

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE

Assigned on Briefs March 3, 2025

IN RE GABRIEL M.¹Appeal from the Juvenile Court for Hamilton County
No. 307950 Robert D. Philyaw, Judge

No. E2024-01382-COA-R3-PT

This action involves the termination of a mother's parental rights to her minor child. Following a bench trial, the court found clear and convincing evidence to establish the following statutory grounds of termination: (1) abandonment for failure to provide a suitable home and (2) the persistence of conditions which led to removal. The court also found that termination was in the best interest of the child. We now affirm.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Juvenile Court
Affirmed; Case Remanded**

JOHN W. MCCLARTY, J., delivered the opinion of the court, in which FRANK G. CLEMENT, JR., P.J., M.S., and KENNY ARMSTRONG, J., joined.

Jeff Kelle, Dunlap, Tennessee, for the appellant, Jennifer L.

Jonathan Skrmetti, Attorney General & Reporter, and Amber L. Barker, Senior Assistant Attorney General, for the appellee, Tennessee Department of Children's Services.

OPINION**I. BACKGROUND**

Gabriel ("the Child") was born to Jennifer L. ("Mother") and Reginald M. ("Father") in March 2015. The Child has two brothers, Michael and Antonio. All three children lived with Mother. In October 2021, the Tennessee Department of Children's Services ("DCS") received a referral with allegations of environmental neglect regarding Michael, who was observed sleeping outside. DCS met with Mother, who advised that she

¹ This court has a policy of protecting the identity of children in parental rights termination cases by initializing the last name of the parties.

and the children lived in Georgia but were in the process of moving out of their residence. They were homeless and either lived with Father and his girlfriend in a motel room or in their car. DCS provided information for local shelters and advised Mother to find housing.

On November 19, 2021, DCS met with Mother again as a result of new allegations of drug exposure. Mother was living with the children in a hotel room. Mother tested positive for amphetamine, methamphetamine, and cocaine. Father was staying at the same hotel but in a different room. He refused drug testing and advised that he could not do anything for the children. DCS removed the children and placed them in the same foster home. They were later adjudicated as dependent and neglected in March 2022.

DCS developed two permanency plans for Mother, one in December 2021 and another in August 2022, both of which were ratified by the trial court. The plans contained the following requirements: (1) complete an alcohol and drug assessment and follow recommendations; (2) refrain from use of illegal substances and association with those who use such substances; (3) submit to random drug screens; (4) obtain and maintain housing for a period of six months; (5) obtain a mental health assessment and follow recommendations; (6) participate in and complete parenting classes; (7) attend visitation; (8) obtain a legal source of transportation and driver's license; (9) maintain contact with DCS; (10) resolve legal issues; and (11) complete a domestic violence course.²

Mother regularly attended visitation but often arrived late. She also failed multiple drug screens throughout the custodial episode, e.g., (1) July 14, 2021, for amphetamines, methamphetamine, and cocaine; (2) October 17, 2021, for amphetamine, methamphetamine, cocaine, and MDMA, also known as ecstasy; (3) September 13, 2022, for amphetamine, methamphetamine, cocaine, and MDMA; (4) Mother admitted that she would test positive due to medication on April 4, 2022; (5) December 6, 2022, for amphetamine and methamphetamine; and (6) January 11, 2023, for amphetamine and methamphetamine. Mother passed a drug screen in June 2023. DCS requested a hair follicle screen to confirm the result. She refused because she did not want to cut her hair.

Michael attained the age of majority during the custodial episode. On June 9, 2023, DCS filed a petition to terminate Mother's parental rights to the Child, alleging (1) abandonment for failure to provide a suitable home; (2) substantial noncompliance with the permanency plans; and (3) the persistence of conditions which led to removal.³ Antonio was almost 17 years old at the time and requested his exclusion from the proceedings.

² The domestic violence course requirement was added to the second permanency plan as a result of Mother's involvement with Lajuan W., who reportedly hit Mother.

