

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE

Assigned on Briefs July 1, 2026

IN RE DESTINY D.¹ ET AL.**Appeal from the Chancery Court for Rhea County**
No. 23-AD-1278 Melissa Thomas Willis, Chancellor

No. E2025-01762-COA-R3-PT

This appeal concerns the termination of a mother's and father's parental rights to six of their minor children. The trial court found by clear and convincing evidence the ground of severe child abuse as to both parents based on a prior juvenile court order concluding that certain of the children were victims of severe child abuse when the parents knowingly failed to protect them from sexual abuse by the parents' eldest child. The trial court also found by clear and convincing evidence that termination of their parental rights was in the children's best interests. On appeal, the parents challenge the best interests determination, arguing primarily that the trial court placed undue weight on their continued denial of the abuse. We affirm the judgment of the trial court.

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

KRISTI M. DAVIS, J., delivered the opinion of the Court, in which W. NEAL MCBRAYER and STEVEN W. MARONEY, JJ., joined.

Edward L. Boring, Pikeville, Tennessee, for the appellant, O.D.

Chelse B. Reed, Dayton, Tennessee, for the appellant, M.D.

Jonathan Skrmetti, Attorney General and Reporter, and Clifton Wade Barnett, Assistant Attorney General, for the appellee, Tennessee Department of Children's Services.

Jeff Davis, Hixson, Tennessee, Guardian ad Litem for E.D., K.D., R.D., and J.D.²

¹ This Court has a policy of abbreviating the last names of children and other parties in cases involving termination of parental rights to protect their privacy and identities.

² The Guardian ad Litem submitted a brief concurring in the position of the Tennessee Department of Children's Services and urging affirmance of the trial court's judgment.

OPINION

BACKGROUND

M.D. (“Mother”) and O.D. (“Father”) are the parents of eleven children, six of whom are at issue in this appeal: Ai.D., C.D., E.D., K.D., R.D., and J.D. (collectively, the “Children”).³ Ai.D. and C.D. are 16-year-old twins. E.D., K.D., R.D., and J.D. are currently ages 13, 12, 11, and 9, respectively. On November 2, 2021, the Tennessee Department of Children’s Services (“DCS” or the “Department”) received a referral alleging sexual abuse and lack of supervision concerning the Children. Specifically, it was alleged that the parents’ eldest child, then 16-year-old Q.D., had sexually abused his siblings. DCS interviewed two of the Children’s older siblings—D.D. and Ab.D.—at their school. D.D. and Ab.D. disclosed that Q.D. sexually abused the Children. Ab.D. reported that she was sexually abused too but did not provide details. D.D., for her part, disclosed that she had experienced “uncomfortable touches” in her private area by Q.D. Mother and Father were interviewed separately, and these interviews were not recorded. Both later strenuously denied that they admitted to knowing about the sexual abuse perpetrated by Q.D. in their home. D.D., Ab.D., and the Children were removed into DCS custody.

On November 3, 2021, DCS filed a petition in the Rhea County Juvenile Court (the “juvenile court”) for temporary legal custody. DCS alleged that Mother and Father said in their interviews that they were aware of Q.D.’s abuse of the Children. DCS alleged further that D.D., Ab.D., and the Children were dependent and neglected and that D.D., Ab.D., Ai.D., C.D., E.D., and K.D. were victims of severe abuse pursuant to Tennessee Code Annotated section 37-1-102(b)(27). That same day, the juvenile court entered an ex parte protective custody order granting DCS temporary legal custody of D.D., Ab.D., and the Children as of November 2, 2021.

On February 23, 2022, Mother and Father appeared before the juvenile court for an adjudicatory hearing. Mother and Father did not dispute DCS’s allegations and announced through their respective counsel that they wished to waive the hearing. On March 4, 2022, the juvenile court entered an order finding clear and convincing evidence that D.D., Ab.D., and the Children were dependent and neglected within the meaning of Tennessee Code Annotated section 37-1-102(b)(13) because Mother and Father knowingly failed to protect them from sexual abuse by Q.D. and placed them at further risk of harm by maintaining Q.D. in the home after becoming aware of the sexual abuse. The juvenile court found no less drastic alternative to removal. In addition, the juvenile court found that D.D., Ab.D., Ai.D., C.D., E.D., and K.D. were victims of severe child abuse as defined by Tennessee

³ Mother and Father have three children older than the Children—two of whom are now adults—and have had two more children since the Children’s removal. While we refer to the other children as needed, this appeal exclusively concerns Mother’s and Father’s parental rights to the Children.

Code Annotated 37-1-102(27) and as further explained in Tennessee Code Annotated section 37-1-129(a)(2). The juvenile court found that it was in the Children's best interests to remain in DCS custody pending further court order, and DCS was relieved of making reasonable efforts with respect to Mother and Father.

Following the Children's removal, Q.D. pled guilty to multiple counts of rape of a child, rape, and sexual battery. Mother and Father also faced multiple criminal charges, which they resolved through entering a best interest plea of guilty to the charge of felony child neglect. Meanwhile, the Children were living in their respective foster placements. Although DCS had been relieved of making reasonable efforts with respect to Mother and Father, it nevertheless created a permanency plan for them.

On September 21, 2023, DCS filed a petition in the Rhea County Chancery Court (the "trial court") seeking to terminate Mother's and Father's parental rights to D.D., Ab.D., and the Children. DCS alleged the ground of severe child abuse against both parents and that termination was in the Children's best interests. On April 5, 2024, DCS filed an amended termination petition. This time, DCS sought termination of Mother's and Father's parental rights to the Children only—D.D. and Ab.D. were not included. DCS once again alleged the ground of severe child abuse against both parents and that termination was in the Children's best interests. This matter was tried on June 7 and August 28 of 2024.

