In The
Court of Appeals
Seventh District of Texas at Amarillo

No. 07-19-00435-CV

IN THE INTEREST OF A.F., A CHILD

On Appeal from the 100th District Court
Carson County, Texas
Trial Court No. 12259, Honorable Stewart Messer, Presiding

May 29, 2020

MEMORANDUM OPINION

Before PIRTLE and PARKER and DOSS, JJ.

D.F. (Father) appeals a final order terminating his parental rights to his son, A.F. ("Adam"). C.P. (Mother) filed an affidavit of relinquishment in the trial court; her parental rights were terminated, and she did not appeal. J.G. and T.G. (collectively the foster parents) intervened, seeking sole managing conservatorship of Adam. In its final order, the trial court appointed appellee, the Texas Department of Family and Protective Services, to be Adam's permanent managing conservator. We overrule Father's issues necessary for disposition of this appeal and affirm the trial court's final order of termination.

Introduction

The Department's case involving Adam was one of four termination-of-parental-rights cases that were consolidated for a single trial without a jury. Because of overlapping facts in the lawsuits, parties to the three other cases require identification; we use fictitious names when feasible. *See* TEX. FAM. CODE ANN. § 109.002(d) (West Supp. 2019); TEX. R. APP. P. 9.8(b)(2). Below is a summary of the parties and disposition of the other cases:

Trial Cause #	Child	Mother	Father	Disposition
12,258	"Brad"	Adam's Mother	"William"	Terminated rights of both parents
12,260	"Cora"	"Yolanda"	"Zane"	Terminated Yolanda's rights; New trial granted as to Zane
12,261	"Danielle"	Adam's Mother	"Zane"	Terminated Mother's rights; New trial granted as to Zane

Adam was born in June 2007. About two months after Adam's birth, Father committed the offenses of burglary of a building, possession of more than four ounces but less than five pounds of marijuana in a drug free zone, and escape from custody. He was ultimately found guilty of these offenses and sentenced to serve more than 10 years in prison. Father was released from prison into a ten-month intensive parole program which, among other things, confined him to Harris County. Father admitted that for at

least nine years during his term of imprisonment he had no contact information for Adam and Mother. Mother testified Father's absence continued even after his release from prison.

During the relevant time period, Mother and Zane were involved in a relationship and lived together in a mobile home in Carson County, Texas, with Adam, Brad, Cora, Danielle, and an additional child. For an unspecified time, Yolanda also lived with them. In August 2016, the Department received an allegation that the five children, including Adam, were exposed to domestic violence, of Mother's "probable" drug use, and that two children were being physically abused. Paula Mears, a Department investigator, visited Zane at the mobile home. Mother was absent. Mears testified that Zane and the others had just moved into the dwelling, which was devoid of furniture other than a couch. Mears obtained beds, school supplies, and clothing for the children.

The Department located Mother in Amarillo. Apparently because of suspected drug use, she signed a safety plan that prohibited contact with the children. Mears obtained contact information for Father, but was unable to reach him by letter or telephone.

Three or four months later, the case was transferred to the Department's Family-Based Safety Services (FBSS) unit where caseworker Bridget Caskey assumed responsibility. According to Father, Caskey contacted him and explained that Mother was possibly using drugs and was to be removed from the household. Father testified he understood that with Mother being removed, "everything was fine in the household." Father testified he arranged for Adam and the other children to receive Christmas gifts, but that Zane and/or Mother refused to accept the gifts.

The living situation for Adam and the other children continued to worsen. In November 2018, the Department received a report of neglectful supervision and emotional abuse, alleging that Zane used illegal drugs in the presence of the children, that Mother (who was prohibited from being around the children) hits the children, and that there was no food in the home.

Leitha Crawford traveled to the mobile home to investigate the allegations. Zane was there, along with Adam, Brad, and Danielle. Near the front door, Crawford encountered a stench: "musty, dog feces, urine, garbage." Crawford also saw and photographed a pile of what appears to be rotting garbage in the kitchen. In addition, Crawford observed dog feces on the home's floors; Zane told her that his dogs never went outside. Clothing strewn on the laundry room floor contained dog urine and dog feces. She gave Zane the opportunity to clean the home before she returned for another visit.

