Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-20-00009-CV

IN THE INTEREST OF C.J.Y.

From the 45th Judicial District Court, Bexar County, Texas
Trial Court No. 2018-PA-02426
Honorable Charles Montemayor, Associate Judge Presiding

Opinion by: Liza A. Rodriguez, Justice

Sitting: Sandee Bryan Marion, Chief Justice
Irene Rios, Justice
Liza A. Rodriguez, Justice

Delivered and Filed: June 24, 2020

AFFIRMED

Appellant Mother[1] appeals the trial court's order terminating her parental rights to her nine-year-old son, C.J.Y. On appeal, she brings three issues: (1) the evidence is legally and factually insufficient to support the trial court's findings pursuant to section 161.001(b)(1); (2) the evidence is legally and factually insufficient to support the trial court's finding that termination of her parental rights was in C.J.Y.'s best interest; and (3) the trial court abused its discretion in making its conservatorship finding. We affirm.

[1] To protect the identity of the minor children, we refer to the parties by fictitious names, initials, or aliases. *See* TEX. FAM. CODE § 109.002(d); TEX. R. APP. P. 9.8(b)(2).

BACKGROUND

The Department of Family and Protective Services became involved in this case after receiving a referral in October 2018 for physical neglect and neglectful supervision of C.J.Y, who was then seven years old. Caseworker Leslie Oxendine testified that this referral was the third incident in the same year relating to C.J.Y., and like the two previous incidents, it concerned C.J.Y. "running around to different homes without adult supervision." Further, according to Oxendine, the Department determined there was no food or running water where the child had been living. C.J.Y. "was unclean," had a strong body odor, and had "glue stuck in his hair for days." Oxendine also testified that there were a "[n]umber of different people running in and out of the home" and that "there was domestic violence" and "drug use in the home."

At trial, C.J.Y.'s aunt, Jennifer W.,[2] testified about what C.J.Y. had told her about his living conditions:

> [H]e would talk about that she [Appellant Mother] would smoke cigarettes and it would make her get very angry and hostile towards him. And he said that she would hit him with a shoe. And his words exactly were, "She would hit me with all her might." And he also said they lived in a shed, and they did not have a toilet, and they had to make one out of bricks. He said they had to bury their poop in the yard. He said that snakes could get in through the shed. He said that his mom, when she would smoke cigarettes, would say there were zombies outside trying to get in. And they didn't have, like, proper locks on the shed doors. He told me that he would look out the crack in the door or something, and tell her, "There are no zombies out there," and she would fight him about it. He also talked about how he got in trouble for his mom letting him go with her friend Laura, who then took [him] out in the public and had him beg for money and food from people. . . . and say that he was hungry. . . . And he told me one time when we were at Target that Laura stole some stuff when they were in a store together, too. And, I guess—I don't know if she made him steal stuff, too, but he was very scared about stealing because of it. . . . And a lot of it was, like, about his anxiety [of] not having a safe place to live. Feeling like—He said that he—One time, he questioned me a lot about our dog, [asking] how good of a watch dog she was. And he said that the shed that he lived in, people could get in easily—that he didn't feel safe in that shed. . . . And he said they had to get buckets to take showers. I asked him where he got the water from. He said they would buy it at the store. . . . And he would sometimes talk about—

[2] C.J.Y. lived with Jennifer W. from March to May 2019.

> like they—He's still hungry, even though he just ate. You know, it was like he didn't have enough food, I feel like, when he was with his mom. He talked about how he was hungry then. And so then, it would kind of come up again, I think, as an anxiety.

Pictures of the shed in question were admitted in evidence at trial.

Appellant Mother denied that she and C.J.Y. ever lived on a shed on her property. She told caseworkers that she and C.J.Y. had just "happened to be on the property at the time." At trial, Appellant Mother claimed she and C.J.Y. had been staying with a friend in the same neighborhood while construction for "an efficiency" was being performed on the shed. When asked about the specific construction being performed, Appellant Mother claimed that a carport "was being closed in and made into a one-bedroom efficiency." While Appellant Mother testified she and C.J.Y. never lived in the shed, she did admit they were on the property when C.J.Y. wandered away:

> I used to come to the property to prepare a lot of the work that was being done for me, because it was volunteer work, and that is when we would be on the property. We would come there, you know, periodically, but it wasn't—we weren't there—we didn't live there. . . . And then when [C.J.Y.] wandered off from there, that the police officers would bring him back, I started to get real skeptical because of what my son was doing. He was lying to the police, telling them that there w[ere] no groceries. I showed them a receipt. We had just purchased groceries two days prior to him stating that.

