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Clerk of the
Appellate Courts

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE

Assigned on Briefs May 1, 2026

IN RE KNOXLEE B.¹

**Appeal from the Probate Court for Cumberland County
No. 2024-PF-9931 Amanda Worley, Judge**

No. E2025-01611-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 that clear and convincing evidence established several grounds of termination and 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 Probate Court
Affirmed; Case Remanded**

JOHN W. MCCLARTY, P.J., E.S., delivered the opinion of the court, in which J. STEVEN STAFFORD, P.J., W.S., and JEFFREY USMAN, J., joined.

Jeffrey A. Vires, Crossville, Tennessee, for the appellant, Kelsey B.

G. Earl Patton, Crossville, Tennessee, for the appellees, Samantha and Scott J.

Sherrill Rhea, Crossville, Tennessee, guardian ad litem for Knoxlee B.

OPINION

I. BACKGROUND

Knoxlee (“the Child”) was born out-of-wedlock to Kelsey B. (“Mother”) and Brandon D. (“Father”)² in June 2022. At that time, the Tennessee Department of Children’s Services (“DCS”) already had an open case related to Mother’s two other

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.

² Father passed away in December 2023.

children.³ Upon admission to the hospital, Mother tested positive for amphetamines, benzodiazepines, and opiates. At birth, the Child tested positive for amphetamines. Mother admitted that she last used methamphetamine in March 2022.

DCS removed the Child and placed her with the paternal grandmother, Samantha J. (“Grandmother”). The Child was adjudicated as dependent and neglected on August 24, 2022, based upon a finding of severe child abuse as a result of the Child’s testing positive for amphetamine at birth and Mother’s admitted drug use during pregnancy.

On October 12, 2022, the trial court divested custody from DCS and awarded Grandmother legal custody of the Child. Mother was granted supervised visitation at Grandmother’s discretion. The case was effectively closed.

On May 23, 2024, Grandmother, along with her husband, Scott J. (“Grandfather,” collectively “Grandparents”), filed a petition to terminate Mother’s parental rights and to adopt the Child. Grandparents alleged the following statutory grounds: (1) abandonment by willful failure to remit child support; (2) abandonment by willful failure to visit; (3) the persistence of conditions which led to removal; (4) severe child abuse; and (5) failure to manifest an ability and willingness to assume custody of the Child.

The action proceeded to a hearing on September 29, 2025. Grandparents testified as to the love and care they have for the Child and professed their intent to adopt should she become available for adoption. Grandmother further testified as to the difficulty she experienced with facilitating visitation with Mother, explaining that Mother was combative at times and would cancel frequently. She admitted that she has also cancelled visitation or ended visits due to Mother’s behavior. She agreed that Mother has been more consistent with visitation recently. She stated that Mother did not remit payment for child support until after the termination petition was filed and that Mother only occasionally provided supplies for the Child. Mother advised her that any supplies she provided were to be split between the Child and her half-sibling, who lived nearby with another family member.

Grandmother testified that she and Grandfather have been in a relationship for 19 years and have been married for 1 year. Grandfather was present when she received custody of the Child and agreed to placement. They are both employed and have adequate housing for the Child. They regularly take the Child to events and parks and are involved with their extended families, including one of the Child’s siblings. Grandmother described her bond with the Child and stated that the Child asked for her during visitation with Mother. She agreed that the Child enjoyed Mother and has had positive interactions during visitation. Grandfather agreed that Mother was employed and had housing; however, he questioned her ability to maintain her progress on a long-term basis.

³ The eldest daughter lives with her father, and Mother’s sister has custody of the second daughter.

The Child's great-grandmother testified that she cares for the Child on the weekdays while Grandparents are working. She described a loving bond between the Child and Grandmother and stated that she believed the adoption would be in the Child's best interest.

Mother's sister, Brooklyn B., testified that she has custody of the Child's half-sister, Aubree. She received custody of Aubree due to Mother's drug use while pregnant. She has also filed a petition for termination of Mother's parental rights to Aubree. She stated that she permits visitation between the Child and Aubree and that Mother also visited Aubree at her discretion. She agreed that Mother has shown improvement recently and was no longer using drugs. She stated that Mother was employed, had obtained housing, and was involved in a local church. She was concerned about Mother's ability to maintain a sober lifestyle for an extended period of time due to Mother's tendency to relapse.

