial, Meadow was ten years old, and Greyson was nine years old. Mother testified that she lost custody of the Children to Father in January 2019 when she was incarcerated for "domestic with me and their dad." She regained custody of the Children after DCS removed the Children from Father's custody in July 2019. The Children lived with her in a sober living facility. However, she was asked to leave the sober living facility due to the Children's "rambunctious" behavior. She failed a drug screen for methamphetamine on August 30, 2019, and the Children were removed from her custody again.

Mother testified that she began using drugs when she was fourteen years old and has used alcohol, narcotics, and methamphetamine throughout her life. She did not seek any sort of substance abuse treatment until 2019. With respect to her relapse, Mother testified: "I actually didn't realize how much trauma the children did have when they were with their dad so it was a lot and I did relapse." Her relapse after leaving the sober living facility lasted around three or four months. She went back to rehab in October 2022 after relapsing into alcohol and methamphetamine use. When asked how many times she relapsed since the Children entered foster care in July 2022, Mother answered "a little more than a handful" of times. She acknowledged that she tested positive for methamphetamine and amphetamines in October 2023; she subsequently returned to rehab. Mother testified that she had not used an illegal substance since late 2023.

Like her sobriety, Mother's housing was unstable. She testified that she had lived in at least five different places since April 2024 and that she had not had a stable home for any length of time since 2022. She began living in a sober living facility a week before trial and was on a waiting list for Johnson City Housing. She acknowledged that she had been unable to obtain safe and stable housing within four months after the Children entered foster care and admitted that the conditions that led to the Children's removal persisted. She further acknowledged that it would not be in the Children's best interest to be returned to her custody that day. She affirmed it may be a year before she would be in a position to assume custody again.

As for contact with the Children, Mother testified that she last visited the Children in June or July of 2022 and last had a phone call with them in October of 2022. She testified that she does not “really know” the Children anymore. She stated that she has been employed as a full-time employee at U.S. Endodontics for the past two and half months and that child support has been constantly garnished from her wages. She had other jobs prior to this, and she stated that she was not prevented from working, other than during periods of time when she was in rehab. She does not have a vehicle.

Mother testified about some of her accomplishments, including her completion of two drug rehabilitation programs in May and June 2023; her completion of the “Mother-Child Connection” program, which included 180 hours of intensive outpatient substance abuse and mental health treatment, 12 hours of anger management, and 12 hours of nurturing parent classes in February 2024; her attendance at parenting classes between August and October 2023; and her participation in therapy since February 2024.

Martha Worley (“Worley”) testified that she is the current DCS case manager for the Children and that she has had a hand in the management of their case since they entered DCS custody. Worley detailed Mother’s drug screen history. She testified that Mother did not pass two consecutive random drug screens before DCS filed its termination petition in July 2023. According to Worley, Mother tested positive for methamphetamine and amphetamines in September 2022; passed a drug screen in December 2022; was unable to complete a requested screen in February 2023 because she “had errands to complete”; dispelled with the need for two requested drug screens in March 2023 by admitting that she would fail for methamphetamine; went to rehab in April 2023; stated she could not complete a requested screen in July 2023 because she was “not having a good day”; tested positive for methamphetamine in October 2023; and passed drug screens given in December 2023, February 2024, and July 2024. Worley testified that Mother’s ability to stay sober for any length of time is a concern.

Worley contradicted Mother’s testimony that she had consistently paid child support. According to Worley, Mother had not paid any child support or provided any non-monetary gifts since the Children entered DCS custody. The only documentary evidence that indicates Mother ever paid any amount of child support is a “Tennessee Child Support Payment Summary,” reflecting that Mother paid \$18.46 in September 2023, after the termination petition was filed. Worley stated that the initial permanency plan provided that Mother would pay one-hundred dollars in child support per child per month. Worley testified that Mother’s last visit with the Children was in September 2022.

Worley testified that DCS offered Mother parenting, alcohol and drug, and mental health assessments and drug screens during the first four months after the Children were removed into DCS custody. Worley stated that Mother did not comply with these

services during the first four months after removal, but also indicated that she at some point completed the assessments, with the exception of the parenting assessment. At the end of the four-month period, Worley was unable to recommend the Children return to her custody. DCS also had Child and Family Team Meetings and created a permanency plan during this period.

The first permanency plan was created in August 2022 and required Mother to complete the assessments, establish stable housing and a legal source of income, comply with random drugs screens, visit the Children, and complete any recommendations based on the assessments. Worley testified that during the six-month period this permanency plan was active, Mother did not complete the tasks, with exception of the assessments and inpatient treatment. Worley testified that Mother never provided DCS with proof of employment, stable housing, or mental health treatment. Another plan was created in January 2023, and it contained the same tasks. Mother did not make progress on these tasks during the six month period the plan was active.

Worley testified that she witnessed one visit between Mother and the Children and concluded that Mother could not manage them. Both Children had behavioral issues when they entered foster care. Greyson went through nine different foster homes before October 2022 when he was placed with Nick H. (“Nick”), his current foster father. According to Worley, Nick has been very consistent in his support for Greyson and has provided him with stability. Greyson calls Nick “dad” and wants to be adopted by him. Meadow calls her foster parents, Stephanie and Joe H. (“Stephanie” and “Joe”), “mom” and “dad.” She wants to be adopted by them. They are both bonded with their respective foster parents.