When asked how many times the police had brought C.J.Y. back after him wandering off, Appellant Mother acknowledged three different times. Appellant Mother blamed C.J.Y., testifying that he "has a defiance problem." She testified C.J.Y. was "very slick" and would wander off intentionally when she was preoccupied. Appellant Mother testified she and C.J.Y. had been living in a house around the corner from her property. She admitted at trial that after performing a background check on her friend, the Department's investigator determined that her friend's home was "not a safe place" for her and C.J.Y. to live. Appellant Mother did not have a job and was appealing the denial of Social Security disability benefits.

According to testimony at trial, after his removal, C.J.Y. was diagnosed with autism and ADHD. He was also found to be suffering from Post-Traumatic Stress Disorder and anxiety. He now takes medication for ADHD and anxiety. When asked to describe the anxiety C.J.Y. was experiencing, his aunt, Jennifer W., testified he had a hard time falling asleep at night: "[M]ost of the time, he [was] reliving, rehashing these experiences and kind of replaying them over and over in his head." Jennifer W. testified that if she brought up anything about his mother, "he would be afraid that he'd have to go back with her and she would hit him. That was his fear. He'd always talk about that she would hit him." According to Jennifer W., on one occasion where C.J.Y. had gotten in trouble at school, he said that he did not want to tell his mother about it because he was afraid his mother would hit him. Jennifer W. testified that C.J.Y. "started freaking out" and "curled up in a ball," "making like—[makes a sound]—like this crazy sound of anxiety." Jennifer W. testified C.J.Y.'s anxiety improved after his first visit with his father and has diminished even more since he has been living with his father. C.J.Y. "seems like a completely different kid when he's with his dad." At trial, Appellant Mother denied ever hitting C.J.Y.

While under his mother's care, C.J.Y. had been enrolled in Pre-K at the public elementary school for about a month. However, when teachers raised concerns that C.J.Y. had "high energy," Appellant Mother chose to withdraw him and homeschool him instead because she felt he was too advanced for the curriculum of the public school. However, when asked what curriculum or formal homeschool program she had elected to follow, Appellant Mother could not identify any. She testified she "found programs" that she was able to "put on his tablet" for his particular grade level.

There was testimony at trial that since C.J.Y. has been living with his father, he has done well at school, his behavior has improved, his anxiety has lessened, and his symptoms of post-traumatic stress disorder have lessened. There was also testimony that he has bonded with his

father and his extended family. He has not wandered off while under his father's care. His father testified C.J.Y. attends counseling sessions every two weeks in the form of play therapy.

Following C.J.Y.'s removal, Appellant Mother was ordered to complete a service plan, which included a drug assessment, drug counseling, individual therapy, parenting classes, a psychological evaluation, and random drug testing. Caseworker Jeanna Obermayr testified that Appellant Mother did not finish parenting classes. She completed a psychological evaluation, but was not successfully discharged from counseling. According to Obermayr, Appellant Mother never addressed the Department's concerns about her behavior and "was doing the same as when the case came in." Obermayr testified that as an excuse for missing required service plan classes or drug tests, Appellant Mother stated she was having transportation problems. However, Obermayr testified that Appellant Mother was offered rides at least once a month throughout the case by the Department so that she could attend her classes and tests, but that Appellant Mother never took advantage of the offers.

Obermayr further testified that while Appellant Mother "attended a drug assessment," she "was not open and honest in it." Obermayr testified that Appellant Mother also skipped or refused to perform drug testing at least twenty times, despite being informed that not taking a drug test would be counted as a positive result. And, of the three drug tests Appellant Mother did take, one was positive for methamphetamines. Nevertheless, Obermayr testified that Appellant Mother "denied drug usage." At trial, Appellant Mother blamed her positive result of methamphetamine on an acquaintance "putting something in [her] drink." When asked why she skipped or refused to perform drug tests, Appellant Mother testified that she never refused to test, but then admitted that she had not tested three or four times. She also claimed she had in fact completed all her service plan classes and requirements. When asked if she could provide proof, she stated the various

instructors had refused to give her certificates of completion and told her the certificates had to be requested by the Department.