Upon her second visit, Crawford found Adam in the front yard clothed in shorts but without shoes. The weather was cold. Crawford smelled the same odor and found the conditions of the home to be unchanged.

Crawford attempted to visit Adam, Brad, and Danielle at school prior to a third home visit, but discovered the children had been kept home to clean house in anticipation of her arrival. During the home visit, Crawford observed that the garbage and dog feces had been removed, but she found and photographed that the home's mattresses were infested with bed bugs. The children told Crawford the living room furniture also contained bed bugs. Because they feared being bitten, Adam and Brad were forced to sleep on an inflatable mattress or on the couch rather than in their beds. The children's bathroom

was not clean: old feces was believed to be caked on the sides of the toilet and bathtub, and the sink contained dead flies. Crawford also photographed a portable toilet in the home that had not been emptied or cleaned.

Crawford's interviews revealed additionally concerning information about the children's health and safety. Crawford was told Zane ordinarily remained unclothed around the house unless a visitor was expected. He also slept naked with Danielle. Mother had knocked a hole in an exterior door large enough to be crawled through; the hole was merely covered by draped cloth. Crawford observed several holes in the trailer's interior walls, the result of Mother throwing full cans of food at the children. Crawford opined the home did not contain sufficient food for Zane and the four children and that the living conditions constituted a health hazard for the children.

Following this third home visit, the children were removed from the home. As Crawford and the children were driving away from the mobile home, Adam revealed that Mother had been hiding in a closet during Crawford's visits. When she confronted Zane about Mother's undisclosed presence in the home, he admitted lying because he feared Mother would assault him.

On November 27, 2018, the Department filed the underlying suit affecting parent-child relationship to terminate parental rights. Drug screens of two children -- Brad and Danielle -- were positive for methamphetamine. Zane's urinalysis and hair follicle test were positive for methamphetamines and morphine. Mother agreed on cross-examination that she and Zane both used methamphetamine in the home while the children were in the home.

At final hearing, Lynn Jennings, a licensed professional counselor, examined the photographs from Crawford's investigation and opined the conditions depicted posed a danger to the physical and emotional well-being of the children. Jennings also testified she learned through her own interviews that Zane had choked Adam and placed a knife to Adam's throat. Adam told her that Zane threatened to kill him if he revealed "anything that was going on."

Concerning Adam's relationship with Father, the evidence revealed that during the "10 months to 16 months" from between the time when Father learned Mother had been removed from the home until Father's release from prison, Father never made any arrangements for anyone to care for Adam. Father testified that after his release, he called Zane once a week or every-other-week to ask about Adam.[1] Zane reassured Father that "everything was great" and "not to worry about nothing," but never allowed Father to speak with Adam. Zane blamed Mother for the decision to prohibit a conversation between Adam and Father. Father believed Zane had been to prison and knew that he "was really good at lying." Father said it concerned him when he never heard children in the background during his conversations with Zane. There is no evidence, though, that Father did anything to verify the accuracy of Zane's statements or demand to exercise parental rights to Adam.

Crawford testified that during her communication with Father, he made no mention of calling his son or sending him cards or gifts. Testimony from trial indicates that twelve-year-old Adam had not seen Father for more than a decade, and that the last personal

[1] Because of Father's attempted escape conviction, he was prohibited from leaving Harris County for ten months after his release from prison.

interaction may have occurred when Adam was only two months old. Jennings testified that Adam knows Father's name but has apparently never seen Father's photo.