Nancy Strickler (“Strickler”), Meadow’s therapist, also testified. According to Strickler, Meadow experienced trauma, explaining: “We have been told there was physical abuse and we have talked about people doing things like shutting her in a dark room, talking about monsters, and trying to scare her.” Meadow and Greyson were ultimately placed in separate foster homes due to inappropriate contact between them.

Strickler testified to Meadow’s history of behavioral issues, describing her inability to manage her emotions and significant “fits,” when she screams and refuses to cooperate. According to Strickler, these fits could go on all day and into the next day. However, Meadow has started medication which has helped her behavior significantly. Strickler testified that Meadow’s “fits” became worse during the week before trial due to the possibility that her situation could change.

Strickler explained Meadow’s needs as follows:

Meadow needs permanency. She needs to know where she is going to be forever. She is in a position right now where she just doesn’t know and I

think that contributes to the fits of the unknown, are they going to keep me here, am I going to stay here, am I going to get moved again, it just increases the fits. She desperately needs a decision. She needs to know what is next.

According to Strickler, any change in caregivers for Meadow would be “exceptionally disruptive for her.” Strickler testified that Mother has not been permitted visits with Meadow because “as we began discussing visits the concerns were we were finally getting Meadow’s behaviors under control and concerned that adding mom back in would be very disruptive in the middle of the school year.” According to Strickler, even starting family therapy with Greyson could “ramp the behaviors back up.” Although Meadow wants to visit Mother, she wants to be adopted by her foster parents.

Valerie Warusewski (“Warusewski”), Greyson’s therapist, testified. Like Meadow, Greyson also has had behavioral issues, such as frequent meltdowns, anger, difficulty managing his emotions, breakdowns, difficulty in school, screaming, throwing, and hitting. However, his behaviors have improved significantly. According to Warusewski, Greyson is more social now and feels like he has stability. Stability has been an important factor in ameliorating his behavioral issues. The fear of having to move again causes him to “retreat within himself” and act out. When asked about the negative impact of delaying a sense of permanency for Greyson, Warusewski testified:

That definitely could because right now he is still forming. He is forming friends, he is forming the idea of who he is, he is forming identity, he is forming those relationships and forming his idea of how the world operates. School is going to be starting again and he can make friends. He can reach out to the world and develop a good life for himself. If he had to move again right now all of that is going to collapse down again I think.

Warusewski testified that Greyson has not spoken to her about Mother in over a year and has never indicated that he wants to be with Mother or visit her.

The Juvenile Court entered its order terminating Mother’s parental rights in August 2024, explaining its reasoning as follows:

[Abandonment by Failure to Visit]

In the relevant four-month period of March 11, 2023 – July 11, 2023, Mother exercised no visitation with the children. The children were removed from Mother’s custody in August 2019. They were later removed from their relative placement and were placed into the Department’s custody on July 28, 2022. On November 3, 2022, the Court entered an Order prohibiting Mother’s contact with the children until Mother could

pass two consecutive random drug screens. Mother last visited with the children in-person on September 15, 2022 and her last video visit was October 4, 2022. Mother's drug screen results are set out above in this Order. Since the no contact order was put into place, Mother has been unable to pass two consecutive random drug screens despite entering multiple drug treatment programs. The Department assisted Mother with an alcohol and drug assessment and Mother attempted several rehabilitation options, but ultimately relapsed back into drug use after each recovery program. At the time of the termination trial, Mother testified that she was substance free. Mother was advised at the time of the children's removal by the Department that there were resources available to assist her with obtaining suitable housing. Mother had the ability to cure the reason for the no contact order but was unable to sustain an extended substance free lifestyle so that she could resume visits with her children. Therefore, the Court finds by clear and convincing evidence that Mother abandoned the child by willful failure to visit pursuant to *Tenn. Code Ann. Sections 36-1-113 (g)(1) and 36-1-102(1)(A)(i)[.]*

* * *

[Abandonment by Failure to Support]

In this case, Permanency Plans were created. The case manager testified that at the first Permanency Plan meeting on August 19, 2022, Mother was present and participated in the creation of the plan. Mother's responsibilities under the plan required her to pay \$100.00 per month per child in child support and provide a legal source of income. The plan was ratified on November 3, 2022. The next permanency plan was completed on January 24, 2023, and ratified on February 23, 2023. Mother's child support obligation did not change from the previous plan. The next permanency plan was completed on July 25, 2023. Mother's tasks on that plan were revised because of the filing of the Termination Petition. However, she was still obligated to pay child support under the Permanency Plan. Mother testified at the termination hearing that she had been paying child support because it was garnished from her pay check. However, she failed to provide any proof of payments. The case manager testified at trial that Mother was able-bodied and capable of supporting her children. The case manager further testified that she requested from mother proof of employment on multiple occasions. However, Mother failed to provide requested documentation. The case manager testified that Mother has failed to make any child support payments or less than minimal payments since the children were placed into the Department's custody up until the filing of the Termination Petition. Exhibit 1 to the trial contained Criteria

and Procedures for Termination of Parental Rights. That document reflected that Mother was given a copy of the criteria and was explained the criteria on September 13, 2022. Included in the criteria was notice that failure to pay child support for four (4) consecutive months could be a ground for termination of parental rights. Mother also failed to provide nonmonetary supports like clothing, school supplies or food. As a result, this Court finds by clear and convincing evidence that Mother abandoned the children for failure to provide child support as a basis for termination of Mother's parental rights.