Brooklyn acknowledged that prior to Mother's current improvement, she filed a petition for an order of protection against her on May 25, 2024. She explained that Mother was parked in front of her house at 2:00 a.m. on one occasion and frequently came to the house without permission. She wrote the following in her petition,

When she is asked to leave, we have to tell her multiple times to give my daughter to the babysitter. We've had to take my daughter [] out of her arms in order to make her leave. When [she] finally does leave, she causes a huge scene and makes my kids incredibly upset. I'm having to keep my doors locked consistently for fear [she] will show up and possibly take my kids with her. [She] drives by my house multiple times. Sometimes she drives a different car. She sends me messages threatening to take my kids from me or call DCS.

Mother testified that she was in a volatile relationship at the time of the Child's birth and that she was addicted to methamphetamine. She attempted to complete intensive outpatient rehabilitation several times following the Child's removal but was unsuccessful until she completed the New Life Program in July 2024. She has a home that she has maintained for three months and employment that she has maintained since November 2024. She is involved in a local church, where she volunteers in their children's ministry.⁴ Mother stated that she wanted to stay in the Child's life and maintain the Child's bond between her and her siblings. She hired an attorney to pursue custody of the Child.

Mother stated that she visits the Child more frequently now that she has transportation and employment. She visits for as long as the Child is interested and Grandmother permits. She admitted that she and Grandmother argue on occasion and explained that the Child interacts with her more when they are not supervised.

⁴ The pastor confirmed her attendance and involvement with the children's ministry.

Mother claimed that she provided money orders on occasion in support of the Child. She presented some receipts establishing several payments following the filing of the termination petition. She acknowledged that she was employed three months prior to the filing of the petition and that she was able to post bond for several criminal offenses that she was charged with in April and May 2024. When asked about these offenses, she asserted her Fifth Amendment privilege against self-incrimination. The documents introduced at trial established that Mother was charged with theft over \$10,000, multiple charges of evading arrest, possession of drug paraphernalia, joyriding, and resisting arrest, with a total bond liability of approximately \$21,000.

Following the hearing, the trial court granted the termination petition based upon her (1) abandonment by willful failure to remit child support and (2) severe child abuse. The trial court found that termination of Mother's parental rights 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 by failure to support and (2) severe child abuse. Mother did not appeal the court’s finding of clear and convincing evidence in support of each ground of termination. However, we will consider each ground in this appeal as required by our Supreme Court. *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.”).

1. Abandonment by failure to support

If a child is less than four years old prior to the filing of the termination petition, abandonment can occur when a parent has failed to remit support or reasonable payments toward support for a period of three (3) consecutive months immediately preceding the filing of a petition to terminate parental rights. Tenn. Code Ann. § 36-1-102(1)(A)(i)(b). The statute defines failure to support as a parent’s “failure, for the applicable time period, to provide monetary support or the failure to provide more than token payments toward the support of the child.” Tenn. Code Ann. § 36-1-102(1)(D). By statute, parents are expected to offer more than “token support,” which “means that the support, under the circumstances of the individual case, is insignificant given the parent’s means.” Tenn. Code Ann. § 36-1-102(1)(B). “Every parent who is eighteen (18) years of age or older is presumed to have knowledge of a parent’s legal obligation to support such parent’s child or children.” Tenn. Code Ann. § 36-1-102(1)(H).

A lack of willfulness can constitute an affirmative defense to the ground of failure to support. Tenn. Code Ann. § 36-1-102(1)(I). A parent “shall bear the burden of proof that the failure to . . . support was not willful” and must establish the lack of willfulness by a preponderance of evidence. *Id.* Mother did not allege on appeal that her failure to remit support was not willful. Here, the petition was filed on May 23, 2023. The relevant three-month period is from February 23, 2023, through May 22, 2023. *See In re Michael S.*, No. E2025-01028-COA-R3-PT, 2026 WL 1494102, at *6 (Tenn. Ct. App. May 28, 2026) (noting that “the determinative period should have been calculated using the three months ‘immediately preceding the filing of a proceeding,’ and should not have included the date that a termination petition was filed”).