Upon the recommendation of a therapist, the court ordered visitation between Father and Adam. Father canceled the visit. At final hearing, Father initially sought to explain he had to cancel the visitation (scheduled for April 1, 2019) because he had summer visitation with a daughter, but conceded on cross-examination he was mistaken in blaming the cancellation on a summer scheduling conflict. Father also testified that during Christmas 2018, he made an unannounced visit to Panhandle, Texas, to visit Adam, but learned for the first time that the Department had taken custody of the children. During a trip from Colorado to see his daughter, Father passed through Amarillo, but did not seek a visit with Adam

During the pending litigation, the Department prepared a plan of services for Father to complete that included counseling, parenting classes, psychological and psychiatric evaluations, and random drug testing. Due to Father's residence in Harris County, a Department courtesy worker in Houston, Davetta Young, assisted Father and monitored his progress. Young testified that Father completed the psychiatric and psychological assessments, received negative drug screens, and eventually completed parenting classes, but attended only two scheduled counseling sessions. Father offered various reasons for why he did not attend counseling. Young and Father each testified their contact with one another as "confrontation[al]" and "combative," respectively. Father blamed Young for the loss of a $25 per hour job as a trim carpenter; Young testified Father seemed more concerned about his work than about Adam. Young opined that Father did not complete services "because of his distaste for CPS."

Father was ordered to pay child support for Adam while in Department care. Evidence showed he made one payment. Father blamed his non-payment on unemployment and low-paying work, but the evidence showed Father wore an Apple watch, used student loan money to invest in his trailer business, and paid to fly his daughter to Houston for visitation.

Following the close of evidence, the court rendered a final order terminating Father's parental rights on findings that he had violated four predicate grounds and termination was is the best interest of Adam[2] It also ordered payment by Father of the child support arrearage and payment of post-termination child support.

Analysis

Sufficiency of Subsection (D) Finding

By his second issue, Father argues the evidence was legally or factually insufficient to support the trial court's finding that he violated subsection (D). TEX. FAM. CODE ANN. § 161.001(b)(1)(D). Subsection (D) provides for termination of parental rights if the parent "knowingly placed or knowingly allowed the child to remain in conditions or surroundings which endanger the physical or emotional well-being of the child." TEX. FAM. CODE ANN. § 161.001(b)(1)(D).

In conducting an evidentiary sufficiency review, we apply the standards stated in *In re K.M.L.,* 443 S.W.3d 101, 112-13 (Tex. 2014), and *In re K.V.,* No. 07-16-00188-CV,

[2] *See* TEX. FAM. CODE ANN. § 161.001(b)(1)(D),(E),(N),(O) & (2) (West Supp. 2019).

2016 Tex. App. LEXIS 11091, at *6-8 (Tex. App—Amarillo Oct. 11, 2016, no pet.) (mem. op.).

"To endanger" a child's physical or emotional well-being means to expose a child to loss or injury or to jeopardize a child's emotional or physical health. *See In re M.C.,* 917 S.W.2d 268, 269 (Tex. 1996) (per curiam). Endangerment under subsection (D) may be established by evidence related to the child's environment. *In re A.S.,* 261 S.W.3d 76, 83 (Tex. App.—Houston [14th Dist.] 2008, pet. denied). The child's "environment" encompasses the suitability of the child's living conditions and the conduct of parents or others in the home. *In re S.R.,* 452 S.W.3d 351, 360 (Tex. App.—Houston [14th Dist.] 2014, pet. denied). A child is endangered when the environment creates a potential for danger that the parent is aware of, but consciously disregards. *In re S.R.,* 452 S.W.3d 351, 360 (Tex. App.—Houston [14th Dist.] 2014, pet. denied) (citing *In re M.R.J.M.,* 280 S.W.3d 494, 502 (Tex. App.—Fort Worth 2009, no pet.); *In re S.M.L.,* 171 S.W.3d 472, 477 (Tex. App.—Houston [14th Dist.] 2005, no pet.)); *In re N.R.,* 101 S.W.3d 771, 776 (Tex. App.—Texarkana 2003, no pet.). To prove endangering conduct, the evidence need not show a parent possessed certain knowledge that actual injury was occurring; rather, it is enough that the parent was aware of the potential for danger to the child in such an environment and disregarded that risk. *In re N.R.,* 101 S.W.3d at 776; *In re S.M.L.,* 171 S.W.3d at 477 (same).