Father testified first. Father and Mother were married and had a total of eleven children together. Mother and Father's oldest child is Q.D., who was in a DCS facility at the time of trial. Father testified that he did not believe Q.D. sexually abused any of the children. Father also denied having previously told law enforcement and DCS graphic details about Q.D.'s sexual abuse. According to Father, he never knew about any abuse and claimed that if anyone testified otherwise, they were lying. Father stated that Q.D. was to be released by September of that year, at which time Q.D. would move in with Father's sister and her husband. Father said that he had no plans to allow Q.D. back in his home because Q.D. would be 19 years old and that he just had a "feeling on this." Father elaborated that he believed the proceedings were all a ruse to keep Q.D.'s girlfriend out of jail. Asked if he had ever inappropriately touched the Children himself, Father said he had not.

Father described his relationship with the Children as "good." Father characterized his relationship with the Children as "an open relationship as far as anything and everything." During the custodial episode, Father engaged in therapeutic visitation with the Children through Zoom. These visits were approved by the juvenile court and lasted an hour to two hours at a time. Father acknowledged that he and Mother pled guilty to felony child neglect. However, Father insisted that he was innocent and that he only pled guilty because he was informed it was in his best interest. Father stated that he had done

nothing wrong in regards to raising the Children. Father said that he wanted to retain his parental rights.

Mother testified next. Mother stated that she did not believe Q.D. sexually abused his siblings. Mother also denied ever having told law enforcement and DCS that she knew sexual abuse occurred in her home. She described Q.D. as a habitual liar who had behavioral problems. According to Mother, she had a good relationship with the Children before their removal into DCS custody, which she categorized as them being "kidnapped." Mother said that her relationship with the Children was "a little strained" because of the separation but that if they were allowed to return home, their relationship would be repaired. Mother testified that she believed absolutely that she should retain her parental rights.

On cross-examination, Mother was pressed on whether she had changed her mind since the juvenile court proceedings on whether she believed Q.D. had sexually abused any of her children. Mother testified in response that she had not been fully advised on the consequences of waiving the adjudicatory hearing. Mother testified to all of the people who allegedly wronged her:

Q. And so all this time has gone by and your position is still that you have no blame, no fault that your children, eight of your children are in foster care right now?

A. No, I don't.

Q. You have been wronged by everyone involved in this situation?

A. This system, yes, I have been wronged because I did nothing to my children. If I had known that was going on or supposedly going on, I would have called the cops on my son myself.

Q. And it's your testimony, is it not, that the law enforcement officers that say that you made statements to them, they're lying, correct?

A. In this situation, yes.

Q. The DCS workers that testified that you made allegations or incriminating statements to them, they're lying, correct?

A. I've never made those statements to them.

Q. So if they testify to that, they're lying, correct?

A. The only thing we've ever said to them was that we didn't do it. We didn't know.

Q. Okay. Not my question, ma'am. If they make --

A. Yes, they're lying.

Q. Okay. They're lying. Your attorney, Mr. Hixson in the Juvenile Court, he wronged you also, didn't he, because he told you not to have a hearing, correct?

A. Yes.

Q. Okay. So everyone in this situation has been out to get you and your husband then?

A. No, I wouldn't say they did it intentionally, but it worked that way.

Q. And yet your children are still in -- eight of your children are still in foster care, correct?

A. Unfortunately, even though we have done everything that we have been told to do to get them home.

Q. But you did nothing wrong for them to be there, did you?

A. No, I didn't.

Mother then testified that she believed Q.D. was manipulated by the authorities into saying he committed sexual abuse because his girlfriend was threatened with jail if he did not. Mother testified further that she had no knowledge of Father ever having sexually abused any of her children.

Next to testify was Lakesha Miles, the DCS severe abuse investigator assigned to the Children's case. Ms. Miles stated that she got involved in the case when she received a "priority one response" alleging sexual abuse and lack of supervision concerning the Children requiring an immediate response within 24 hours. Ms. Miles met D.D. and Ab.D, and both subsequently made disclosures. Mother agreed to an interview at the time. Ms. Miles said that Mother made detailed disclosures as to the sexual abuse perpetrated by Q.D. on a number of his siblings. Mother also told Ms. Miles that in response to the abuse, she sought help from her pastors. One pastor tried to arrange for Q.D. to go to a ranch for boys. Ms. Miles testified that Mother had also once called the juvenile court clerk asking what to do about Q.D. but that her call was in relation to Q.D. allegedly stealing \$100, not sexually abusing his siblings.

Ms. Miles then testified about Father's separate interview. She stated that Father shared with her that K.D. told him about a specific sex act Q.D. forced upon her. Father said he confronted Q.D. about the incident, and Q.D. denied it. Father said that he did not know what to believe. Father then went into much further graphic detail to Ms. Miles about the sexual abuse Q.D. perpetrated. Ms. Miles testified that Father said he "almost" called the police when he learned that Q.D. had forced K.D. to perform a sex act on him. Ms. Miles said that, at that time, Q.D. was still living in the same family household, a 30-foot camper he shared with his parents and all of his siblings.

On cross-examination, Ms. Miles acknowledged that the parents' interviews were not recorded. Ms. Miles stated further that there were no written statements by the parents as there was no policy in effect requiring that such statements be taken from the interviewees. Asked if she knew how Mother and Father had done with their permanency plan, Ms. Miles said that she understood they completed it. However, Ms. Miles testified further that the parents' visits with the Children were not going well and that some of the

Children refused to participate in the calls. Regarding disclosures made by the Children, Ms. Miles stated that K.D. said during a forensic interview that Q.D. dragged her and her siblings to a barn where she and they were sexually abused. E.D. also disclosed to the forensic interviewer that Q.D. sexually abused him. Both K.D. and E.D. said that they told their parents about Q.D.'s abuse.