* * *

[Abandonment by Failure to Provide a Suitable Home]

The Juvenile Court signed a Protective Custody Order placing the child in the Department's custody on July 28, 2022. That Order removed custody of the children from the children's adult sister, Amanda [L.]. Ms. [L.] was granted custody of the children in August 2019 when the children were removed from the mother's custody due to dependency and neglect allegations. The Juvenile Court adjudicated the child dependent and neglected on November 3, 2022. The Court finds that the four months immediately following the removal is July 29, 2022 – November 29, 2022. The Juvenile Court's Protective Custody Order found that the Department made reasonable efforts to prevent removal given their efforts with the mother.

The Court finds that during the relevant four (4) month period, the Department made reasonable efforts to assist mother to provide a suitable home for the child. After the initial removal, mother participated in a child and family team meetings and creation of Permanency Plans. Mother was offered assessments for parenting and alcohol and drug counseling. As listed above, Mother has attended and completed several rehabilitation programs as well as other parenting assessments including an assessment through Families Free in August, 2019. However, case notes from Families Free entered as part of Exhibit 1 to the trial indicate that Mother reported on several occasions of feeling overwhelmed by the children. After the children's removal in 2022, Mother was evicted from her residence. In the four months immediately after the removal, she did not have suitable housing and was living with different friends until she entered in-patient treatment. Mother was aware that she was required to provide suitable housing because it was a listed task on the Permanency Plans. As stated, she completed some of the assessments, but did not comply fully with the recommendations. According to the Case Manager, during those four

months, Mother failed a drug screen for Methamphetamine (the date of that drug screen was not included in the testimony or the exhibit). Mother testified at trial that she also relapsed after completing in-patient treatment and was unable to provide suitable housing for the children in the four months following removal. The Court finds the Department's efforts to assist Mother in obtaining suitable housing were reasonable and were equal or exceeded any efforts made by Mother. The Court finds by clear and convincing evidence that Mother abandoned the children by failing to provide a suitable home for them.

* * *

[Substantial Non-Compliance with Permanency Plan]

The Court heard testimony and reviewed exhibits by the Department regarding the Permanency Plans ratified in this case. The dates of creation and ratification of the plans are set out above. Mother's tasks on the plan included completing alcohol and drug assessments, mental health assessment, parenting assessment, maintain employment and provide the Department with verification of employment, submit to, and pass random drug screens, obtain housing, and comply with visitation once she was permitted to visit with the children. As stated above, Mother entered numerous inpatient and outpatient treatment programs. She successfully completed several and even enrolled in sober living facilities. However, as evidenced by drug screen results previously discussed and by Mother's trial testimony, she has been unable to maintain sobriety. She testified that she is presently sober but admitted that she was not able to comply with the conditions in the Permanency Plans including providing transportation for the children and having a suitable home for them. Although she has repeatedly attempted treatment, she was unable to pass two consecutive drug screens in approximately two years to lift the No Contact Order with her children. Thus, she has not seen the children since September 2022 and has no bonded relationship with the children. She failed to provide documentation of employment although she testified that she is currently employed. Each permanency plan was ratified and approved by the Court as being reasonably related to remedying the reasons the children were placed into foster care, the tasks for the Department, the mother and the children were reasonable tasks with the goal of reuniting the children with Mother. The Court makes the same finding for purposes of the termination proceedings. When the initial plan was created in 2022, Mother was present at the permanency plan meeting and verbalized understanding of her tasks. She was also present at the court hearing when her tasks were

discussed and verbalized an understanding of the tasks. Her tasks did not change during this case. The Court finds that mother's noncompliance was substantial based on the proof at the trial. Therefore, the Court finds that the ground for termination for substantial non-compliance with the permanency plan has been proven by clear and convincing evidence.

* * *

[Failure to Manifest an Ability and Willingness]

In this case, the Court finds by clear and convincing evidence that Mother has not manifested an ability or willingness to assume custody of the children, nor to assume financial responsibility for the children. Since the children was placed into the Department's custody, Mother has not visited the children for almost two years. As the Court has discussed, Mother expresses a desire to regain custody of the children and has taken some positive steps toward regaining custody. However, this case has been pending since 2019 with the removal of the children from Mother due to a relapse on illegal substances. The children have not been in her custody since that time – a period of five years. The children's right to and need for permanency is paramount to the Court and outweighs the mother's desire to have them returned to her someday. This is especially true given Mother's testimony that she could not resume custody at the time of the termination hearing. Unfortunately, Mother cannot break the cycle of addiction and it has caused significant trauma for her children.

The Court finds by clear and convincing evidence that placing the children in Mother's custody would pose a risk of substantial harm to the children. Counselors for both children testified to the behavioral problems and psychological trauma the children have suffered. Both children will need continued counseling and emotional support. The children have been provided both of these with their current foster families. The counselors also testified that the children desperately need permanency. Each time there is a court hearing, the children regress in their behaviors. The counselors expressed concern for the children's well-being if they were returned to the mother's custody. Further, the Court finds that the children have no relationship with Mother having not seen her in approximately two years. Each child is bonded with their foster families and have adjusted well. Additionally, the foster families are working with each other to nurture a bond with the children and to maintain contact with the children.