The evidence overwhelmingly supports the fact that Adam was permitted to remain in conditions or surroundings which endangered the child's physical or emotional well-being. A subsection (D) finding, however, also requires proof by clear and convincing evidence that Father "knowingly allowed" Adam to remain there. In other words, unless

we conclude the evidence is capable of producing a firm belief or conviction that Father knew of the potential for an endangering environment for Adam, we must hold the evidence is legally insufficient to support the trial court's finding that Father engaged in the conduct described in Family Code section 161.001(b)(1)(D). *See, e.g., In re P.N.T.*, 580 S.W.3d 331, 356 (Tex. App.—Houston [14th Dist.] 2019, pet. filed). Though the evidence of Father's knowledge presents a close call, we conclude that the evidence, viewed in the light most favorable to the challenged endangerment finding, is sufficient for a reasonable factfinder to have formed a firm belief or conviction that Father knowingly allowed Adam to remain in conditions or surroundings which endangered his physical or emotional well-being.

Following his release from prison, Father began a weekly or bi-weekly routine of contacting Zane by telephone. Father believed Zane had been to prison and knew that he "was really good at lying." Zane consistently refused to let Father speak with Adam on any telephone call. Father knew Mother had been removed from the home for using drugs, but Zane blamed Mother for the decision to refuse contact with Adam. Father also expressed concern that he could not hear children's voices in the background during his calls with Zane. These suspicions about Adam's environment were such that Father reached out to caseworker Bridget Caskey to request her opinion but learned that her work in the matter had closed. Father took no further action to investigate his suspicion that information about Adam was being withheld.

Father was aware of the 2016 FBSS case and Mother's exclusion from the home because probable drug use. That Zane blamed Mother for denying contact with Adam permits an inference that Mother was still in contact with Zane and Adam. *See In re*

M.R.J.M., 280 S.W.3d 494, 502-05 (Tex. App.—Fort Worth 2009, no pet.) (concluding evidence was factually sufficient to support termination of father's rights under subsection (D) when father allowed child to remain with mother despite knowledge of mother's past drug use). The conclusion that Father believed Mother to be living apart from the children does not weigh in the Appellant's favor because it shows Father believed Adam was in the possession of Zane, a nonparent, who would not allow Father to speak with his son; Zane also allegedly refused Father's Christmas gifts for the child. The circumstance of a nonparent curiously refusing to provide a parent access to his child (correctly) raised Father's suspicions to the point that he inquired with a Department caseworker. But when the caseworker was unable or unwilling to provide insight, Father took no further action and turned a blind eye to Adam's condition and living environment.

After reviewing the evidence in the light most favorable to the findings and disregarding all evidence a reasonable factfinder could have disbelieved and also reviewing the disputed evidence in light of the entire record, we conclude that a reasonable factfinder could have formed a firm belief or conviction that Father was aware Adam was of circumstances suggesting conditions or surroundings that placed the boy's physical or emotional well-being at risk, yet allowed Adam to remain in those conditions or surroundings. Sufficient evidence supported the trial court's subsection (D) finding. Father's second issue is overruled.

As noted, only one predicate-ground finding, when combined with a best-interest finding, is necessary for termination of parental rights. In cases where, as here, parental rights are terminated on multiple predicate-ground findings, including an endangerment finding, the parent is entitled to appellate review of the endangerment finding even if

another finding alone is sufficient to uphold termination. *In re N.G.,* 577 S.W.3d 230, 235 (Tex. 2019) (per curiam). Due process requirements necessitate this type of review because of the consequences an endangerment finding could have on the parent's parental rights to other children. *Id.*; *see In re L.G.,* 596 S.W.3d 778, 781(Tex. 2020) (per curiam) ("Consistent with *In re N.G. . . .* we conclude that the court of appeals erred in failing to detail its analysis of the challenged findings under section 161.001(b)(1)(D) and (E) (citing *In re Z.M.M.,* 577 S.W.3d 541, 543 (Tex. 2019) (per curiam)); TEX. FAM. CODE ANN. § 161.001(b)(1)(M) (providing parental rights may be terminated on clear and convincing proof the parent "had his or her parent-child relationship terminated with respect to another child based on a finding that the parent's conduct was in violation of Paragraph (D) or (E) or substantially equivalent provisions of the law of another state"). We, therefore, will now consider Father's subsection (E) sufficiency complaint.