Rocky Potter of the Rhea County Sheriff's Department testified next. Mr. Potter stated that he had investigated child abuse crimes since 2002 and became involved in the Children's case when a DCS investigator asked him to respond to Mother and Father's residence. The Children were transported to the DCS office, and Mother and Father followed along. Mr. Potter sat in on interviews with the parents. Mr. Potter clarified that these were not law enforcement interviews; he had just been asked to stay because the parents were irate. Mr. Potter heard the parents being advised that their interviews were voluntary. Mother stated in her interview that she had known about the allegations that Q.D. sexually assaulted some of her children. Mother said that she tried to get help for Q.D. and that she and Father tried to separate him from the other children, but it was hard to do in the camper. As per Mr. Potter, Father's interview was similar in substance to Mother's.

Q.D. was ultimately charged with numerous offenses stemming from the sexual abuse of his siblings and pled guilty to several charges. In December 2021, Mother and Father were indicted for aggravated child abuse, neglect, and endangerment. Mother and Father later agreed to a plea deal in which certain of the counts against them were dismissed in exchange for them pleading guilty to felony child neglect. On cross-examination, Mr. Potter acknowledged having asked some questions during the parents' interviews with DCS, although he said that he did not lead the interviews. Mr. Potter also testified that in the week leading up to trial, a new referral had been made concerning a disclosure by K.D. that Father had done "bad things" to her. However, Mr. Potter emphasized that this was "a fresh investigation."

Jennifer Barber, a former DCS worker, testified next. Ms. Barber stated that she worked for DCS from June 2021 through April 2024 and was C.D.'s and Ai.D.'s foster care worker. Ms. Barber testified that Ai.D. and C.D. were reserved in terms of their personality when they first entered foster care in November 2021 but had become more comfortable since. In January 2022, C.D. was placed with a foster family and remained with that family through the end of Ms. Barber's work on her case. Ms. Barber previously visited C.D. twice a month—once in her foster home and once on sibling visits. On sibling visits, all or some of the eight siblings then at issue would be brought together at a local park and interact for about two hours. This was done because the Children were placed across multiple foster homes. Ms. Barber said that Ai.D. was also placed with a foster family in January 2022 and was doing well by the end of her time working on his case.

Ms. Barber then testified about the permanency plan created for Mother and Father. The parents were to provide proof of stable housing that was appropriate for the Children; stable employment and proof thereof; reliable transportation appropriate for the Children; and therapy if recommended. Ms. Barber stated that Mother and Father made progress with employment and therapy; however, housing and transportation saw little progress. Mother and Father previously had a home that was unsuitable for a large family should the Children be returned to them. The parents moved to a new residence in 2024, but Ms. Barber had not seen it. With respect to transportation, Mother and Father had a car, licenses, insurance, and registration, but the car was not big enough for all of the Children. Ms. Barber stated that Mother and Father were adamant that they had no knowledge of the sexual abuse that occurred in their home. Ms. Barber said that C.D. had a strained relationship with Mother and Father and wanted to be adopted. Ai.D. had a “slight” bond with Mother and Father but was indifferent to adoption. Ms. Barber stated that both C.D. and Ai.D. were bonded with their foster families.

C.D., then age 13, testified. C.D. stated that she had been abused by Q.D. and told her parents about it at the time. C.D. was unaware of Mother and Father having done anything to address the situation. Asked if she could trust her parents again despite their failure to protect her, C.D. answered “probably.” Even still, C.D. said that she wanted to be adopted because she felt like she could not return to the parents’ home. C.D. said that Q.D. started sexually abusing her before she was six years old and continued for many years. At around age nine, C.D. told Father about Q.D.’s abuse, and Father said that “they would handle it.” However, the abuse continued. C.D. tried to act as a protector of her younger siblings. C.D. stated that she would feel safe in Mother and Father’s home if Q.D. were not there.

Testifying next was M.J., C.D.’s foster mother. M.J. stated that when C.D. first came to live with her, she was shy and very anxious at times, but this improved greatly over time. C.D. elected not to participate very much in visitation with Mother and Father. M.J. testified to having a great relationship with C.D. and that C.D. was thriving in her care. M.J. stated that C.D.’s participation in parental visitation was slight but that when it occurred, she would find pornography on C.D.’s phone afterward. C.D. had received counseling and appeared to benefit from it. M.J. said that she wanted to adopt C.D.

The next witness to testify was K.P., R.D.’s foster mother since November 2021. K.P. testified that early on, K.D. and J.D. were also in the home, but this ended in 2022 after allegations emerged that K.D. had “done things” to Ai.D. and R.D. K.P. said that R.D. struggled with nightmares and flashbacks and underwent counseling and therapy. According to K.P., R.D. disclosed that he had been sexually abused by Q.D., Q.D.’s girlfriend, and some of his other siblings. R.D. also disclosed to K.P. that he told his parents about the abuse. The parents gave out “whoopings” and threats, but the abuse continued. R.D. opted not to participate in therapeutic visitation with Mother and Father.

K.P. testified that R.D. considered himself a part of her family and that they have a very strong relationship. K.P. said that she wanted to adopt R.D.