³ Father surrendered his parental rights and is not a party to this appeal.

The case proceeded to a hearing on the termination petition over the course of several days, beginning in November 2023 and concluding in May 2024. Mother testified she lived in her vehicle or motel rooms following the Child's removal until she finally moved into a home in June 2023. She had a signed lease available for the court to confirm her housing. She shared the home with a man and his daughter. The home had an additional room available for the Child if he were returned to her care. She acknowledged that insulation was falling out of a hole in the ceiling of the Child's room. She advised that the room could be ready in approximately two weeks but later stated she only needed 48 hours to ready the room.

Mother testified that she and the children were staying in a motel at the time of removal because her lease was not renewed due to the housing market in November 2021. DCS advised her that the motel room was suitable provided she was not moving from motel to motel or living in her vehicle or on the street. She had various churches and agencies assisting her while she attempted to secure housing. However, DCS ultimately removed the children due to her positive drug screen.

Mother confirmed that she was advised of the requirements in her permanency plan. She remitted child support through her employment, with payments totaling approximately \$304. She acknowledged that it took her some time to secure stable housing because she was unable to afford a home suitable for all three children. She spoke with the Homeless Coalition numerous times and placed her name on available waiting lists. She agreed that DCS advised that she could qualify for a grant with the Chattanooga Housing Authority upon her completion of the other permanency plan requirements.

Mother testified that she had difficulty finding a suitable drug treatment program due to her insurance. She ultimately received treatment through Bridges Healthcare in Fort Oglethorpe, where she completed her mental health and alcohol and drug assessments. She was discharged from the program due to her noncompliance with the attendance policy. She explained that she missed two appointments scheduled on the same day due to sickness, causing her removal from the program. She had to re-start the same program and submit to a drug screen in February 2023. The new assessment contained no recommendations because her drug screen was negative; however, she admitted that she did not advise them of her positive drug screen with DCS in January 2023.

Mother admitted that she has used methamphetamine for approximately two years. She professed that she has not used for several months but could not give an exact date of her last use. She denied having an addiction, explaining that her use was not continuous but that the times she just happened to use resulted in a positive screen.

Mother acknowledged that she was arrested for shoplifting in March 2022, burglary in May 2022, and probation violations in December 2022 and January 2023. She was also

arrested again just prior to the hearing but was unsure of the exact charges. Her prior charges were subject to dismissal pending her completion of five public service workdays.

Mother agreed that she was previously in a relationship with Lajuan W., who was physically abusive. She attested that she was no longer in the relationship and that she had completed several of the six domestic violence classes required in the permanency plan. She was unable to fulfil the requirement because a new class had not started.

At the conclusion of the first day of the hearing, Mother was ordered to submit to a hair follicle screen. She passed the screen; however, she presented with freshly dyed pink hair, which likely skewed the result. On the second day of the hearing on February 28, 2024, Mother consented to a nailbed screen at the trial court's direction. She presented with press-on nails, which she refused to remove. The technician attempted to collect a sample from her toenails; however, they were too short. Mother advised that she would return but never presented for additional testing.

On the third day of the hearing on April 24, 2024, Mother advised that she had reinstated her driver's license and secured reliable transportation. She also obtained new employment with HomeServe as a sales agent with income of approximately \$3,000 per month. She was currently looking for a new residence and had four appointments scheduled to view potential places that would be suitable for the Child.

Mother presented two negative drug screens for the court's consideration, one dated April 2023 and another dated June 2023. She also presented a certificate establishing her completion of parenting classes. She testified that she regularly attends church with the children with foster mother's permission. She alleged that she had resolved her legal issues; however, there were officers present at the hearing to arrest her for traffic violations.

