



## Termination

8/9/2019

In **Matter of M.I.**, 127 N.E.3d 1168 (Ind. 2019), the Court affirmed the trial court and held that the trial court had not erred in concluding that DCS failed to clearly and convincingly show that termination was in the children's best interests. Id. at 1169.

Mother presented six of her children to DCS and told DCS she could not care for them due to her addiction to alcohol and her homelessness. DCS filed CHINS petitions, the trial court found the children to be CHINS, and Mother was ordered to participate in services. Mother was required to maintain appropriate housing, employment, attend AA meetings, attending counseling, engage in home-based services, submit to random drug screens, and visit with the children. The children initially remained with Mother until she lost housing again due to her aunt moving away, and the children were placed in foster care. Mother lived in various locations while finding employment, going to AA meetings, participating in counseling, completing a parenting program, submitting to random drug screens, and attending supervised visitations with her children. Mother was unsuccessful in obtaining housing. DCS eventually filed to terminate Mother's parental rights, citing her failure to comply with the parent participation plan. The factfinding hearing included the following evidence: (1) the strong bond between Mother and her children; (2) DCS's potential struggle to find an adoptive home for the children; and (3) Mother's progress with the parent-participation plan. The GAL, who had neither met nor spoken with the children, was the only witness who indicated that terminating Mother's parental rights would be in the children's best interests. The trial court denied DCS's petition to terminate Mother's parental rights, and the GAL appealed. The Court of Appeals reversed the trial court, and the Indiana Supreme Court granted transfer.

**The trial court did not err in concluding that the termination would not be in the children's best interests; the trial court recognized Mother's struggles with obtaining housing, but appropriately looked to a variety of factors in determining the children's best interests. Id. at 1172.** The GAL argued that the trial court erred in its best interests conclusion, because Mother's failure to obtain housing for more than two years led to the conclusion that her parental rights must be terminated. Id. at 1171. The Court disagreed and noted that children's best interests encompasses a variety of factors. Id. The Court noted the following evidence considered by the trial court and findings made by the trial court: (1) the strong loving bond between Mother and the children; (2) the therapist overseeing visitations testified to the positive and enthusiastic relationship between Mother and the children; (3) the foster family testified to the great affection the children have for Mother; (4) DCS would struggle to find adoptive parents because the children ranged in age from four to thirteen, were split amongst different foster homes, and each child has behavioral challenges; (5) if the children were adopted, they would likely not remain as an intact sibling unit; (6) Mother was only unemployed for a total of six weeks since the beginning of the case and currently had a fulltime job; (7) Mother was sober; (8) Mother engaged

in counseling and attended AA meetings; (9) Mother was able to provide food and healthcare; and (10) Mother's parents skills had significantly improved. Id. at 1171-72. The Court noted that Mother had not complied with every requirement of her parent participation plan, including the requirement to obtain stable housing; however, Mother does not own a car, so total compliance with the plan was extremely difficult, and DCS case managers conceded that the plan requirements were particularly cumbersome for Mother. Id. at 1172. The evidence mostly showed compliance and improvement from Mother, and that termination was not in the children's best interests. Id.