V.H., Ai.D.'s foster mother, testified next. V.H. stated that she had also previously kept Ab.D., C.D., and D.D. According to V.H., when Ai.D. first entered her home, he was "scrawny, unkept looking, nervous acting, [and] did have issues with sexual stuff." Ai.D. had issues with pulling up sexual photos and sending sexualized pictures of himself to girls at school. Nevertheless, Ai.D. had shown improvement in his behavior over time. Ai.D. had undergone therapy, as well. During virtual visits with his parents, Ai.D. played video games. V.H. was willing to let Ai.D. remain in her household long-term and was open to the possibility of adopting him should he be made available for adoption.

Tiffany Howard, a DCS case manager for foster care, testified next. Ms. Howard stated that she worked on the cases of D.D., C.D., Ai.D., and Ab.D. since May 2024. Ms. Howard was responsible for Ai.D. and C.D., specifically. Ms. Howard stated that Ai.D. and C.D. were doing very well in their respective placements. Ms. Howard observed three virtual therapeutic parental visits. On one visit, Mother became overly emotional and refused to get off the call when asked to do so. On another visit, Mother said that Q.D. had not done what he had been accused of doing. Ms. Howard described Mother and Father's most recent residence as a six-bedroom, two-bathroom, two-living room, and two-kitchen house that they had lived in since February 2024. Ms. Howard had no concerns about the physical structure of the house, but she had concerns about its layout. Ms. Howard stated that one had to cross through the Children's rooms to get to other rooms, so there was a problem with access and the parents' ability to supervise. Ms. Howard testified that C.D. does not ask her about Mother or Father. She said that Ai.D. had a "very limited" relationship with his parents. On cross-examination, Ms. Howard acknowledged that it was difficult for Mother and Father to maintain a relationship with the Children given the restrictions placed on their contact during the proceedings. Ms. Howard testified further that by her understanding, Mother and Father had completed the action steps on their permanency plan. With respect to the other Children, Ms. Howard said she knew that E.D. and R.D. were doing very well and that she had no concerns about them in their foster placements.

DCS worker Abigail Newman testified next. Ms. Newman stated that she worked on the cases of E.D., R.D., J.D., and K.D. She had been responsible for them since November 2021. Ms. Newman said that despite DCS having been relieved of making reasonable efforts with the parents earlier in the case, the Department continued to work with them. Ms. Newman said that after a period of looking, the parents found their current home in February of 2024. Ms. Newman testified that Mother and Father never took any responsibility for the sexual abuse perpetrated by Q.D. in their home. As to E.D.'s placement, Ms. Newman said he had lived in his foster home since August 2022. It was unknown whether that would be a long-term home because E.D. had a "disruption"

involving inappropriate behavior. Ms. Newman said that although E.D. enjoyed parent-child calls and even asked for in-person visits, she did not believe E.D. had a bonded relationship with Mother or Father. K.D. and J.D. were placed together. K.D. was doing well and working to continue in individual therapy. By contrast, J.D. had behavioral issues, and a service was being brought into the home to assist. K.D. and J.D. had been in their current pre-adoptive foster home for four months at the time of trial. Neither J.D. nor K.D. participated in visits with Mother and Father. As for R.D., he had been with the same foster parents since November of 2021. Ms. Newman stated that R.D. was not doing very well currently, as he had behavioral issues and was receiving counseling for trauma. Nevertheless, Ms. Newman testified that R.D. had become less shy since entering foster care and had opened up. In Ms. Newman's view, E.D., R.D., J.D., and K.D. were each likely to be traumatized if removed from their current placements. Regarding the parents' views on the Children's foster placements, Ms. Newman stated that Mother and Father expressed concerns about K.D. and J.D.'s foster parents being lesbians. Additionally, Mother and Father disapproved of R.D.'s placement in a non-married couple's home as that was considered by them to be "living in sin." With respect to child support, Ms. Newman testified that both Mother and Father made their required payments.

Jesslyn Douglas, a forensic interviewer with the 12th Judicial Child Advocacy Center, testified next. Ms. Douglas stated that she interviewed K.D. on three occasions. In the first interview in November 2021, K.D. told Ms. Douglas that Q.D. had taken her and her other siblings into a barn to sexually abuse them. In the second interview in May 2023, K.D. disclosed that Father was present for and actively participated in the abuse in the barn. During one of the interviews, according to Ms. Douglas, K.D. said that she tried telling Mother about the abuse and tried to call 911 but was not given any help. In the third interview in July 2024, K.D. disclosed that Father had touched her inappropriately. After this third interview, K.D. became hysterical and was shaking and sobbing in the office waiting area.

After the close of DCS's proof, Father took the stand briefly and declined to testify further, invoking his right against self-incrimination. Mother then took the stand again. Mother contradicted the earlier witnesses' accounts of her interview with DCS. In Mother's account, she told them that Q.D. had not done anything wrong to his siblings, but the detective, Mr. Potter, kept interrupting her. Similar to her previous testimony, Mother said that she had only taken the legal steps she had taken in the juvenile and criminal court proceedings because she was led to believe it was in her best interest, not because she had done anything wrong. Mother continued to deny the allegations of abuse by Q.D. Mother said that K.D. was a "people pleaser" and essentially just said whatever she believed her listener wanted to hear. The trial court then asked Mother about Q.D. Mother said that the last time she saw Q.D. was a month before the termination hearing when he was in court. Asked by the trial court why she would not let Q.D. back into her home, Mother said that she was tired of the "complete and utter disrespect" he showed her and Father.