Sufficiency of Subsection (E) Finding

By his third issue, Father argues the evidence was legally or factually insufficient to support the trial court's finding that he violated subsection (E). TEX. FAM. CODE ANN. § 161.001(b)(1)(E). A violation of subsection (E) is proven by clear and convincing evidence that the parent engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangered the physical or emotional well-being of the child. TEX. FAM. CODE ANN. § 161.001(b)(1)(E). Subsection (E) requires more than a single act or omission; a voluntary, deliberate, and conscious course of conduct by the parent is required. *In re D.T.,* 34 S.W.3d 625, 634 (Tex. App.—Fort Worth 2000, pet. denied).

It is more than a threat of metaphysical injury or the possible ill effects of a less-than-ideal family environment, but it is not necessary that the conduct be directed at the child or that the child actually suffer injury. *In re M.C.,* 917 S.W.2d at 269. The cause of the danger to the child may be shown by the parent's actions as well as by omissions or failures to act. *Doyle v. Texas Dep't of Protective & Regulatory Servs.,* 16 S.W.3d 390, 395 (Tex. App.—El Paso 2000, pet. denied). The specific danger to the child's well-being may be inferred from parental misconduct standing alone. *Tex. Dep't of Human Servs. v. Boyd,* 727 S.W.2d 531, 533 (Tex. 1987); *In re R.W.,* 129 S.W.3d 732, 738 (Tex. App.—Fort Worth 2004, pet. denied). The statute does not require that conduct be directed at a child or cause actual harm; rather, it is sufficient if the parent's course of conduct endangers the well-being of the child. *Walker v. Tex. Dep't of Family & Protective Servs.,* 312 S.W.3d 608, 617 (Tex. App.—Houston [1st Dist.] 2009, pet. denied). Furthermore, the conduct does not have to occur in the presence of the child. *Id.* The conduct may occur prior to the child's birth and both before and after the child is removed by the Department. *Id.* A parent's past endangering conduct may create an inference that the parent's past conduct may recur and further jeopardize a child's present or future physical or emotional well-being. *In re S.H.,* No. 07-15-00177-CV, 2015 Tex. App. LEXIS 9731, at *6 (Tex. App.—Amarillo Sep. 16, 2015, no pet.) (mem. op.) (citing *In re D.M.,* 58 S.W.3d 801, 812 (Tex. App.—Fort Worth 2001, no pet.)).

A parent's imprisonment is a fact the trier of fact may consider in determining endangerment and may support a subsection (E) finding if the evidence, including the imprisonment, shows a course of conduct that has the effect of endangering the physical or emotional well-being of the child. *Boyd,* 727 S.W.2d at 533; *see Avery v. State,* 963 S.W.2d 550, 553 (Tex. App.—Houston [1st Dist.] 1997, no pet.) (stating imprisonment

alone is not a violation of subsections (D) or (E), but where it displays a voluntary, deliberate, and conscious course of conduct, it qualifies as conduct that endangers the emotional well-being of a child); *Allred v. Harris Cty. Child Welfare Unit,* 615 S.W.2d 803, 806 (Tex. Civ. App.—Houston [1st Dist.] 1980, writ ref'd n.r.e.) (finding father engaged in endangering conduct by, among other things, committing robberies during mother's pregnancy which brought about the revocation of his parole and separation from his minor son).

A parent's inconsistent participation in visitation can also emotionally endanger a child's well-being, supporting termination under subsection (E). *In re R.M.,* No. 07-12-00412-CV, 2012 Tex. App. LEXIS 10239, at *13-14 (Tex. App.—Amarillo Dec. 11, 2012, no pet.) (mem. op.).