* * *

[Persistent Conditions]

In this case, the children were originally removed from Mother and placed with a relative on September 5, 2019. Mother stipulated to dependency and neglect on November 21, 2019. The children were placed into the Department's custody on July 28, 2022. On November 3, 2022, the Court found by clear and convincing evidence that the children were dependent and neglected as to Mother. The children have not been in Mother's custody in approximately five (5) years. Mother, despite her treatment efforts, has not been able to remedy the reasons the children were placed into the Department's custody. She acknowledged at trial that those conditions still persist, and the children could not be returned to her at this time. Accordingly, the Court finds by clear and convincing evidence that there is little likelihood that the conditions will be remedied, and the continuation of the parent/child relationship greatly diminishes the children's chances of early integration into a safe, stable, and permanent home. The Court further finds that the children have been removed from the home by order of the court for a period of six months by clear and convincing evidence. The Court finds this ground for termination of Mother's parental rights.

* * *

[Best Interest]

In examining these factors, the Court finds as follows:

- 1) That it is in the best interests of the children for termination to be granted as the mother was provided no level of stability for the children. The children have been in foster care since 2022 and have not been in their mother's custody since July 2019. Mother has sought treatment repeatedly but has been unable to sustain extended sobriety. She does not have suitable housing or transportation for the children. Counselors for the children stated that the children desperately need permanency. Both children have significant psychological and behavioral issues requiring counseling on a weekly or bi-weekly basis. Both counselors stated that lack of permanency contributes considerably to the children's emotional instability. The children are bonded with the foster families and have expressed a desire to remain with those families. The bond between the children and their mother is not completely severed but has been damaged because of mother's drug addiction. Termination of

parental rights would allow the children to be adopted and would provide stability and continuity of placement for them.

- 2) The Court finds that termination of parental rights is in the best interests of the children because changing their environment once again would have a detrimental impact on the children's mental and physical wellbeing. As one of the counselors testified to at trial, these children are only able to deal with their day-to-day living because their existence has been so fragile. They have been placed in five homes in five years. They need to know they are in their forever homes. Their foster families are meeting all the children's basic needs including educational, medical, and housing needs as well as providing stability and safety. Mother testified that even as of the termination trial, she was unable to provide a safe and stable home for the children and that she was not ready to regain custody of the children. The children's need for stability and permanency outweighs the mother's desire for reunification at some not yet identifiable date.
- 3) That it is in the best interests of the child for termination to be granted because the children no longer have secure and healthy attachment to their mother. As stated above, the bond has not been severed but the children have both expressed a desire to be adopted by their foster families. Both children have expressed to their counselors that they were not safe in their mother's care and are afraid to be placed back in her custody. The children's past traumas are so significant that they have been unable to discuss them yet with their counselors. Placing the children with the mother would expose the children to post-traumatic symptoms and would not be in the children's best interests according to their counselors. Meadow has expressed a desire to potentially visit with her mother, but her counselor expressed great concern even for visits because of Meadow's fragile mental state. Greyson does not speak about this mother. He has just begun to discuss plans and the future with his foster family. His outbursts have decreased, and his overall mental state is improving.
- 4) That it is in the best interests of the child for termination to be granted as mother has not demonstrated any ability to care for the children. Mother has made efforts to deal with her drug addiction. Those efforts are discussed at great length above. However, she has been unable to maintain sobriety long enough to pass two consecutive drug screens so that the No Contact Order could be lifted in approximately two years. She expressed a desire to have the children back in her custody but acknowledged that she does not know what that time-frame would be.

She is unable to meet the children's basic needs or provide for their mental health and counseling needs. She does not know where the children attend counseling and could not transport them to those appointments by her own testimony. She has been unable to demonstrate a lasting adjustment of circumstances or conditions that make her a suitable caregiver for the children despite her in-patient treatment at multiple facilities.

- 5) The Court finds that it is in the children's best interest for termination to be granted as to mother because she has failed to maintain regular visits with the children. Mother's last in-person visit with the children was on September 15, 2022. The Court issued a No Contact Order because of Mother's continued drug use in November 2022. Mother could resume visits with the children once she passed two consecutive random drug screens. Despite her rehabilitation efforts, she has not been able to do so. Mother was aware that she had the power to cure the No Contact Order. The children rarely speak about Mother in their counseling sessions and want to be adopted.
- 6) That termination of parental rights is in the best interest of the children because the children have formed a significant parental bond with their foster families. The children were placed into separate foster homes because of inappropriate behaviors between the children immediately following their placement in the Department's custody. Since that time, both children have made significant improvement in their behaviors. Both are in elementary school and feel safe in their current placements. The foster parents intend to adopt the children in the event of termination. The foster parents also intend to allow the children to visit with each other and maintain a bonded sibling relationship. Father of the children will surrender his rights to the children in a separate proceeding.
- 7) The trial testimony regarding Mother's child support was contradictory. Mother testified that her check from work was being garnished for child support. However, she provided no documentation of her income or her child support payment. The case manager testified that Mother had not made any or minimal child support payments. Given the lack of documentation and considering the Case Manager's testimony, the Court finds that Mother failed to support the children and that weighs in favor of termination.

Considering all these factors, as well as the Court's other findings of fact stated hereinabove, the Court finds, by clear and convincing evidence,

that the Department has proven that the conditions for termination of parental rights as set forth in Tenn. Code Ann. Section 36-1-113(c)(1) and (c)(2) have been established in this matter. The Court further finds, based on the above by clear and convincing evidence, that it is in the best interests of the children to terminate the parental rights of Mother.

