



## **Termination of Parental Rights (TPR)**

3/4/04

In **In Re Termination of Relationship of D.D.**, 804 N.E. 2d 258 (Ind. Ct. App. 2004), the Court affirmed the trial court's order which involuntarily terminated the mother's parental rights to one of her children. The child and his two half-siblings were removed from the mother's home and found to be CHINS due to physical abuse by the mother's boyfriend. The mother had failed to protect the children and exposed them to an endangering environment. The mother was ordered to leave the boyfriend's home. The child and his half-siblings were returned to the boyfriend's home for an in-home trial visit. The boyfriend could not meet the child's emotional needs and asked for him to be removed. The child was placed in foster care. The half-siblings' CHINS case was closed. Due to concerns about the mother's mental health and substance abuse, the Marion County OFC (hereinafter MCOFC) petitioned to terminate the parents' relationship to the child. The father did not appeal the trial court's termination order, but the mother appealed, arguing the following: (1) the trial court erred by concluding that there was a reasonable probability that the reasons for the child's continued placement outside of the mother's home will not be remedied; (2) the trial court's finding that termination was in the child's best interests was clearly erroneous; (3) the trial court's finding that the MCOFC had a suitable plan for the child's care was clearly erroneous.

**In determining whether a reasonable probability exists that the conditions justifying child's continued placement outside the home, court must judge parents' fitness to care for child at time of termination hearing and take into consideration evidence of changed conditions. Courts must also evaluate the parents' habitual patterns of conduct to determine the probability of future neglect and deprivation.**

The Court opined that the trial court must weigh the testimony of the mother and stepfather concerning their current situation against the mother's habitual standards of conduct, in failing to: (1) address her mental health problems; (2) consistently take her medication; (3) address her addiction problems; and (4) provide a safe environment for the child. The mother's alleged changed conditions included her recent marriage, residence in a two-bedroom apartment, weekly visits with a counselor, biweekly visits with a therapist, compliance with medications, and participation in parenting program, Narcotics Anonymous and Sober Life meetings. The Court noted that the following was supportive of MCOFC's position: (1) the mother's failure to sign releases and give information to the child's Guardian ad Litem regarding the mother's completion of services; (2) mother had tested positive for marijuana recently; (3) there was no documentation of the changed conditions except for the mother's and stepfather's

testimony. The trial court's finding that the mother's habitual pattern of conduct indicated a reasonable probability that the reasons for the child's continued out of home placement was likely to continue was not clearly erroneous. Id. at 267.

**Trial court's conclusion that termination would be in child's best interests was not clearly erroneous.**

The Court determined that the trial court's best interests finding was not clearly erroneous, noting the following totality of the evidence: (1) the mother's history of substance abuse and mental health problems; (2) despite services, the mother had failed for years to adequately demonstrate a change in the conditions that necessitated the child's continued removal; (3) during therapeutic visits with the child, the child's counselor had concerns that the mother made inappropriate comments to the child and placed him in an adult role; (4) the Guardian ad Litem had recommended that termination was in the child's best interests. Id.

**General plan of adoption was not clearly erroneous.**

The trial court must find that there is a satisfactory plan for the care and treatment of the child to support a termination judgment. Indiana law does not require a detailed plan so long as the court is offered a general sense of the direction in which the child will be going after adoption. In Re B.D.J., 728 N.E. 2d 195, 204 (Ind. Ct. App. 2000). The child's foster parents were interested in adopting him but had not made a final decision. The MCOFC's plan for the child was adoption, either by the foster parents or by another family. The trial court's finding concerning the suitability of the plan was not clearly erroneous. D.D. at 268.