On the fourth and final day of the hearing on May 10, 2024, Kelly Dyer testified that she served as one of the Child's DCS case managers, beginning in March 2022 through January 2023. She recalled that Mother was advised of the permanency plan requirements and what was needed for her to regain custody of the Child. She advised Mother to address her drug abuse and obtain stable housing. She offered to assist Mother in her search for housing by accompanying her on any walk-throughs for potential housing. She also made several referrals for services and attempted to coordinate her enrollment in a drug treatment program. She further advised Mother that DCS could refer her case to the Chattanooga Housing Authority once she completed the requirements on her permanency plan. She reminded Mother of this resource at family meetings and visitations in an attempt to prompt her compliance with the permanency plan. She stated that she never felt any sense of urgency from Mother and that Mother's lack of effort became a barrier to reunification as she continued to fail drug screens. She agreed that Mother was consistent with her attendance at visitation but that she was chronically late, prompting DCS to establish a 15-

minute rule requiring cancellation of the visit if Mother failed to appear at the appointed time. Mother was often late even after the imposition of the rule.

Ms. Dyer testified that Mother's relationship with Lajuan was also a barrier to reunification due to domestic violence. She recalled that Mother frequently appeared at visitation with bruises and that on one occasion she appeared visibly upset from an altercation, causing distress for the children. Mother was advised to complete the domestic violence course and distance herself from Lajuan; however, she continued to appear with bruising. Mother also incurred new criminal charges during the custodial episode in 2022.

Ms. Dyer stated that the Child has remained in the same foster home with his siblings since the time of removal. She observed a bond between the Child and his foster mother and recalled that he was respectful toward her and appeared to have his needs met while in her care. The Child was also bonded with his siblings, who were also doing well in the foster home. She confirmed that Mother attended church with the Child with the foster mother's permission.

Taquesha Brandon, who was assigned as the Child's family caseworker in January 2023, testified that the oldest sibling, Michael, transitioned into an extension of foster care due to disability but that he has remained in the same home with his siblings. She believed that the Child was doing well in the home and at school.

As to visitation, Ms. Brandon agreed that Mother was engaged when present for visitation and that she observed a bond between the Child and Mother. However, she did not believe he held a significant attachment to her. She explained that she has had challenges scheduling visitation with Mother recently. She professed that the decline in visitation has had "little to no impact" on the Child.

Ms. Brandon testified that Mother had not made much progress as evidenced by her ongoing substance abuse issues and failure to secure housing. Mother finally passed a drug screen in June 2023 but refused a mouth swab in February 2024. Ms. Brandon was unable to request a housing voucher until Mother established and maintained her sobriety.

Foster Mother expressed her desire to adopt the Child. She recalled that the Child required some counseling upon his arrival but that he has improved while in her home. She explained that he was diagnosed with enuresis and that he has since improved with counseling. He expressed a desire to cut his hair when he experienced some bullying due to his appearance. She assisted him in cutting his hair, and his confidence and self-esteem have improved as a result. She described a loving relationship between the Child and his siblings and confirmed that she initially facilitated Mother's attendance at their church. She described some recent issues between Mother and other church members that disrupted Mother's attendance. Mother also had unsupervised contact with Antonio, despite warnings from the foster care review board to refrain from such behavior.

Mother's friend, Marie C., testified that she witnessed an improvement in Mother's life circumstances over the past three years. She believed Mother maintained her sobriety and her employment. She professed that Mother was ready to reunite with the children.

Following the hearing, the court issued a final order in which it found that the evidence presented established the statutory grounds of (1) abandonment for failure to provide a suitable home and (2) the persistence of conditions which led to removal. The court did not find sufficient evidence to sustain the ground of noncompliance with the permanency plans. The court also found that termination was in the best interest of the Child. This appeal followed.

II. ISSUES

We consolidate and restate the issues pertinent to this appeal as follows:

- A. Whether clear and convincing evidence supports the court's finding of statutory grounds for termination.
- B. Whether clear and convincing evidence supports the court's finding that termination was in the best interest of the Child.