Following Adam's birth in June 2007, Father chose to commit the offenses of burglary of a building, a state jail felony, and escape from custody, a third-degree felony. Because of these and an earlier conviction, Father spent the next decade in prison. For that duration, he had no contact with Adam or effective means to ensure Adam's proper care and support. Father's criminal conduct and resulting imprisonment were indicative of a course of conduct that was endangering to Adam *See In re M.R.,* 243 S.W.3d 807, 819 (Tex. App.—Fort Worth 2007, no pet.); *In re B.P.W.,* No. 02-05-00288-CV, 2006 Tex. App. LEXIS 7683, at *3-8 (Tex. App.—Fort Worth Aug. 31, 2006, no pet.) (per curiam) (mem. op.) (finding endangering conduct finding against father was supported by evidence of a continuing course of criminal conduct that spanned several years before the child's birth and evidence of a lack of interest in, or contact with, the Department and the child while the child was in in the Department's care). This evidence reasonably

supports a firm conviction or belief that Father engaged in conduct which endangered the physical or emotional well-being of the child.

In addition, upon Father's release from prison, he took no meaningful action in response to Zane's repeated refusal to provide telephone access to Adam. Father's plan of services required visitation, but he missed a scheduled April visit with Adam, claiming it interfered with his daughter's *summer* visitation. Later, Father passed near Adam's home on a trip to Colorado but made no effort to arrange a visit with Adam. A factfinder could reasonably have found Father's absence from Adam's life due to imprisonment and failure to participate in visitation was emotionally endangering to Adam's well-being. *In re R.M.,* 2012 Tex. App. LEXIS 10239, at *12-14; *In re U.P.,* 105 S.W.3d 222, 236 (Tex. App.—Houston [14th Dist.] 2003, pet. denied) (op. on reh'g) (characterizing parent's absence due in part to criminal conduct and incarceration as creating an "emotional vacuum" in child's life); *In re S.I.H.,* No. 02-11-00489-CV, 2012 Tex. App. LEXIS 2081, at *16 (Tex. App.—Fort Worth Mar. 15, 2012, no pet.) (mem. op.) (noting favorably testimony of masters-degreed social worker "that children thrive on consistency" and inconsistent visitation and lack of parental contact "can be very damaging").

We conclude the evidence supporting the trial court's subsection (E) finding is legally and factually sufficient. Father's third issue is overruled. Review of Father's remaining predicate-ground challenges is unnecessary for the disposition of this appeal. TEX. R. APP. P. 47.1.

Best-Interest Finding

Through his first issue, Father argues the evidence is legally or factually insufficient to support the trial court's finding that termination of his parental rights was in the best interest of Adam.

To assess the trial court's best-interest determination, we may consider the factors itemized in *Holley v. Adams*, 544 S.W.2d 367, 371-72 (Tex.1976).[3] While the *Holley* list "is by no means exhaustive, [it] does indicate a number of considerations which either have been or would appear to be pertinent." *Holley,* 544 S.W.2d at 372.[4] "The absence of evidence about some of these considerations would not preclude a fact-finder from reasonably forming a strong conviction or belief that termination is in the child's best interest, particularly if the evidence were undisputed that the parental relationship endangered the safety of the child." *In re C.H.,* 89 S.W.3d 17, 27 (Tex. 2005). In some circumstances, evidence of even one *Holley* factor may be sufficient. *Jordan v. Dossey,* 325 S.W.3d 700, 729 (Tex. App.—Houston [1st Dist.] 2010, pet. denied) (citing *In re C.H.*, 89 S.W.3d at 27).

[3] The *Holley* factors are: (1) the desires of the child; (2) the emotional and physical needs of the child now and in the future; (3) the emotional and physical danger to the child now and in the future; (4) the parental abilities of the individuals seeking custody; (5) the programs available to assist these individuals to promote the best interests of the child; (6) the plans for the child by these individuals or by the agency seeking custody; (7) the stability of the home or proposed placement; (8) the acts or omissions of the parent which may indicate that the existing parent-child relationship is not a proper one; and (9) any excuse for the acts or omissions of the parent. *Holley,* 544 S.W.2d at 371-72.

[4] *See In re R.R.,* 209 S.W.3d 112, 116 (Tex. 2006) (per curiam) (citing Family Code section 263.307 ["Factors in Determining Best Interest of Child"] and *Holley* as providing factors for consideration "when determining whether termination of parental rights is in the best interest of the child" and also referencing Family Code section 153.131(b) which provides "a strong presumption that the best interest of a child is served by keeping the child with a parent.").