Appellant Mother also blamed C.J.Y. for the three sequential Department interventions, claiming at trial that C.J.Y. was "defiant" and a liar. When asked if she thought she had done anything wrong throughout the course of the case, her first response was to blame C.J.Y. and not her own behavior. Christopher Y., C.J.Y.'s father, testified that he has not known his son to be a liar in the manner portrayed by Appellant Mother. According to Christopher Y., C.J.Y. would lie about "things to build himself up to make him look cooler than he is." For example, "if another kid has a BB gun, he'll say, 'Oh, yeah. I've shot BB guns.' And he hasn't shot BB guns, and things like that." Christopher Y. had not, however, seen his son lie about "[t]hings that are serious." Christopher Y. described some of the issues C.J.Y. had faced:

> So some of the problems that [C.J.Y.] has is he has a lot of PTSD, he has a lot of anxiety, he has a lot of emotional damage, and he has boundary issues. And the main way I deal with it is just talking to him. But I will also have to enforce discipline with him to let him know that some of the behaviors he has because of these emotions, need to be under control. And just teach him that he has the ability to work through things, and be there for him helps a lot. Just a lot of day-to-day spending time with him is the way I work it out with him. . . . He also sees his physician and has a psychiatrist, and he has a network of teachers who are involved in his—at his school, and are aware of his autism, and his ADHD, and his anxiety.

Alicia Garcia, Appellant Mother's therapist, testified that she saw Appellant Mother three times, but they did not finish counseling. According to Garcia, Appellant Mother did not appear after her first three sessions. Garcia testified completion of therapy would constitute at least ten sessions and "really figuring out what's going on." She testified Appellant Mother had not requested her to provide any documentation for her.

After hearing all the evidence, the trial court terminated Appellant Mother's parental rights. Appellant Mother now appeals.

STANDARD OF REVIEW

To terminate parental rights pursuant to section 161.001 of the Texas Family Code, the Department has the burden to prove by clear and convincing evidence that parental rights should be terminated pursuant to one of the predicate grounds in subsection 161.001(b)(1) and that termination of parental rights is in the best interest of the child. TEX. FAM. CODE ANN. § 161.001(b)(1), (2). In reviewing the legal sufficiency of the evidence to support these findings by the trial court, we look "at all the evidence in the light most favorable to the finding to determine whether a reasonable trier of fact could have formed a firm belief or conviction that its finding was true." *In re J.O.A.*, 283 S.W.3d 336, 344 (Tex. 2009) (quoting *In re J.F.C.*, 96 S.W.3d 256, 266 (Tex. 2002)). In reviewing the factually sufficiency of the evidence, we consider disputed or conflicting evidence. *Id.* at 345. "If, in light of the entire record, the disputed evidence that a reasonable factfinder could not have credited in favor of the finding is so significant that a factfinder could not reasonably have formed a firm belief or conviction, then the evidence is factually insufficient." *Id.* (quoting *In re J.F.C.*, 96 S.W.3d at 266). Under these standards, the trial court is the sole judge of the weight and credibility of the evidence. *Id*.

We review a trial court's conservatorship decision under a less stringent standard than the one used to review a termination decision. *In re J.A.J.*, 243 S.W.3d 611, 616 (Tex. 2007). Conservatorship decisions are subject to review only for an abuse of discretion, and reversal is proper only if the decision is arbitrary and unreasonable. *Id*.

PREDICATE GROUNDS

The trial court in this case found the following predicate grounds to support termination of Appellant Mother's parental rights pursuant to section 161.001(b)(1): (D), (E), (N), and (O). *See* TEX. FAM. CODE ANN. § 161.001(b)(1)(D), (E), (N), (O).

A. Subsection (D) and (E) Grounds

Subsection (D) allows termination of parental rights if, along with a best-interest finding, the factfinder finds by clear and convincing evidence that 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). Under subsection (D), the trial court examines "evidence related to the environment of the children to determine if the environment was the source of endangerment to the children's physical or emotional well-being." *In re J.T.G.*, 121 S.W.3d 117, 125 (Tex. App.—Fort Worth 2003, no pet.). "Conduct of a parent in the home can create an environment that endangers the physical and emotional well-being of a child." *Id*. "For example, abusive or violent conduct by a parent or other resident of a child's home may produce an environment that endangers the physical or emotional well-being of a child." *Id*. "Parental and caregiver illegal drug use and drug-related criminal activity likewise supports the conclusion that the children's surroundings endanger their physical or emotional well-being." *Id*. "A child is endangered when the environment creates a potential for danger that the parent is aware of but consciously disregards." *In re C.J.G.*, No. 04-19-00237-CV, 2019 WL 5580253, at *2 (Tex. App.—San Antonio Oct. 30, 2019, no pet.) (mem. op.) (quoting *In re S.R.*, 452 S.W.3d 351, 360 (Tex. App.—Houston [14th Dist.] 2014, pet. denied)). "[A] parent need not know for certain that the child is in an endangering environment, awareness of such a potential is sufficient." *Id*. (quoting *In re R.S.-T.*, 522 S.W.3d 92, 109 (Tex. App.—San Antonio 2017, no pet.)).