III. STANDARD OF REVIEW

Parents have a fundamental right to the care, custody, and control of their children. *Stanley v. Illinois*, 405 U.S. 645, 651 (1972); *In re Drinnon*, 776 S.W.2d 96, 97 (Tenn. Ct. App. 1988). This right "is among the oldest of the judicially recognized liberty interests protected by the Due Process Clauses of the federal and state constitutions." *In re M.J.B.*, 140 S.W.3d 643, 652–53 (Tenn. Ct. App. 2004). "Termination of a person's rights as a parent is a grave and final decision, irrevocably altering the lives of the parent and child involved and 'severing forever all legal rights and obligations' of the parent." *Means v. Ashby*, 130 S.W.3d 48, 54 (Tenn. Ct. App. 2003) (quoting Tenn. Code Ann. § 36-1-113(I)(1)). "[F]ew consequences of judicial action are so grave as the severance of natural family ties." *M.L.B. v. S.L.J.*, 519 U.S. 102, 119 (1996) (quoting *Santosky v. Kramer*, 455 U.S. 745, 787 (1982)).

Although parental rights are superior to the claims of other persons and the government, they are not absolute and may be terminated upon statutory grounds. *See In Re Angela E.*, 303 S.W.3d 240, 250 (Tenn. 2010); *Blair v. Badenhope*, 77 S.W.3d 137, 141 (Tenn. 2002). Due process requires clear and convincing evidence of the existence of the grounds. *In re Drinnon*, 776 S.W.2d at 97. A parent's rights may be terminated only upon

- (1) [a] finding by the court by clear and convincing evidence that the grounds for termination of parental or guardianship rights have been established; and
- (2) [t]hat termination of the parent's or guardian's rights is in the best interest[] of the child.

Tenn. Code Ann. § 36-1-113(c). “[A] court must determine that clear and convincing evidence proves not only that statutory grounds exist [for the termination] but also that termination is in the child’s best interest.” *In re Valentine*, 79 S.W.3d 539, 546 (Tenn. 2002). The existence of at least one statutory basis for termination of parental rights will support the trial court’s decision to terminate those rights. *In re C.W.W.*, 37 S.W.3d 467, 473 (Tenn. Ct. App. 2000), *abrogated on other grounds by In re Audrey S.*, 182 S.W.3d 838 (Tenn. Ct. App. 2005).

The heightened burden of proof in parental termination cases minimizes the risk of erroneous decisions. *In re C.W.W.*, 37 S.W.3d at 474; *In re M.W.A., Jr.*, 980 S.W.2d 620, 622 (Tenn. Ct. App. 1998). “Evidence satisfying the clear and convincing evidence standard establishes that the truth of the facts asserted is highly probable and eliminates any serious or substantial doubt about the correctness of the conclusions drawn from the evidence.” *In re Audrey S.*, 182 S.W.3d at 861 (citations omitted). It produces in a fact-finder’s mind a firm belief or conviction regarding the truth of the facts sought to be established. *In re A.D.A.*, 84 S.W.3d 592, 596 (Tenn. Ct. App. 2002); *Ray v. Ray*, 83 S.W.3d 726, 733 (Tenn. Ct. App. 2001); *In re C.W.W.*, 37 S.W.3d at 474.

In 2016, the Tennessee Supreme Court provided guidance to this court in reviewing cases involving the termination of parental rights:

An appellate court reviews a trial court’s findings of fact in termination proceedings using the standard of review in Tenn. R. App. P. 13(d). Under Rule 13(d), appellate courts review factual findings de novo on the record and accord these findings a presumption of correctness unless the evidence preponderates otherwise. In light of the heightened burden of proof in termination proceedings, however, the reviewing court must make its own determination as to whether the facts, either as found by the trial court or as supported by a preponderance of the evidence, amount to clear and convincing evidence of the elements necessary to terminate parental rights. The trial court’s ruling that the evidence sufficiently supports termination of parental rights is a conclusion of law, which appellate courts review de novo with no presumption of correctness. Additionally, all other questions of law in parental termination appeals, as in other appeals, are reviewed de novo with no presumption of correctness.