Grandparents testified that they never received any financial support of any kind from Mother prior to the filing of the termination petitions. The record reflects that Mother was employed for the three months prior to the filing of the petition. Under these circumstances, we must conclude that the evidence presented established that Mother had some income from which to remit child support during the pertinent time period but failed to remit child support. Accordingly, we hold that there is clear and convincing evidence to support the court’s termination on the ground of abandonment by willful failure to remit child support.

2. Severe child abuse

The trial court terminated Mother’s parental rights pursuant to Tennessee Code Annotated section 36-1-113(g)(4), which provides:

The parent or guardian has been found to have committed severe child abuse, as defined in § 37-1-102, under any prior order of a court or is found by the court hearing the petition to terminate parental rights . . . to have committed severe child abuse against any child[.]

As relevant here, Section 37-1-102(27) defines “severe child abuse” as:

(A)(i) The knowing exposure of a child to or the knowing failure to protect a child from abuse or neglect that is likely to cause serious bodily injury or death and the knowing use of force on a child that is likely to cause serious bodily injury or death[.]

On August 24, 2022, the Juvenile Court of Cumberland County entered an order adjudicating the Child dependent and neglected and finding that she was the victim of severe child abuse perpetrated by Mother due to in utero drug exposure. This order was final and was not appealed. Therefore, the severe abuse finding is *res judicata*. *In re Dakota C.R.*, 404 S.W.3d 484, 497 (Tenn. Ct. App. 2012). We apply the doctrine of *res judicata* “to prevent a parent from re-litigating whether she committed severe child abuse

in a later termination of parental rights proceeding, when such a finding ha[s] been made in a previous dependency and neglect action.” *In re Heaven L.F.*, 311 S.W.3d 435, 439 (Tenn. Ct. App. 2010). The severe abuse finding in the August 2022 order satisfies the “under any prior order of a court” language in Tennessee Code Annotated section 36-1-113(g)(4). Accordingly, we affirm the trial court’s judgment terminating Mother’s parental rights on this ground.

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.*, 720 S.W.3d 123, 144 (Tenn. Ct. App. 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), (F) (concerning whether the children are fearful of the parent), (H) (concerning attachment to others), (I) (concerning relationships with others). With respect to these factors, the Child has lived with Grandparents for the entirety of her life. She is thriving in her current placement with access to extended family, including her biological sister. Grandparents have indicated their love for the Child and their intent to adopt. While Mother has maintained contact and a maternal bond through visitation, the Child has never lived with Mother or experienced any form of long-term stability with her.

We turn next to the Child's physical environment and well-being. *See* Tenn. Code Ann. § 36-1-113(i)(1)(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 children's needs), and (R) (involving the health and safety of the home). Mother has failed to establish her ability to provide a suitable home for an extended period of time for any of her three children. She has only recently established a residence and has not evidenced long-term housing stability beyond the three months prior to the termination hearing.

Next, we consider Mother's efforts. *See* Tenn. Code Ann. § 36-1-113(i)(1)(C) (involving the parent's continuity in meeting the children's needs), (J) (involving the parent's lasting adjustment of circumstances), and (M) (concerning the parent's sense of urgency in addressing the circumstances that led to removal). Mother failed to meet the Child's needs prior to removal as evidenced by her use of drugs while pregnant. She has not exhibited a sense of urgency in addressing the circumstances which led to removal and has not established a lasting adjustment of circumstances. Mother was charged with multiple criminal offenses in the months prior to the filing of the termination petition and only pursued drug rehabilitation after the termination petition was filed.

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 their needs), the record reflects that Mother has remitted child support; however, such support was only remitted after the filing of the termination petition, despite evidence establishing her employment prior to the filing date.

While we commend Mother for her recent efforts at rehabilitation, the prompt and permanent placement of the Child in a safe environment is paramount. Mother simply failed to evidence her ability to provide the long-term permanency and stability that the Child needs in a timely manner. 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, 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 to the trial court for such further proceedings as may be necessary and consistent with this opinion. Costs of the appeal are taxed to the appellant, Kelsey B.

s/John W. McClarty
JOHN W. McCLARTY, JUDGE