(Paragraph numbering omitted.) Mother appealed.

Discussion

Although not stated exactly as such, Mother raises the following issue on appeal: whether the Juvenile Court erred in finding that termination of Mother's parental rights was in the Children's best interest.

As our Supreme Court has instructed regarding the standard of review in parental rights termination cases:

A parent's right to the care and custody of her child is among the oldest of the judicially recognized fundamental liberty interests protected by the Due Process Clauses of the federal and state constitutions.³ *Troxel v. Granville*, 530 U.S. 57, 65, 120 S.Ct. 2054, 147 L.Ed.2d 49 (2000); *Stanley v. Illinois*, 405 U.S. 645, 651, 92 S.Ct. 1208, 31 L.Ed.2d 551 (1972); *In re Angela E.*, 303 S.W.3d 240, 250 (Tenn. 2010); *In re Adoption of Female Child*, 896 S.W.2d 546, 547-48 (Tenn. 1995); *Hawk v. Hawk*, 855 S.W.2d 573, 578-79 (Tenn. 1993). But parental rights, although fundamental and constitutionally protected, are not absolute. *In re Angela E.*, 303 S.W.3d at 250. "[T]he [S]tate as *parens patriae* has a special duty to protect minors" Tennessee law, thus, upholds the [S]tate's authority as *parens patriae* when interference with parenting is necessary to prevent serious harm to a child." *Hawk*, 855 S.W.2d at 580 (quoting *In re Hamilton*, 657 S.W.2d 425, 429 (Tenn. Ct. App. 1983)); see also *Santosky v. Kramer*, 455 U.S. 745, 747, 102 S.Ct. 1388, 71 L.Ed.2d 599 (1982); *In re Angela E.*, 303 S.W.3d at 250. "When the State initiates a parental rights termination proceeding, it seeks not merely to infringe that fundamental liberty interest, but to end it." *Santosky*, 455 U.S. at 759, 102 S.Ct. 1388. "Few consequences of judicial action are so grave as the severance of natural family ties." *Id.* at 787, 102 S.Ct. 1388; see also *M.L.B. v. S.L.J.*, 519 U.S. 102, 119, 117 S.Ct. 555, 136 L.Ed.2d 473 (1996). The parental rights at

³ U.S. Const. amend. XIV § 1 ("[N]or shall any State deprive any person of life, liberty, or property, without due process of law . . ."). Similarly, article 1, section 8 of the Tennessee Constitution states "[t]hat no man shall be taken or imprisoned, or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty or property, but by the judgment of his peers or the law of the land."

stake are “far more precious than any property right.” *Santosky*, 455 U.S. at 758-59, 102 S.Ct. 1388. Termination of parental rights has the legal effect of reducing the parent to the role of a complete stranger and of “severing forever all legal rights and obligations of the parent or guardian of the child.” Tenn. Code Ann. § 36-1-113(l)(1); *see also Santosky*, 455 U.S. at 759, 102 S.Ct. 1388 (recognizing that a decision terminating parental rights is “*final* and irrevocable”). In light of the interests and consequences at stake, parents are constitutionally entitled to “fundamentally fair procedures” in termination proceedings. *Santosky*, 455 U.S. at 754, 102 S.Ct. 1388; *see also Lassiter v. Dep’t of Soc. Servs. of Durham Cnty., N.C.*, 452 U.S. 18, 27, 101 S.Ct. 2153, 68 L.Ed.2d 640 (1981) (discussing the due process right of parents to fundamentally fair procedures).

Among the constitutionally mandated “fundamentally fair procedures” is a heightened standard of proof – clear and convincing evidence. *Santosky*, 455 U.S. at 769, 102 S.Ct. 1388. This standard minimizes the risk of unnecessary or erroneous governmental interference with fundamental parental rights. *Id.*; *In re Bernard T.*, 319 S.W.3d 586, 596 (Tenn. 2010). “Clear and convincing evidence enables the fact-finder to form a firm belief or conviction regarding the truth of the facts, and eliminates any serious or substantial doubt about the correctness of these factual findings.” *In re Bernard T.*, 319 S.W.3d at 596 (citations omitted). The clear-and-convincing-evidence standard ensures that the facts are established as highly probable, rather than as simply more probable than not. *In re Audrey S.*, 182 S.W.3d 838, 861 (Tenn. Ct. App. 2005); *In re M.A.R.*, 183 S.W.3d 652, 660 (Tenn. Ct. App. 2005).

Tennessee statutes governing parental termination proceedings incorporate this constitutionally mandated standard of proof. Tennessee Code Annotated section 36-1-113(c) provides:

Termination of parental or guardianship rights must be based upon:

- (1) A finding by the court by clear and convincing evidence that the grounds for termination of parental or guardianship rights have been established; and
- (2) That termination of the parent’s or guardian’s rights is in the best interests of the child.