In re Carrington H., 483 S.W.3d 507, 523–24 (Tenn. 2016) (citations omitted); *see also In re Gabriella D.*, 531 S.W.3d 662, 680 (Tenn. 2017).

In the event that the “resolution of an issue [] depends upon the truthfulness of witnesses, the trial judge, who has had the opportunity to observe the witnesses and their manner and demeanor while testifying, is in a far better position than this Court to decide those issues.” *In re Navada N.*, 498 S.W.3d 579, 591 (Tenn. Ct. App. 2016) (citing *McCaleb v. Saturn Corp.*, 910 S.W.2d 412, 415 (Tenn. 1995); *Whitaker v. Whitaker*, 957 S.W.2d 834, 837 (Tenn. Ct. App. 1997)). “[T]his court gives great weight to the credibility accorded to a particular witness by the trial court.” *In re Christopher J.*, No. W2016-02149-COA-R3-PT, 2017 WL 5992359, at *3 (Tenn. Ct. App. Dec. 4, 2017) (citing *Whitaker*, 957 S.W.2d at 837).

IV. DISCUSSION

A.

As indicated above, the trial court granted the termination petition based upon the following statutory grounds: (1) abandonment for failure to provide a suitable home and (2) the persistence of conditions which led to removal. Mother does not appeal the statutory grounds of termination as found by the trial court. We will consider each ground as required by our Supreme Court. *See In re Carrington H.*, 483 S.W.3d at 525–26 (“[T]he Court of Appeals must review the trial court’s findings as to each ground for termination and as to whether termination is in the child’s best interests, regardless of whether the parent challenges these findings on appeal.”).

1. Abandonment

A parent may be found to have abandoned his or her child by failing to establish a suitable home. Tenn. Code Ann. § 36-1-113(g)(1). This ground for the termination of parental rights is established when:

- (a) The child has been removed from the home or the physical or legal custody of a parent or parents . . . by a court order at any stage of proceedings in which a petition has been filed in the juvenile court alleging that a child is a dependent and neglected child, and the child was placed in the custody of the department or a licensed child-placing agency;
- (b) The juvenile court found, or the court where the termination of parental rights petition is filed finds, that the department or a licensed child-placing agency made reasonable efforts to prevent removal of the child or that the circumstances of the child’s situation prevented reasonable efforts from being made prior to the child’s removal; and
- (c) For a period of four (4) months following the physical removal, [DCS]

made reasonable efforts to assist the parent [] to establish a suitable home for the child, but that the parent [has] not made reciprocal reasonable efforts to provide a suitable home and [has] demonstrated a lack of concern for the child to such a degree that it appears unlikely that they will be able to provide a suitable home for the child at an early date. The efforts of [DCS] to assist a parent [] in establishing a suitable home for the child shall be found to be reasonable if such efforts equal or exceed the efforts of the parent [] toward the same goal, when the parent [] is aware that the child is in [DCS custody.]

Tenn. Code Ann. § 36-1-102(1)(A)(ii). This ground for termination requires DCS to make reasonable efforts to assist a parent in obtaining a suitable home. Tenn. Code Ann. § 36-1-102(1)(A)(ii)(c); *In re Kaliyah S.*, 455 S.W.3d 533, 555 n.32 (Tenn. 2015). Although the statute requires DCS to make reasonable efforts toward the establishment of a suitable home for “a period of four (4) months following the physical removal” of the children, “the statute does not limit the court’s inquiry to a period of four months immediately following the removal.” *In re Jakob O.*, No. M2016-00391-COA-R3-PT, 2016 WL 7243674, at *13 (Tenn. Ct. App. Dec. 15, 2016). A suitable home requires “‘more than a proper physical living location.’” *In re Daniel B.*, No. E2019-01063-COA-R3-PT, 2020 WL 3955703, at *4 (Tenn. Ct. App. July 10, 2020) (quoting *Tenn. Dep’t of Children’s Servs. v. C.W.*, No. E2007-00561-COA-R3-PT, 2007 WL 4207941, at *3 (Tenn. Ct. App. Nov. 29, 2007)). It requires a “safe and stable environment in which a child can live and ‘the presence of a care giver who can supply the care and attention a child needs.’” *In re James V.*, No. M2016-01575-COA-R3-PT, 2017 WL 2365010, at *5 (Tenn. Ct. App. May 31, 2017) (quoting *In re Malaki E.*, No. M2014-01182-COA-R3-PT, 2015 WL 1384652, at *9 (Tenn. Ct. App. Mar. 23, 2015)) (citation omitted).