Subsection (E) allows termination of parental rights if the trial court finds by clear and convincing evidence that the parent "engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangers the physical or emotional well-being of the child." TEX. FAM. CODE ANN. § 161.001(b)(1)(E). Under subsection (E), the trial court must

determine "whether there is evidence that a parent's acts, omissions, or failures to act endangered the child's physical or emotional well-being." *In re C.J.G.*, 2019 WL 5580253, at *2.

Under both subsections, "endanger" means "to expose a child to loss or injury, or to jeopardize a child's emotional or mental health." *Id*. at *3 (citing *In re M.C.*, 917 S.W.2d 268, 269 (Tex. 1996)). "However, there are some distinctions in the application of subsections (D) and (E)." *Id*. (citation omitted). Termination under subsection D may be based upon a single act or omission. *Id*. at *3 (citing *In re R.S.-T.*, 522 S.W.3d at 109). In contrast, termination under subsection E "may not rest on a single act or omission; it must be 'a voluntary, deliberate, and conscious course of conduct.'" *Id*. (quoting *Jordan v. Dossey*, 325 S.W.3d 700, 723 (Tex. App.—Houston [1st Dist.] 2010, pet. denied)). Additionally, "[i]n evaluating endangerment under subsection D, we consider the child's environment *before* the Department obtained custody of the child.'" *Id*. (quoting *In re S.R.*, 452 S.W.3d 351, 360 (Tex. App.—Houston [14th Dist.] 2014, pet. denied)) (emphasis added). "'Under subsection E, however, courts may consider conduct *both before and after* the Department removed the child from the home." *Id*. (quoting *In re S.R.*, 452 S.W.3d at 360) (emphasis added).

"An endangerment finding often involves physical endangerment, but the statute does not require that the parent's conduct be directed at the child or that the child suffer actual injury." *In re K.J.G.*, No. 04-19-00102-CV, 2019 WL 3937278, at *5 (Tex. App.—San Antonio Aug. 21, 2019, pet. denied) (mem. op.). "Rather, the specific danger to the child's well-being may be inferred from the parent's misconduct alone." *Id*. (citation omitted). "Conduct that subjects a child to a life of uncertainty and instability endangers the physical and emotional well-being of a child." *Id*. "Thus, evidence of illegal drug use by a parent and its effect on a parent's life and her ability to parent may establish an endangering course of conduct under subsection (E)." *Id*.; *see In re J.O.A.*, 283 S.W.3d at 346 (holding evidence sufficient to support finding of endangerment even though father had made significant recent improvements because "evidence of improved conduct,

especially of short-duration, does not conclusively negate the probative value of a long history of drug use and irresponsible choices"); *In re K-A.B.M.*, 551 S.W.3d 275, 287 (Tex. App.—El Paso 2018, no pet.) ("A parent's use of drugs and its effect on his or her ability to parent may qualify as an endangering course of conduct."); *Walker v. Tex. Dep't of Fam. & Protective Servs.*, 312 S.W.3d 608, 617 (Tex. App.—Houston [1st Dist.] 2009, pet. denied) ("Because it exposes the child to the possibility that the parent may be impaired or imprisoned, illegal drug use may support termination under section 161.001(1)(E).").

Pointing to her own testimony, Appellant Mother argues the evidence is legally and factually insufficient to support the trial court's findings under subsections (D) and (E). However, we emphasize that "[a]s the finder of fact and sole judge of the credibility of the witnesses, the trial court was free to disregard any or all of [Appellant Mother's] self-serving testimony." *In re S.R.*, 452 S.W.3d 351, 365 (Tex. App.—Houston [14th Dist.] 2014, pet. denied). Similarly, the trial court was free to find credible testimony that at the time of removal, Appellant Mother and C.J.Y. had been living in a shed with deplorable living conditions. The trial court could also have believed testimony that Appellant Mother physically abused C.J.Y. and that she was illegally using drugs. Given the descriptions of the living conditions C.J.Y. endured and the physical abuse, along with evidence of his improvement after being removed from his mother's care, the trial court could also have reasonably inferred that C.J.Y.'s anxiety was related to his environment and treatment by his mother. The trial court also could have reasonably inferred from testimony that Appellant Mother had tested positive for methamphetamine, had refused to take numerous drug tests, and had denied having issues with drugs that Appellant Mother would continue to endanger C.J.Y. *See In re E.R.W.*, 528 S.W.3d 251, 265 (Tex. App.—Houston [14th Dist.] 2017, no pet.) ("Additionally, a fact finder reasonably can infer that a parent's failure to submit to court-ordered drug tests indicates the parent is avoiding testing because they were using illegal drugs."). We

