



In The
Eleventh Court of Appeals

No. 11-20-00006-CV

IN THE INTEREST OF J.C., A CHILD

**On Appeal from the 326th District Court
Taylor County, Texas
Trial Court Cause No. 9193-CX**

MEMORANDUM OPINION

This is an appeal from an order in which the trial court terminated the parental rights of J.C.'s mother and father. The father voluntarily relinquished his parental rights and did not appeal. The mother filed this appeal. On appeal, the mother presents a single issue in which she challenges the trial court's best interest finding. Because the evidence is legally and factually sufficient to support the challenged finding, we affirm the trial court's order.

Termination Findings and Standards

The termination of parental rights must be supported by clear and convincing evidence. TEX. FAM. CODE ANN. § 161.001(b) (West Supp. 2019). To determine if

the evidence is legally sufficient in a parental termination case, we review all of the evidence in the light most favorable to the finding and determine whether a rational trier of fact could have formed a firm belief or conviction that its finding was true. *In re J.P.B.*, 180 S.W.3d 570, 573 (Tex. 2005). To determine if the evidence is factually sufficient, we give due deference to the finding and determine whether, on the entire record, a factfinder could reasonably form a firm belief or conviction about the truth of the allegations against the parent. *In re C.H.*, 89 S.W.3d 17, 25–26 (Tex. 2002). To terminate parental rights, it must be shown by clear and convincing evidence that the parent has committed one of the acts listed in Section 161.001(b)(1)(A)–(U) and that termination is in the best interest of the child. FAM. § 161.001(b).

With respect to the best interest of a child, no unique set of factors need be proved. *In re C.J.O.*, 325 S.W.3d 261, 266 (Tex. App.—Eastland 2010, pet. denied). But courts may use the non-exhaustive *Holley* factors to shape their analysis. *Holley v. Adams*, 544 S.W.2d 367, 371–72 (Tex. 1976). These include, but are not limited to, (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 interest 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 that 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. *Id.* Additionally, evidence that proves one or more statutory grounds for termination may also constitute evidence illustrating that termination is in the child’s best interest. *C.J.O.*, 325 S.W.3d at 266.

In this case, the trial court found that Appellant had committed two of the acts listed in Section 161.001(b)(1)—those found in subsections (D) and (E). *See* FAM. § 161.001(b)(1)(D), (E). Appellant does not challenge these findings on appeal.

The trial court also found, pursuant to Section 161.001(b)(2), that termination of Appellant’s parental rights would be in the best interest of the child. *See id.* § 161.001(b)(2). In her sole issue on appeal, Appellant challenges the legal and factual sufficiency of the evidence in support of the trial court’s best interest finding.

Evidence and Analysis

The record reflects that J.C. was four years old at the time of trial. J.C. was initially removed from Appellant’s home when J.C. was two years old. The intake occurred as a result of a narcotics investigation that culminated in Appellant’s arrest for tampering with evidence, possession of methamphetamine, and endangering a child. At the time of the de novo hearing in this cause, Appellant had been indicted “fairly recently,” and charges remained pending against her for tampering with evidence, possession of methamphetamine, and endangering a child.

Appellant admitted at the time of the removal that Appellant would test positive for methamphetamine, and J.C. actually did test positive for methamphetamine at that time. J.C. was removed from Appellant’s care and placed with a relative.

Appellant engaged in her service plan and eventually—eight months after removal—had a hair follicle test that came back clean; previous tests had been positive for methamphetamine. After the negative drug test results, J.C. was returned to Appellant in a monitored return. After the monitored return began, Appellant initially failed to submit to drug testing as required by the terms of the monitored return. Appellant finally submitted to a drug test approximately three months after the monitored return began, and J.C. was again removed from Appellant’s care due to Appellant’s methamphetamine use. Both Appellant and J.C. tested positive for

methamphetamine at that time. After the monitored return ended, Appellant submitted to one additional drug test, which occurred approximately four months after the monitored return ended and two months prior to the de novo hearing in this cause. Appellant again tested positive for methamphetamine. Appellant did not have a clean hair follicle test after the monitored return ended.

By the time of trial, J.C. had been placed with relatives that were able and willing to adopt J.C. and provide a “forever home” for her. J.C. bonded quickly with these relatives and expressed a desire to stay at their house “forever.” Although J.C. and her mother had a bond prior to removal, that bond had become “very strained” by the time of trial. J.C. no longer asked for Appellant, and she referred to Appellant by her first name. The relatives with whom J.C. had been placed provided a safe, stable, and appropriate home for J.C. J.C. was cared for very well by the placement relatives, and these relatives wished to adopt her. The Department’s plan for J.C. was for the trial court to terminate Appellant’s and the father’s parental rights and for J.C. to be adopted by the relatives with whom she was placed. The caseworker for the Department and the placement relative believed that termination of the parents’ parental rights would be in J.C.’s best interest.

We note that the trier of fact is the sole judge of the credibility of the witnesses at trial and that we are not at liberty to disturb the determinations of the trier of fact as long as those determinations are not unreasonable. *J.P.B.*, 180 S.W.3d at 573. Based upon the *Holley* factors and the evidence in the record, as set forth above, we cannot hold that the trial court’s best interest finding is not supported by clear and convincing evidence. *See Holley*, 544 S.W.2d at 371–72. Upon considering the record as it relates to the desires of the child; the emotional and physical needs of the child now and in the future; the emotional and physical danger to the child now and in the future; the parental abilities of Appellant and the relatives with whom the child had been placed at the time of trial; the stability of the home in which the child

had been placed; the Department’s plans for the child; the criminal charges pending against Appellant; the results of the child’s drug tests, which showed that the child had been exposed to methamphetamine while in Appellant’s care—both prior to the initial removal and during the monitored return; and Appellant’s continued use of methamphetamine, the trial court could reasonably have formed a firm belief or conviction that it would be in J.C.’s best interest for Appellant’s parental rights to be terminated. We hold that the evidence is both legally and factually sufficient to support the trial court’s best interest finding. Appellant’s sole issue on appeal is overruled.

This Court’s Ruling

We affirm the trial court’s order of termination.

KEITH STRETCHER
JUSTICE

June 25, 2020

Panel consists of: Bailey, C.J.,
Stretcher, J., and Wright, S.C.J.¹

Willson, J., not participating.

¹Jim R. Wright, Senior Chief Justice (Retired), Court of Appeals, 11th District of Texas at Eastland, sitting by assignment.