Here, the Child was ordered into DCS custody on November 19, 2021, after DCS made reasonable efforts to prevent removal. Mother was advised that DCS could provide a referral to the Chattanooga Housing Authority once she evidenced sobriety. DCS attempted to assist her in establishing and maintaining her sobriety by securing assessments, providing drug screens, maintaining contact, and assisting with transportation. Mother continued to fail the drug screens and moved frequently before finally securing a residence that was inhabitable for the Child at the time of the hearing.

The evidence does not preponderate against the court’s finding that Mother’s failed drug screens hindered DCS’s ability to provide real housing assistance. *See* Tenn. Code Ann. § 36-1-102(1)(A)(ii)(c) (“The efforts of [DCS to assist a parent] in establishing a suitable home for the child shall be found to be reasonable if such efforts equal or exceed the [parent’s efforts] toward the same goal, when the parent [] is aware that the child is in [DCS custody.]”). Under these circumstances, we conclude that Mother abandoned the Child by failing to establish a suitable home for him. We affirm the court’s judgment terminating Mother’s parental rights on this ground.

2. Persistence of conditions

Under Tennessee law, a trial court may terminate parental rights when:

(3)(A) The child has been removed from the home or the physical or legal custody of a parent or guardian for a period of six (6) months by a court order entered at any stage of proceedings in which a petition has been filed in the juvenile court alleging that a child is a dependent and neglected child, and:

(i) The conditions that led to the child's removal still persist, preventing the child's safe return to the care of the parent or guardian, or other conditions exist that, in all reasonable probability, would cause the child to be subjected to further abuse or neglect, preventing the child's safe return to the care of the parent or guardian;

(ii) There is little likelihood that these conditions will be remedied at an early date so that the child can be safely returned to the parent or guardian in the near future; and

(iii) The continuation of the parent or guardian and child relationship greatly diminishes the child's chances of early integration into a safe, stable, and permanent home[.]

Tenn. Code Ann. § 36-1-113(g)(3). Termination of parental rights requires clear and convincing evidence of all three factors. *In re Valentine*, 79 S.W.3d at 550.

The conditions which led to removal in November 2021 were child safety concerns due to drug exposure and housing instability. Mother has failed to conclusively establish her sobriety, despite numerous opportunities provided by the court throughout the hearing. She declined a mouth swab test after she passed the hair follicle screening with freshly dyed hair. Further, she has yet to submit for a nailbed screen. The trial court acknowledged that Mother has presented negative drug screens but held that there was reason to believe Mother was still using drugs as evidenced by her failure to submit to additional testing as ordered by the court. She has also failed to secure housing that is suitable for the Child. Following our review, we conclude that there is little likelihood that the conditions which led to removal will be remedied at an early date so that the Child can be safely returned in the near future and that the continuation of the parent's relationship greatly diminishes his chances of early integration into a safe, stable, and permanent home. Accordingly, we affirm the trial court on this ground of termination.

B.