therefore conclude the evidence is legally and factually sufficient to support the trial court's findings under subsections (D) and (E).

B. Subsection (O)

Subsection (O) allows termination of parental rights if the trial court finds by clear and convincing evidence that the parent has "failed to comply with the provisions of a court order that specifically established the actions necessary for the parent to obtain the return of the child who has been in the permanent or temporary managing conservatorship" of the Department "for not less than nine months as the result of the child's removal from the parent under Chapter 262 for the abuse or neglect of the child." TEX. FAM. CODE ANN. § 161.001(b)(1)(O). Section 161.001(d) provides for an affirmative defense to the parent:

> A court may not order termination under Subsection (b)(1)(O) based on the failure by the parent to comply with a specific provision of a court order *if a parent proves by a preponderance of the evidence* that:
>
> (1) the parent was unable to comply with specific provisions of the court order; and
>
> (2) the parent made a good faith effort to comply with the order and the failure to comply with the order is not attributable to any fault of the parent.

TEX. FAM. CODE ANN. § 161.001(d) (emphasis added); *see In re L.L.N.-P.*, No. 04-18-00380-CV, 2018 WL 6069853, at *3 (Tex. App.—San Antonio Nov. 21, 2018, pet. denied) (mem. op.) (explaining that section 161.001(d) is an "affirmative defense" that a parent can assert to prevent termination on subsection (O) grounds).

Here, there was evidence that Appellant Mother was ordered to complete a service plan, which included a drug assessment, drug counseling, individual therapy, parenting classes, a psychological evaluation, and random drug testing. There was testimony that Appellant Mother did not finish her parenting classes, was not successfully discharged from counseling, and did not address her drug problems. *See In re J.M.T.*, 519 S.W.3d 258, 267 (Tex. App.—Houston [1st Dist.]

2017, pet. denied) ("A parent's failure to complete one requirement of [her family service plan] supports termination under subsection (O)."). There was evidence she failed to submit to drug testing multiple times and, of the three times she did submit, she tested positive to methamphetamines once. Appellant Mother points to her own testimony that she completed all her service-plan requirements. However, the trial court was free to disbelieve her testimony. *See In re S.R.*, 452 S.W.3d at 365. Thus, we hold the evidence to be legally and factually sufficient to support the trial court's finding that Appellant Mother did not complete her court-ordered service plan.

With regard to section 161.001(d)'s affirmative defense, while there was testimony that Appellant Mother had transportation issues, there was also evidence that Appellant Mother was offered rides at least once a month throughout the case by the Department so that she could attend her classes and tests and that Appellant Mother never took advantage of the offers. Given this testimony, we conclude that there is legally and factually sufficient evidence presented at trial from which the court could reasonably conclude Appellant Mother had not met her burden of proof under section 161.001(d). *See In re Y.M.L.*, No. 04-19-00168-CV, 2020 WL 1695498, at *3-4 (Tex. App.—San Antonio Apr. 8, 2020, pet. denied) (mem. op.).

CHILD'S BEST INTEREST

Under Texas law, 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 112, 116 (Tex. 2006). In determining whether the child's parent is willing and able to provide the child with a safe environment, a court should consider the factors set out in section 263.307 of the Family Code. *See* TEX. FAM. CODE § 263.307(b).[3] In addition to these statutory factors, in considering the best interest of the child, a

[3] These factors include (1) the child's age and physical and mental vulnerabilities; (2) the frequency and nature of out-of-home placements; (3) the magnitude, frequency, and circumstances of the harm to the child; (4) whether the child has been the victim of repeated harm after the initial report and intervention by the Department; (5) whether the child is fearful of living in or returning to the child's home; (6) the results of psychiatric, psychological, or developmental

court may also consider the nonexclusive list of factors set forth by the Texas Supreme Court in *Holley v. Adams*, 544 S.W.2d 367, 372 (Tex. 1976).[4] The *Holley* factors are neither all-encompassing nor does a court need to find evidence of each factor before terminating the parent-child relationship. *See In re C.H.*, 89 S.W.3d 17, 27 (Tex. 2002). Finally, in determining whether termination of the parent-child relationship is in the best interest of a child, a court may judge a parent's future conduct by her past conduct. *In re E.D.*, 419 S.W.3d 615, 620 (Tex. App.—San Antonio 2013, pet. denied).