This statute requires the State to establish by clear and convincing proof that at least one of the enumerated statutory grounds⁴ for termination exists and that termination is in the child's best interests. *In re Angela E.*, 303 S.W.3d at 250; *In re F.R.R., III*, 193 S.W.3d 528, 530 (Tenn. 2006); *In re Valentine*, 79 S.W.3d 539, 546 (Tenn. 2002). "The best interests analysis is separate from and subsequent to the determination that there is clear and convincing evidence of grounds for termination." *In re Angela E.*, 303 S.W.3d at 254. Although several factors relevant to the best interests analysis are statutorily enumerated,⁵ the list is illustrative, not exclusive. The parties are free to offer proof of other relevant factors. *In re Audrey S.*, 182 S.W.3d at 878. The trial court must then determine whether the combined weight of the facts "amount[s] to clear and convincing evidence that termination is in the child's best interest." *In re Kaliyah S.*, 455 S.W.3d 533, 555 (Tenn. 2015). These requirements ensure that each parent receives the constitutionally required "individualized determination that a parent is either unfit or will cause substantial harm to his or her child before the fundamental right to the care and custody of the child can be taken away." *In re Swanson*, 2 S.W.3d 180, 188 (Tenn. 1999).

Furthermore, other statutes impose certain requirements upon trial courts hearing termination petitions. A trial court must "ensure that the hearing on the petition takes place within six (6) months of the date that the petition is filed, unless the court determines an extension is in the best interests of the child." Tenn. Code Ann. § 36-1-113(k). A trial court must "enter an order that makes specific findings of fact and conclusions of law within thirty (30) days of the conclusion of the hearing." *Id.* This portion of the statute requires a trial court to make "findings of fact and conclusions of law as to whether clear and convincing evidence establishes the existence of each of the grounds asserted for terminating [parental] rights." *In re Angela E.*, 303 S.W.3d at 255. "Should the trial court conclude that clear and convincing evidence of ground(s) for termination does exist, then the trial court must also make a written finding whether clear and convincing evidence establishes that termination of [parental] rights is in the [child's] best interests." *Id.* If the trial court's best interests analysis "is based on additional factual findings besides the ones made in conjunction with the grounds for termination, the trial court must also include these findings in the written order." *Id.* Appellate courts "may not conduct de novo review of the termination decision in the absence of such findings." *Id.* (citing *Adoption Place, Inc. v. Doe*, 273 S.W.3d 142, 151 & n. 15 (Tenn. Ct. App. 2007)).

⁴ Tenn. Code Ann. § 36-1-113(g)(1)-(13).

⁵ Tenn. Code Ann. § 36-1-113(i).

B. Standards of Appellate Review

An appellate court reviews a trial court's findings of fact in termination proceedings using the standard of review in Tenn. R. App. P. 13(d). *In re Bernard T.*, 319 S.W.3d at 596; *In re Angela E.*, 303 S.W.3d at 246. Under Rule 13(d), appellate courts review factual findings de novo on the record and accord these findings a presumption of correctness unless the evidence preponderates otherwise. *In re Bernard T.*, 319 S.W.3d at 596; *In re M.L.P.*, 281 S.W.3d 387, 393 (Tenn. 2009); *In re Adoption of A.M.H.*, 215 S.W.3d 793, 809 (Tenn. 2007). In light of the heightened burden of proof in termination proceedings, however, the reviewing court must make its own determination as to whether the facts, either as found by the trial court or as supported by a preponderance of the evidence, amount to clear and convincing evidence of the elements necessary to terminate parental rights. *In re Bernard T.*, 319 S.W.3d at 596-97. The trial court's ruling that the evidence sufficiently supports termination of parental rights is a conclusion of law, which appellate courts review de novo with no presumption of correctness. *In re M.L.P.*, 281 S.W.3d at 393 (quoting *In re Adoption of A.M.H.*, 215 S.W.3d at 810). Additionally, all other questions of law in parental termination appeals, as in other appeals, are reviewed de novo with no presumption of correctness. *In re Angela E.*, 303 S.W.3d at 246.

In re Carrington H., 483 S.W.3d 507, 521-24 (Tenn. 2016) (footnotes in original but renumbered). In conjunction with a best interest determination, clear and convincing evidence supporting any single ground will justify a termination order. *E.g.*, *In re Valentine*, 79 S.W.3d 539, 546 (Tenn. 2002). Although Mother does not challenge the Juvenile Court's findings as to any of the statutory grounds, we must review these findings anyway. *In re Carrington H.*, 483 S.W.3d at 511 (“[A]ppellate courts must review a trial court's findings regarding all grounds for termination and whether termination is in a child's best interests, even if a parent fails to challenge these findings on appeal.”).

When DCS filed its termination petition, the relevant grounds for termination of parental rights were set out by statute as follows:

(g) Initiation of termination of parental or guardianship rights may be based upon any of the grounds listed in this subsection (g). The following grounds are cumulative and nonexclusive, so that listing conditions, acts or

omissions in one ground does not prevent them from coming within another ground:

* * *

(1) Abandonment by the parent or guardian, as defined in § 36-1-102, has occurred;

(2) There has been substantial noncompliance by the parent or guardian with the statement of responsibilities in a permanency plan pursuant to title 37, chapter 2, part 4;

(3)(A) The child has been removed from the home or the physical or legal custody of a parent or guardian for a period of six (6) months by a court order entered at any stage of proceedings in which a child is alleged to be a dependent and neglected child, and:

- (i) The conditions that led to the child's removal still persist, preventing the child's safe return to the care of the parent or guardian, or other conditions exist that, in all reasonable probability, would cause the child to be subjected to further abuse or neglect, preventing the child's safe return to the care of the parent or guardian;
- (ii) There is little likelihood that these conditions will be remedied at an early date so that the child can be safely returned to the parent or guardian in the near future; and
- (iii) The continuation of the parent or guardian and child relationship greatly diminishes the child's chances of early integration into a safe, stable, and permanent home;

(B) The six (6) months must accrue on or before the first date the termination of parental rights petition is set to be heard;

* * *

(14) A parent or guardian has failed to manifest, by act or omission, an ability and willingness to personally assume legal and physical custody or financial responsibility of the child, and placing the child in the person's legal and physical custody would pose a risk of substantial harm to the physical or psychological welfare of the child[.]