Having concluded that there was clear and convincing evidence supporting at least one statutory ground of termination, we must now consider whether termination of Mother's parental rights was in the best interest of the Child. Tenn. Code Ann. § 36-1-113(c)(2); *In re Audrey S.*, 182 S.W.3d at 860. After a court finds that clear and convincing evidence exists to support a termination ground, "the interests of the parent and the child diverge" and the court focuses on the child's best interest. *In re Audrey S.*, 182 S.W.3d at 877. A finding that at least one ground for termination of parental rights exists does not necessarily require that rights be terminated. *Id.* Because some parental misconduct is redeemable, Tennessee's termination of parental rights statutes recognize "that terminating an unfit parent's parental rights is not always in the child's best interests." *Id.* The facts a court considers in the best interest analysis "must be proven by a preponderance of the evidence, not by clear and convincing evidence." *In re Kaliyah S.*, 455 S.W.3d 533, 555 (Tenn. 2015). After making the underlying factual findings, the court "should then consider the combined weight of those facts to determine whether they amount to clear and convincing evidence that termination is in the child's best interest." *Id.*

The statutory best interest factors applicable to this action are as follows:

(i)(1) In determining whether termination of parental or guardianship rights is in the best interest of the child, the court shall consider all relevant and child-centered factors applicable to the particular case before the court. Those factors may include, but are not limited to, the following:

(A) The effect a termination of parental rights will have on the child's critical need for stability and continuity of placement throughout the child's minority;

(B) The effect a change of caretakers and physical environment is likely to have on the child's emotional, psychological, and medical condition;

(C) Whether the parent has demonstrated continuity and stability in meeting the child's basic material, educational, housing, and safety needs;

(D) Whether the parent and child have a secure and healthy parental attachment, and if not, whether there is a reasonable expectation that the parent can create such attachment;

(E) Whether the parent has maintained regular visitation or other contact with the child and used the visitation or other contact to cultivate a positive relationship with the child;

- (F) Whether the child is fearful of living in the parent's home;
- (G) Whether the parent, parent's home, or others in the parent's household trigger or exacerbate the child's experience of trauma or post-traumatic symptoms;
- (H) Whether the child has created a healthy parental attachment with another person or persons in the absence of the parent;
- (I) Whether the child has emotionally significant relationships with persons other than parents and caregivers, including biological or foster siblings, and the likely impact of various available outcomes on these relationships and the child's access to information about the child's heritage;
- (J) Whether the parent has demonstrated such a lasting adjustment of circumstances, conduct, or conditions to make it safe and beneficial for the child to be in the home of the parent, including consideration of whether there is criminal activity in the home or by the parent, or the use of alcohol, controlled substances, or controlled substance analogues which may render the parent unable to consistently care for the child in a safe and stable manner;
- (K) Whether the parent has taken advantage of available programs, services, or community resources to assist in making a lasting adjustment of circumstances, conduct, or conditions;
- (L) Whether the department has made reasonable efforts to assist the parent in making a lasting adjustment in cases where the child is in the custody of the department;
- (M) Whether the parent has demonstrated a sense of urgency in establishing paternity of the child, seeking custody of the child, or addressing the circumstance, conduct, or conditions that made an award of custody unsafe and not in the child's best interest;
- (N) Whether the parent, or other person residing with or frequenting the home of the parent, has shown brutality or physical, sexual, emotional, or psychological abuse or neglect toward the child or any other child or adult;
- (O) Whether the parent has ever provided safe and stable care for the child or any other child;

(P) Whether the parent has demonstrated an understanding of the basic and specific needs required for the child to thrive;

(Q) Whether the parent has demonstrated the ability and commitment to creating and maintaining a home that meets the child's basic and specific needs and in which the child can thrive;

(R) Whether the physical environment of the parent's home is healthy and safe for the child;

(S) Whether the parent has consistently provided more than token financial support for the child; and

(T) Whether the mental or emotional fitness of the parent would be detrimental to the child or prevent the parent from consistently and effectively providing safe and stable care and supervision of the child.

(2) When considering the factors set forth in subdivision (i)(1), the prompt and permanent placement of the child in a safe environment is presumed to be in the child's best interest.