On February 21, 2025, the trial court entered an order terminating Mother's and Father's parental rights to the Children. The trial court found that Ms. Miles, Mr. Potter, C.D., Ms. Barber, Ms. Newman, and Ms. Howard were all credible witnesses. Conversely, the trial court found that Mother and Father had "no credibility." As for the ground of severe child abuse alleged by DCS, the trial court stated that both Mother and Father were found by the juvenile court to have perpetrated severe child abuse upon the Children by knowingly failing to protect them from Q.D.'s sexual abuse; that DCS presented a certified copy of the juvenile court's adjudicatory and disposition order finding the Children dependent and neglected and victims of severe abuse perpetrated by Mother and Father; and that the juvenile court's order was never appealed. Thus, the trial court found by clear and convincing evidence that the ground of severe child abuse was proven against Mother and Father. The trial court found further, also by clear and convincing evidence, that termination of Mother's and Father's parental rights was in the Children's best interests.

On March 20, 2025, Mother and Father filed a motion to alter or amend pursuant to Tennessee Rules of Civil Procedure 52.02 and 59.04. Mother and Father attached to their motion a copy of an email sent to their attorneys from someone claiming to be a family advocate with direct knowledge that the allegations of sexual abuse in Mother and Father's household were all fabricated by DCS and some of the foster parents. On October 20, 2025, the trial court entered an order denying the motion. Mother and Father timely appealed to this Court.

ISSUES

Mother and Father raise a single issue of whether the trial court erred in finding that the termination of their parental rights was in the Children's best interests.

Although Mother and Father do not challenge the trial court's finding of severe child abuse, the sole ground for termination found against them, we review the ground anyway. *See In re Carrington H.*, 483 S.W.3d 507, 525–26 (Tenn. 2016) ("[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.").

STANDARD OF REVIEW

"A person seeking to terminate parental rights must prove both the existence of one of the statutory grounds for termination and that termination is in the child's best interest." *In re Jacobe M.J.*, 434 S.W.3d 565, 568 (Tenn. Ct. App. 2013) (citing Tenn. Code Ann. § 36-1-113(c)). "Because of the profound consequences of a decision to terminate parental rights, a petitioner must prove both elements of termination by clear and convincing evidence." *In re Markus E.*, 671 S.W.3d 437, 456 (Tenn. 2023). This heightened burden

“minimizes the risk of unnecessary or erroneous governmental interference with fundamental parental rights” and “enables the fact-finder to form a firm belief or conviction regarding the truth of the facts[.]” *In re Carrington H.*, 483 S.W.3d at 522 (citing *Santosky v. Kramer*, 455 U.S. 745, 769 (1982); *In re Bernard T.*, 319 S.W.3d 586, 596 (Tenn. 2010)). “The clear-and-convincing-evidence standard ensures that the facts are established as highly probable, rather than as simply more probable than not.” *Id.* (citing *In re Audrey S.*, 182 S.W.3d 838, 861 (Tenn. Ct. App. 2005)).

As our Supreme Court has explained, we employ a two-step process in reviewing termination cases:

To review trial court decisions, appellate courts use a [] two-step process, to accommodate both Rule 13(d) of the Tennessee Rules of Appellate Procedure and the statutory clear and convincing standard. First, appellate courts review each of the trial court’s specific factual findings de novo under Rule 13(d), presuming each finding to be correct unless the evidence preponderates against it. *In re Taylor B.W.*, 397 S.W.3d 105, 112 (Tenn. 2013); *In re Justice A.F.*, [No. W2011-02520-COA-R3-PT,] 2012 WL 4340709, at *7 [(Tenn. Ct. App. Sept. 24, 2012)]. When a trial court’s factual finding is based on its assessment of a witness’s credibility, appellate courts afford great weight to that determination and will not reverse it absent clear evidence to the contrary. *Jones v. Garrett*, 92 S.W.3d 835, 838 (Tenn. 2002); *In re Justice A.F.*, 2012 WL 4340709, at *7 (citing *In re M.L.D.*, 182 S.W.3d 890, 894 (Tenn. Ct. App. 2005)).

Second, appellate courts determine whether the combination of all of the individual underlying facts, in the aggregate, constitutes clear and convincing evidence. *In re Taylor B.W.*, 397 S.W.3d at 112; *In re Audrey S.*, 182 S.W.3d 838, 861 (Tenn. Ct. App. 2005); *In re Justice A.F.*, 2012 WL 4340709, at *7. Whether the aggregate of the individual facts, either as found by the trial court or supported by a preponderance of the evidence, amounts to clear and convincing evidence is a question of law, subject to de novo review with no presumption of correctness. *See In re M.L.P.*, 281 S.W.3d 387, 393 (Tenn. 2009); *see also In re Samaria S.*, 347 S.W.3d 188, 200 (Tenn. Ct. App. 2011). As usual, the appellate court reviews all other conclusions of law de novo with no presumption of correctness. *In re Angela E.*, 303 S.W.3d [240,] 246 [(Tenn. 2010)].

In re Markus E., 671 S.W.3d at 457.

DISCUSSION

I. Severe Child Abuse

We first address whether the trial court erred in finding the ground of severe child abuse against Mother and Father. Parental rights may be terminated when

[t]he 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 or the petition for adoption to have committed severe child abuse against any child[.]