The relevant abandonment grounds read as follows:

(1)(A) For purposes of terminating the parental or guardian rights of a parent or parents or a guardian or guardians of a child to that child in order to make that child available for adoption, “abandonment” means that:

(i)(a) If the child is four (4) years of age or more, for a period of four (4) consecutive months immediately preceding the filing of a proceeding, pleading, petition, or amended or supplemental petition to terminate the parental rights of the parent or parents or the guardian or guardians of the child who is the subject of the petition for termination of parental rights or adoption, the parent or parents or the guardian or guardians either have failed to visit or have failed to support or have failed to make reasonable payments toward the support of the child;

* * *

(ii)(a) The child has been removed from the home or the physical or legal custody of a parent or parents or guardian or guardians by a court order at any stage of proceedings in which a child is alleged to be a dependent and neglected child, and the child was placed in the custody of the department or a licensed child-placing agency;

(b) The juvenile court found, or the court where the termination of parental rights petition is filed finds, that the department or a licensed child-placing agency made reasonable efforts to prevent removal of the child or that the circumstances of the child’s situation prevented reasonable efforts from being made prior to the child’s removal; and

(c) For a period of four (4) months following the physical removal, the department or agency made reasonable efforts to assist the parent or parents or the guardian or guardians to establish a suitable home for the child, but that the parent or parents or the guardian or guardians have not made reciprocal reasonable efforts to provide a suitable home and have demonstrated a lack of concern for the child to such a degree that it appears unlikely that they will be able to provide a suitable home for the child at an early date. The efforts of the department or agency to assist a parent or guardian in establishing a suitable home for the child shall be found to be reasonable if such efforts equal or exceed the efforts of the parent or

guardian toward the same goal, when the parent or guardian is aware that the child is in the custody of the department[.]

Tenn. Code Ann. § 36-1-102 (West July 1, 2023 to June 30, 2024).

We first address whether the Juvenile Court erred by finding that clear and convincing evidence supports the ground of abandonment by failure to visit. The relevant timeframe for our analysis on this ground was March 12, 2023 to July 11, 2023. *See In re Jacob C.H.*, No. E2013-00587-COA-R3-PT, 2014 WL 689085, at *6 (Tenn. Ct. App. Feb. 20, 2014) (“[T]he applicable four month window for determining whether child support has been paid in the context of . . . failure to support includes the four months preceding the day the petition to terminate parental rights is filed but excludes the day the petition is filed.”). The Juvenile Court found that Mother did not visit at all during the four-month period, that her last visit with the Children was in September 2022, and her last phone call/video visit with them was in October 2022. The Juvenile Court acknowledged the November 2022 no-contact order in place, but found that Mother had been unable to satisfy the requirements for its removal—pass two consecutive drug screens. The Juvenile Court found that Mother did not fulfill this requirement despite entering multiple drug treatment programs. The Juvenile Court further found that Mother had the power to have the no-contact order lifted but did not maintain an “extended substance free lifestyle” to do so. The evidence does not preponderate against these findings.

“This Court has often held that when a parent’s visitation has been suspended by the trial court and the parent has the ability to demonstrate a change in situation or behavior that would warrant reinstating visitation but fails to do so, that parent can be found to have willfully failed to visit.” *In re Kiara C.*, No. E2013-02066-COA-R3-PT, 2014 WL 2993845, at *6 (Tenn. Ct. App. June 30, 2014). Although Mother was provided a clear avenue for having the no-contact order rescinded, she did not do so. Based upon Worley’s testimony, it appears Mother did not pass two consecutive random drug screens until December 2023 and February 2024, months after DCS filed the petition to terminate her parental rights. Mother did not and could not visit the Children during the relevant four-month period by virtue of her inability to pass two consecutive drug screens. We accordingly conclude, as did the Juvenile Court, that clear and convincing evidence established this ground for termination.

The additional grounds found by the Juvenile Court were: (1) abandonment by failure to support; (2) abandonment by failure to provide a suitable home; (3) substantial noncompliance with permanency plan; (4) failure to manifest an ability and willingness to assume custody; and (5) persistent conditions. As instructed by *In re Carrington H.*, we have likewise reviewed the Juvenile Court’s findings as to each of these additional grounds as found by the Juvenile Court. The evidence does not preponderate against the Juvenile Court’s findings relevant to those grounds. Each of these additional grounds

was proven by clear and convincing evidence, and we affirm the Juvenile Court's judgment as to these grounds.