There is a strong presumption that keeping a child with a parent is in the child's best interest. *In re R.R.*, 209 S.W.3d at 116. But prompt and permanent placement of a child in a safe environment is also presumed to be in the child's best interest. TEX. FAM. CODE ANN. § 263.307(a) (West 2019). The best-interest analysis evaluates the best interest of the child, not that of the parent. *In re A.C.B.,* 198 S.W.3d 294, 298 (Tex. App.—Amarillo 2006, no pet.); *see In re M.G.D.,* 108 S.W.3d 508, 515 (Tex. App.—Houston [14th Dist.] 2003, pet. denied) (noting "the Legislature made clear that courts cannot leave children in foster homes indefinitely while existing parents try to improve themselves and their conditions."). "A parent's drug use, inability to provide a stable home, and failure to comply with a family service plan support a finding that termination is in the best interest of the child." *In re M.R.,* 243 S.W.3d at 821.

Mother testified that Adam wants nothing to do with Father and believes that termination of Father's parental rights is in Adam's best interests. According to counselor Jennings, Adam wishes to remain with the foster parents, who he refers to as "mom" and "dad"; she believes the foster parents are committed to the interests of Adam, Danielle, and Brad.

The evidence at final hearing also suggests Adam's mental health has improved since being removed from his former environment. Jennings noted Adam had exhibited symptoms of post-traumatic stress disorder but was improving. The pastor of the church attended by the foster parents and Adam, Brad, and Danielle testified about a significant positive shift in the children's attitudes following removal and placement: the children feel significance and value with the foster family, appear more self-confident, and express happiness.

According to J.G., the children's foster father, the children have bonded with each other as well as the foster parents' children. When Adam was placed with J.G.'s family, he was performing poorly in school and was prone to outbursts of anger. Now, Adam has improved to the level of an "A" and "B" student with good conduct and participates in the 4-H club and sports. J.G. testified it would "destroy" Adam to leave his siblings and foster family. J.G. testified as follows without objection:

> I was given three broken kids, broken in all aspects of life. And me and my wife have done our best with them and the church to put them back together. They strive in school and sports, community, friendship. They learn the difference between yes and no and wrong and right.

When he was asked if it was in Adam's best interest to live with Father, Father responded he would never give up on him and Adam would always be his focus. He added, "making sure that he is the best version of him is one of my life's goals." While these goals are laudable, they are simply inconsistent with the evidence of Father's history and inconsistent excuses for prior non-involvement. While there is a strong presumption that the best interest of a child is served by keeping the child with a parent," *In re R.R.,* 209 S.W.3d at 116 (citing TEX. FAM. CODE § 153.131(b)), Adam has never lived with or even had contact with Father. Moreover, "the prompt and permanent placement of the child in a safe environment is presumed to be in the child's best interest." TEX. FAM. CODE ANN. § 263.307(a). The record demonstrates that for perhaps the first time in his life Adam is free of a home environment punctuated by abuse and neglect. He is prospering in a loving family and on a path to adoption. Father presented the factfinder no substantive reason for uprooting Adam again.

As noted, the trial court as factfinder was entitled to resolve credibility issues and conflicts within the evidence. *In re S.R.,* No. 07-19-00164-CV, 2019 Tex. App. LEXIS 8701, at *6 (Tex. App.—Amarillo Sep. 26, 2019, no pet.) (mem. op.). It was authorized to believe all, some, or none of the testimony of any witness. *Id.* On this record, we conclude the evidence supporting the trial court's best-interest finding, when viewed in the light most favorable to the verdict, is legally sufficient. Likewise, when assessed in a neutral light we conclude the trial court's best-interest finding is factually sufficient. Father's first issue is overruled.

Conclusion

Having resolved all issues necessary to the disposition of this appeal, we affirm the trial court's final order. TEX. R. APP. P. 43.2(a).

Lawrence M. Doss
Justice