Tenn. Code Ann. § 36-1-113(g)(4) (effective July 1, 2023 to June 30, 2024).⁴

On March 4, 2022, the juvenile court entered an order finding that Mother and Father perpetrated severe child abuse against D.D., Ab.D., Ai.D., C.D., E.D., and K.D. As this Court has explained,

“[i]t is well settled that a trial court may rely on a prior court order finding severe child abuse as a ground for termination and is not required to re-litigate the issue of severe abuse during the termination trial, so long as the prior order is final.” *In re Neamiah R.*, No. E2017-02000-COA-R3-PT, 2018 WL 2331868, at *6 (Tenn. Ct. App. May 23, 2018). This Court has consistently applied the doctrine of res judicata to prevent a parent from re-litigating the issue of severe child abuse in a parental termination proceeding when the finding of severe child abuse has become final. *See In re Karisah N.*, No. M2018-00555-COA-R3-PT, 2018 WL 6179470, at *10 (Tenn. Ct. App. Nov. 27, 2018); *In re I.E.A.*, 511 S.W.3d 507, 517 (Tenn. Ct. App. 2016). “[A] severe abuse finding in a dependency and neglect action becomes final when it was not timely appealed following the dependency and neglect hearing.” *In re Caydan T.*, No. W2019-01436-COA-R3-PT, 2020 WL 1692300, at *5 (Tenn. Ct. App. Apr. 7, 2020) (citing *In re Karisah N.*, 2018 WL 6179470, at *10; *In re Dakota C.R.*, 404 S.W.3d 484, 497–98 (Tenn. Ct. App. 2012)).

In re Quentin G., No. E2023-01632-COA-R3-PT, 2024 WL 3324105, at *4 (Tenn. Ct. App. July 8, 2024).

⁴ In termination cases, we apply the version of the statute in effect at the time the petition was filed. *See In re Braxton M.*, 531 S.W.3d 708, 732 (Tenn. Ct. App. 2017). The original termination petition in this case was filed on September 21, 2023. The amended termination petition was filed on April 5, 2024. The same version of the statute applied on both dates.

Here, Mother, Father, and DCS were all parties to the dependency and neglect proceedings. Mother and Father waived an adjudicatory hearing and thus failed to dispute DCS's allegations. The juvenile court's order found that Mother and Father knowingly failed to protect the subject children from sexual abuse by Q.D. and placed them at further risk of harm by maintaining Q.D. in the home after becoming aware of the sexual abuse. A parent's knowing failure to protect a child from sexual abuse meets the statutory definition of severe child abuse and therefore constitutes a basis for termination under section 36-1-113(g)(4). See *In re Estrella A.*, No. M2022-00163-COA-R3-PT, 2022 WL 17091958, at *6–7 (Tenn. Ct. App. Nov. 21, 2022). The juvenile court's March 4, 2022 order was not appealed by either parent. Accordingly, the juvenile court's earlier finding of severe child abuse is not subject to collateral attack in this appeal. See *In re Jimmy B.*, No. E2015-02070-COA-R3-PT, 2016 WL 2859180, at *6 (Tenn. Ct. App. May 11, 2016). The issue of whether Mother or Father committed severe abuse as to the Children is res judicata from the dependency and neglect hearing. Additionally, although the juvenile court's severe abuse finding did not include R.D. or J.D., section 36-1-113(g)(4) serves as a basis for terminating parental rights when severe child abuse has been perpetrated by a parent against "any child." Tenn. Code Ann. § 36-1-113(g)(4). Therefore, we conclude that DCS proved this ground for termination by clear and convincing evidence.

II. Best Interests

In addition to proving at least one statutory ground for termination, DCS must prove by clear and convincing evidence that the Children's best interests are served by terminating Mother's and Father's parental rights. Tenn. Code Ann. § 36-1-113(c). Indeed, "a finding of unfitness does not necessarily require that the parent's rights be terminated." *In re Marr*, 194 S.W.3d 490, 498 (Tenn. Ct. App. 2005) (citing *White v. Moody*, 171 S.W.3d 187, 193 (Tenn. Ct. App. 2004)). Our termination statutes recognize that "[n]ot all parental misconduct is irredeemable" and that "terminating an unfit parent's parental rights is not always in the child's best interests." *Id.* As such, the focus of the best interests analysis is not the parent but rather the child. *Id.*; see also *White*, 171 S.W.3d at 194 ("[A] child's best interests must be viewed from the child's, rather than the parent's, perspective."). "The relevancy and weight to be given each factor depends on the unique facts of each case." *In re Marr*, 194 S.W.3d at 499. In some circumstances, one factor may prove dispositive. *In re Audrey S.*, 182 S.W.3d at 878. Nevertheless, we must still consider "all the factors and all the proof" before concluding termination is in a child's best interests. *In re Gabriella D.*, 531 S.W.3d 662, 682 (Tenn. 2017).

When determining whether termination is in a child's best interests, we refer to twenty non-exclusive factors found at Tennessee Code Annotated § 36-1-113(i)(1). The trial court correctly applied the relevant factors, reasoning as follows:

Based on the following, the Court finds by clear and convincing evidence that termination of the Respondent[s'] parental rights is in the best interest of children.

(A) The effect a termination of parental rights will have on the children's critical need for stability and continuity of placement throughout the children's minority: The children involved in this case have been in foster care since November, 2021. Testimony was offered that while the children are not in a situation that a one family/home placement/adoption is feasible, these children can still achieve stability and continuity of placement through minority. Though the parents have a home and transportation, the need for stability for these children is much greater than simply having a roof over their head. They need to feel safe and to be safe. Given Respondents' lack of acknowledgement of abuse, allegations of manipulation of the children and general view of being victimized themselves, they are without the ability to put the best interest of the children first and provide them with the on-going stability and support of counseling and medical care that above findings recite is needed by the children.