We next address whether the Juvenile Court erred in finding that termination of Mother's parental rights was in the Children's best interest. When DCS filed its termination petition, the statutory best interest factors read as follows:

(i)(1) In determining whether termination of parental or guardianship rights is in the best interest of the child, the court shall consider all relevant and child-centered factors applicable to the particular case before the court. Those factors may include, but are not limited to, the following:

(A) The effect a termination of parental rights will have on the child's critical need for stability and continuity of placement throughout the child's minority;

(B) The effect a change of caretakers and physical environment is likely to have on the child's emotional, psychological, and medical condition;

(C) Whether the parent has demonstrated continuity and stability in meeting the child's basic material, educational, housing, and safety needs;

(D) Whether the parent and child have a secure and healthy parental attachment, and if not, whether there is a reasonable expectation that the parent can create such attachment;

(E) Whether the parent has maintained regular visitation or other contact with the child and used the visitation or other contact to cultivate a positive relationship with the child;

(F) Whether the child is fearful of living in the parent's home;

(G) Whether the parent, parent's home, or others in the parent's household trigger or exacerbate the child's experience of trauma or post-traumatic symptoms;

(H) Whether the child has created a healthy parental attachment with another person or persons in the absence of the parent;

(I) Whether the child has emotionally significant relationships with persons other than parents and caregivers, including biological or foster siblings, and the likely impact of various available outcomes on these relationships and the child's access to information about the child's heritage;

(J) Whether the parent has demonstrated such a lasting adjustment of circumstances, conduct, or conditions to make it safe and beneficial for the child to be in the home of the parent, including consideration of whether there is criminal activity in the home or by the parent, or the use of alcohol, controlled substances, or controlled substance analogues which may render the parent unable to consistently care for the child in a safe and stable manner;

(K) Whether the parent has taken advantage of available programs, services, or community resources to assist in making a lasting adjustment of circumstances, conduct, or conditions;

(L) Whether the department has made reasonable efforts to assist the parent in making a lasting adjustment in cases where the child is in the custody of the department;

(M) Whether the parent has demonstrated a sense of urgency in establishing paternity of the child, seeking custody of the child, or addressing the circumstance, conduct, or conditions that made an award of custody unsafe and not in the child's best interest;

(N) Whether the parent, or other person residing with or frequenting the home of the parent, has shown brutality or physical, sexual, emotional, or psychological abuse or neglect toward the child or any other child or adult;

(O) Whether the parent has ever provided safe and stable care for the child or any other child;

(P) Whether the parent has demonstrated an understanding of the basic and specific needs required for the child to thrive;

(Q) Whether the parent has demonstrated the ability and commitment to creating and maintaining a home that meets the child's basic and specific needs and in which the child can thrive;

(R) Whether the physical environment of the parent's home is healthy and safe for the child;

(S) Whether the parent has consistently provided more than token financial support for the child; and

(T) Whether the mental or emotional fitness of the parent would be detrimental to the child or prevent the parent from consistently and effectively providing safe and stable care and supervision of the child.

(2) When considering the factors set forth in subdivision (i)(1), the prompt and permanent placement of the child in a safe environment is presumed to be in the child's best interest.

(3) All factors considered by the court to be applicable to a particular case must be identified and supported by specific findings of fact in the court's written order.

(4) Expert testimony is not required to prove or disprove any factor by any party.

(5) As used in this subsection (i), "parent" includes guardian.

Mother presents a bare-bones argument that the Juvenile Court erred by finding termination in the Children's best interest because Mother was making progress, had completed therapy and counseling courses, and was testing negative on drug screens. Mother would have us ignore the Juvenile Court's findings as to all other relevant factors and instead put undue weight on her recent progress and the value of her efforts, which we note have been historically unsuccessful with respect to her sobriety. We decline to do so as the Juvenile Court's findings as to the relevant factors are supported by a preponderance of the evidence.

We emphasize that "[t]he child's best interests must be viewed from the child's, rather than the parent's, perspective," *In re Audrey S.*, 182 S.W.3d 838, 878 (Tenn. Ct. App. 2005), and that "when the best interests of the child and those of the adults are in conflict, such conflict shall always be resolved to favor the rights and the best interests of the child," Tenn. Code Ann. § 36-1-101(d). Although we commend Mother on her recent clean drug screens and completion of certain programs and classes, the Children have been out of her custody since 2019, and Mother testified that she does not "really know" them anymore. Time has marched on while Mother has struggled to maintain any length of sobriety. At the time of trial, Mother had not had custody of the Children in five years and had not seen them in nearly two years. In the life of a child, five years is not an insignificant period of time. Mother is a stranger to the Children. In sum, although Mother may have made progress in the eleventh hour, the Children have moved on and finally achieved stability provided by their respective foster parents to whom they are bonded and view as their parents.

Mother has not demonstrated a long-lasting sobriety despite her efforts. Mother did not have suitable housing at the time of trial, having lived in five different places in

the three or four months prior to trial. She testified that she is a full-time employee, yet Worley testified that she did not pay any child support. She does not have a vehicle to transport Greyson to his many appointments and extracurricular activities. She never demonstrated an ability to help the Children work through their behavioral issues and manage their emotions.

The evidence presented at trial very clearly established that the Children need stability and permanency, without which their mental health and ability to manage their emotions suffer greatly. Mother cannot provide them with the stability and permanency they require. Mother forthrightly acknowledged that it could be a year before she could be in a position to care for the Children and that it would not be in their best interest for her to gain custody of them at that point in time.

The evidence does not preponderate against the Juvenile Court's best interest findings, and clear and convincing evidence supports its conclusion that termination of Mother's parental rights was in the Children's best interest. We affirm the Juvenile Court's termination of Mother's parental rights to the Children.

Conclusion

For the foregoing reasons, we affirm the Juvenile Court's judgment and remand for collection of costs below. Costs of the appeal are assessed against the appellant, Angela B., and her surety, if any.

D. MICHAEL SWINEY, CHIEF JUDGE