(3) All factors considered by the court to be applicable to a particular case must be identified and supported by specific findings of fact in the court's written order.

(4) Expert testimony is not required to prove or disprove any factor by any party.

Tenn. Code Ann. § 36-1-113(i). "This list is not exhaustive, and the statute does not require a trial court to find the existence of each enumerated factor before it may conclude that terminating a parent's parental rights is in the best interest of a child." *In re M.A.R.*, 183 S.W.3d 652, 667 (Tenn. Ct. App. 2005). The General Assembly has also stated that "when the best interest[] of the child and those of the adults are in conflict, such conflict shall always be resolved to favor the rights and the best interest[] of the child, which interests are hereby recognized as constitutionally protected." Tenn. Code Ann. § 36-1-101(d); *see also White v. Moody*, 171 S.W.3d 187, 194 (Tenn. Ct. App. 2004) (holding that when considering a child's best interest, the court must take the child's perspective, rather than the parent's). We will group our discussion of the best interest factors "based on the overarching themes within the list of twenty factors" under the circumstances of the case because many of these factors touch on similar factual predicates and involve similar issues. *In re Chayson D.*, No. E2022-00718-COA-R3-PT, 2023 WL 3451538, at *14 (Tenn. Ct. App. May 15, 2023).

We consider first the Child's emotional needs. *See* Tenn. Code Ann. § 36-1-113(i)(1)(A) (concerning the need for stability), (B) (concerning how changes in caretakers affect wellbeing), (D) (concerning the parent-child attachment), (E) (concerning visitation), (H) (concerning attachment to others), and (I) (concerning relationships with others). With respect to these factors, the Child is in need of stability as evidenced by his progress in his current placement since the time of removal. The siblings have maintained their bonds in their current placement with foster mother, who has indicated an intent to adopt the Child upon termination of Mother's rights. While Mother attended visitation, the Child expressed no remorse when visitations were lessened.

We turn next to the Child's physical environment and well-being. *See* Tenn. Code Ann. § 36-1-113(i)(1)(C) (concerning whether the parent has demonstrated continuity and stability in meeting the child's basic material, educational, housing, and safety needs), (G) (concerning whether the parent's home triggers or exacerbate the children's experience of trauma or post-traumatic symptoms), (O) (involving the parent's prior provision of safe and stable care to any child), (Q) (involving the parent's commitment to having a home that meets the child's needs), and (R) (involving the health and safety of the home). Mother has failed to establish a suitable home for the Child prior to removal and throughout the custodial episode. The Child's well-being has improved once provided with a stable environment and counseling through his placement with foster mother.

Next, we consider Mother's efforts. *See* Tenn. Code Ann. § 36-1-113(i)(1)(C) (involving the parent's continuity in meeting the child's needs), (J) (involving the parent's lasting adjustment of circumstances), (K) (involving the parent's use of available resources), (L) (concerning efforts made by DCS); and (M) (concerning the parent's sense of urgency in addressing the circumstances that led to removal). Mother's failure to improve her living situation and establish and maintain her sobriety despite assistance from DCS evidenced her lack of effort to meet the Child's needs. She has also not exhibited any sense of urgency in addressing the circumstances which led to removal.

With regard to support and knowledge of the Child's needs, Tenn. Code Ann. § 36-1-113(i)(1)(S) (addressing the parent providing more than token support), (P) (addressing the parent's understanding of the child's needs), the record reflects that Mother remitted some support through her employment.

The trial court considered all the evidence, weighed the credibility of the witnesses, and concluded that the best interest factors supported termination. Upon our review of the evidence, we agree with the trial court's assessment and findings. Accordingly, we conclude that clear and convincing evidence in the record supports a determination that termination of Mother's parental rights was in the Child's best interest.

V. CONCLUSION

The judgment of the trial court is affirmed. The case is remanded for such further proceedings as may be necessary. Costs of the appeal are taxed to the appellant, Jennifer L.

JOHN W. McCLARTY, JUDGE