(B) The effect a change of caretakers and physical environment is likely to have on the children's emotional, psychological, and medical condition: As set forth above, the proof established that the children are bonded with their foster families and some have been successfully placed together. Though some of the foster placements have been disrupted, DCS has continued to work to find permanent placements for each child to provide for their individual medical and emotional needs. The proof established that the children are bonded with their respective foster parents, are engaged in extracurricular activities such as sports and church, are having their medical and psychological needs met and have been provided safe and secure home environments that the children lacked while living with the parents. There have been instances where foster parents have gained knowledge of abuse and other concerning behaviors of the children while they have been in protective custody. The foster family did not wait. They made immediate reports to ensure the children felt safe, which sometimes resulted in difficult decisions such as changes in placement. The foster parents have developed relationships with the children in their homes that created an environment of trust and conversation. This was established through the testimony of each foster parent and [C.D]. Given the Respondents' continuous denial of abuse during this trial, despite their prior statements to the contrary in November 2021 and in criminal guilty pleas, returning the children to their home would pose risk of harm to the emotional and psychological well-being of the children. There is no proof to establish that the Respondents would continue

with the necessary counseling and/or treatment the children are currently receiving in light of their position that the children have not been abused.

(C) Whether the parents have demonstrated continuity and stability in meeting the children's basic material, educational, housing, and safety needs: While it is still unclear to this Court why DCS continued to work with the family given the finding of severe abuse and the denial by Respondents of the abuse, the Respondents did complete the requirements of the permanency plan. However, as stated above, the Respondents lack the ability and/or willingness to address the safety needs of these children and continue to deny the abuse occurred despite the overwhelming evidence presented to the contrary.

(D) Whether the parents and children have a secure and healthy parental attachment, and if not, whether there is a reasonable expectation that they can create such attachment: The parents do not have a secure and healthy parental attachment with the children at this time nor did the proof establish any reasonable expectation that the same would be achieved. Testimony established that only one of the six children wish to have in person communication with the Respondents. In addition, based on the facts set forth above, some of the children refuse any contact with their parents. Testimony also established that though some do call in for the visits, their communication and interaction is minimal. Due to the behavior and choices of Respondents, their visitation was limited by the juvenile court; the visitation limitations imposed on Respondents is a direct result of their action, choices and continued denial.

(E) Whether the parents have maintained regular visitation or other contact with the children and used the visitation or other contact to cultivate a positive relationship with the children: The parents have maintained regular visitation with the children, and the only missed visits are due to the faults of DCS and its contract service providers, or due to the fact that some of the children refuse to visit. However, the parents have not used this visitation to cultivate a positive relationship with the children because, as set forth above, they continue to deny that any abuse occurred, and Mother has engaged in behavior causing the visits to be terminated on at least two occasions.

(F) Whether the children are fearful of living in the parents' home: Only [C.D.] testified as to her fear of returning to the home of the Respondent[s]. She further testified clearly as to her fear of her brother [Q.D].

(G) Whether the parents, the parents' home, or others in the parents' household trigger or exacerbate the children's experience of trauma or post-traumatic symptoms: There was no proof offered on this factor specifically as the children have not had any home visits. However, testimony did establish some patterns of inappropriate behavior, set forth more fully above, that some of the children encountered following visits with Respondents.

(H) Whether the children have created a healthy parental attachment with another person or persons in the absence of the parents: The children have created healthy parental attachments with their respective foster parents in the parents' absence, based upon the testimony of the foster mothers and the DCS case managers. [C.D.] also testified as to her desire to be adopted.

(I) Whether the children have emotionally significant relationships with persons other than the parents, including biological or foster siblings, and the likely impact of various available outcomes on these relationships and the children's access to information about the children's heritage: There has been no effort by DCS or the foster families to prevent the children from maintaining a relationship with one another and effort has been made to place the children together, when possible. It appears from the testimony that the children have positive relationships with each other and with their current foster parents and there is no indication that these relationships will be terminated. None of these children are infants. While some may not remember the details as well as others, there has been no evidence presented that they do not know their parents or siblings. Therefore, the effect to access to information about their heritage is minimal, if any. [R.D.], however, refuses to have any contact with any of his family members but it is unlikely that termination of the Respondents' rights will impact his choice at this time. He is continuing in therapy.

(J) Whether the parents have demonstrated such a lasting adjustment of circumstances, conduct, or conditions to make it safe and beneficial for the children to be in the home of the parents, including consideration of whether there is criminal activity in the home or by the parents, or the use of alcohol, controlled substances, or controlled substance analogues which may render the parents unable to consistently care for the children in a safe and stable manner: As set forth above, Respondents deny that the children have suffered any abuse while in their care and custody, and with this mindset it is unlikely the parents will successfully demonstrate the lasting adjustment needed in order to make it safe for the children to return

to their care and custody. The parents further testified that they last saw [Q.D.] a month before the trial when he turned 19. Mother testified that even though she saw him he would not be back in the home — this too is without credibility because she also testified that she did not believe that he abused any of his siblings.

(K) Whether the parents have taken advantage of available programs, services, or community resources to assist in making a lasting adjustment of circumstances, conduct, or conditions: The parents have completed parenting classes and other requirements established by DCS in the permanency plans. However, there is no proof that there will be any change in conduct based on actions completed pursuant to the permanency plan because Respondents deny the children were abused.

(L) Whether the department has made reasonable efforts to assist the parents in making a lasting adjustment: DCS made reasonable efforts despite being relieved of that responsibility following the entry of the adjudicatory order in the underlying dependency and neglect case.

(M) Whether the parents have demonstrated a sense of urgency in seeking custody of the children or addressing the circumstances, conduct, or conditions that made an award of custody unsafe and not in the children's best interest: The parents have participated in each step of the litigation process and fully participated in the case before this Court.