Here, there was testimony that C.J.Y. was fearful of his mother and did not want to return to her care. There was also evidence that he was bonded with his father, was doing well in school, and was exhibiting fewer symptoms associated with PTSD and anxiety. There was also evidence C.J.Y. had special needs and his father was meeting those needs and seeking out professional help for him. Finally, as noted previously, there was evidence that while under his mother's care, C.J.Y. had been living in an environment in which his mother had engaged in conduct that endangered him. Since C.J.Y.'s removal, Appellant Mother had denied her drug issues, had not recognized her

evaluations of the child, the child's parents, other family members, or others who have access to the child's home; (7) whether there is a history of abusive or assaultive conduct by the child's family or others who have access to the child's home; (8) whether there is a history of substance abuse by the child's family or others who have access to the child's home; (9) whether the perpetrator of the harm to the child is identified; (10) the willingness and ability of the child's family to seek out, accept, and complete counseling services and to cooperate with and facilitate an appropriate agency's close supervision; (11) the willingness and ability of the child's family to effect positive environmental and personal changes within a reasonable period of time; (12) whether the child's family demonstrates adequate parenting skills, including providing the child and other children under the family's care with: (A) minimally adequate health and nutritional care; (B) care, nurturance, and appropriate discipline consistent with the child's physical and psychological development; (C) guidance and supervision consistent with the child's safety; (D) a safe physical home environment; (E) protection from repeated exposure to violence even though the violence may not be directed at the child; and (F) an understanding of the child's needs and capabilities; and (13) whether an adequate social support system consisting of an extended family and friends is available to the child. TEX. FAM. CODE ANN. § 263.307(b).

[4] These factors include, but are not limited to, the following: (1) the child's desires; (2) the child's present and future emotional and physical needs; (3) any present or future emotional and physical danger to the child; (4) the parental abilities of the individuals seeking custody; (5) the programs available to assist these individuals to promote the child's best interest; (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 parent's acts or omissions that may indicate the existing parent-child relationship is improper; and (9) any excuse for the parent's acts or omissions. *In re E.C.R.*, 402 S.W.3d 239, 249 n.9 (Tex. 2013) (citing *Holley*, 544 S.W.2d at 371-72).

past behavior that led to C.J.Y.'s removal, and had not taken steps to change her behavior for the better. Therefore, we conclude the evidence is legally and factually sufficient to support the trial court's best interest finding.

Having determined there is legally and factually sufficient evidence to support the trial court's best-interest finding and its findings pursuant to subsections (D), (E), and (O), we conclude the trial court did not err in terminating Appellant Mother's parental rights.[5]

CONSERVATORSHIP

In her final issue, Appellant Mother argues if the trial court's termination order is reversed on appeal, the trial court's conservatorship order should also be reconsidered. However, we have determined the trial court did not err in terminating Appellant Mother's parental rights. Thus, Appellant Mother's argument has no merit. *See In re M.R.D.*, 2020 WL 806656, at *9 (holding that because the trial court did not err in terminating appellant's rights, appellant no longer had any legal rights to her children and could not challenge the portion of the termination order that related to the appointment of conservators); *In re L.T.P.*, No. 04-17-00094-CV, 2017 WL 3430894, at * 6 (Tex. App.—San Antonio 2017, pet. denied) (same).

CONCLUSION

For the foregoing reasons, we affirm the trial court's order terminating Appellant Mother's parental rights.

Liza A. Rodriguez, Justice

[5] Having determined there is sufficient evidence to support the trial court's findings pursuant to subsections (D), (E), and (O), we need not consider whether there is also sufficient evidence to support the trial court's finding pursuant to subsection (N). *See In re M.R.D.*, No. 04-19-00524-CV, 2020 WL 806656, at *10 n.4 (Tex. App.—San Antonio Feb. 19, 2020, pet. denied) (mem. op.) (explaining that appellate court can affirm on any one predicate ground, assuming a best-interest finding).