(N) Whether the parents, or other persons residing with or frequenting the home of the parents, have shown brutality or physical, sexual, emotional, or psychological abuse or neglect toward the children or any other child or adult: As set forth above, Respondents maintain some form of relationship (though the extent was not developed at trial) with [Q.D.] and the Mother is not credible in statements that she would not allow him to be around the children if they were reunified.

(O) Whether the parents have ever provided safe and stable care for the children or any other child: The proof established that the sexual abuse occurred in the home for a period of time before the children were placed into protective custody. The proof further established that at least one of the children disclosed to her Father and no action was taken to keep the children safe or to investigate the allegations any further. Based on the lack of action by the Father, one child testified that she continued to feel unsafe and took on the role of protector of her younger siblings in an effort to protect them since Respondents did not. It is undisputed that the Respondents have two

children in their home presently but there was no proof offered about their care of those children.

(P) Whether the parents have demonstrated an understanding of the basic and specific needs required for the children to thrive: There was no testimony offered by the Respondents that they understood the needs of the children to include counseling, medication management, continued evaluations or that they supported the same. Instead of focusing on the needs of the children, they repeatedly offered denials of abuse and allegations that the children have been manipulated. Based on their testimony and lack of acknowledgment of the needs of the children, they have failed to demonstrate this understanding.

(Q) Whether the parents have demonstrated the ability and commitment to creating and maintaining a home that meets the children's basic and specific needs and in which the child can thrive: They have not based on the reasons set forth above.

(R) Whether the physical environment of the parents' home is healthy and safe for the children: There was no evidence presented that the Respondents' home is physically unsafe.

(S) Whether the parents have consistently provided more than token financial support for the children: There was no proof that the parents failed to provide financial support for the children, and Mother testified that they did pay child support.

(T) Whether the mental or emotional fitness of the parents would be detrimental to the children or prevent the parents from consistently and effectively providing safe and stable care and supervision of the children: Though the proof established that neither parent had any cognitive impairments or lacked the ability to understand the allegations against [Q.D.], they still refuse to accept responsibility for the harm to their children. Therefore, they continue to fail to demonstrate their ability to provide a safe and stable home, care or supervision of the children.

Mother and Father raise several challenges to the trial court's best interests analysis. They argue that the trial court placed too much weight on their denial of abuse; relied on insufficient evidence regarding the Children's foster homes; failed to adequately credit their positive steps; and gave undue consideration to their guilty pleas. The trial court, however, acknowledged several positive actions by the parents. It made positive findings regarding the parents' actions as to factors (M), (R), and (S). The trial court noted that

Mother and Father participated throughout the litigation, maintained such regular visitation as they were allowed except when prevented by circumstances, and satisfied their permanency plan requirements. The trial court recognized these positive efforts but ultimately concluded that they did not overcome the parents' continued unwillingness to acknowledge the sexual abuse that took place in their household.

Mother and Father further contend that testimony from only three foster parents was insufficient to support the trial court's findings regarding the Children's bonds in their foster homes. The record, however, contains extensive evidence on this point, including detailed testimony from the caseworkers. The trial court credited this testimony, which is no less probative of the Children's circumstances than testimony from foster parents. Caseworkers described the Children's progress and attachments, and the evidence reflected that, while E.D.'s situation was complicated by a placement disruption, each of the Children was bonded in his or her respective foster home. By comparison, the evidence reflected that the Children's bonds with Mother and Father had become largely tenuous. C.D. testified that she wished to be adopted, and her participation in parental visitation was minimal. Of the Children, Ai.D. and E.D. actively participated in parental visits, although Ai.D. spent much of the time playing video games. Overall, while E.D. has inquired about in-person visits with his parents, the Children did not demonstrate a strong interest in parental visitation. In light of this evidence, we disagree with the parents' argument that the record contains inadequate proof concerning the Children's bonds and their status in foster care as compared to their relationship with Mother and Father.

The central issue in this appeal is the sexual abuse that occurred in Mother and Father's home. Mother and Father emphasize that denial of abuse is not an explicitly listed best interests factor. Nevertheless, section 36-1-113(i) allows courts to consider any fact relevant to the child's best interests, whether or not it appears in the statutory list. Our Supreme Court has explained that the listed factors are "illustrative, not exclusive," and courts may weigh any circumstance bearing on the child's welfare. *See In re Carrington H.*, 483 S.W.3d at 523. A parent's refusal to acknowledge abusive conditions is one such circumstance. Insofar as Mother and Father argue that denial of abuse in the household is not contemplated by the statutory best interests factors, we disagree. Denial of past abuse potentially implicates—at a minimum—factors J (whether a parent has made a lasting adjustment), K (whether a parent has made use of services), N (history of abuse by parent or others), and T (a parent's mental and emotional fitness). *See In re Mia C.*, No. E2023-00828-COA-R3-PT, 2024 WL 4003297, at *22–23 (Tenn. Ct. App. Aug. 30, 2024) (considering a parent's denial of physically abusive behavior in the best interests determination). Although *In re Mia C.* involved a parent's denial of physical rather than sexual abuse, it supports the same proposition because a parent's refusal to acknowledge substantiated abuse is properly considered in the best interests analysis.

At trial, Mother and Father demonstrated no understanding of the magnitude of the sexual abuse perpetrated in their home by Q.D. and its lingering effects on the Children's lives and health. Multiple of the Children were sexually abused over time, and the psychological consequences have been evident. The trial court found that the abuse left several of the Children anxious and fearful. Several of the Children required ongoing therapy. Some of the Children displayed inappropriate behaviors—including acting out sexually—after parental visits, or generally. Even if the Children's experiences were not all identical, the breadth of the damage is clear. The fear and emotional disruption shown by the Children reflect that returning them to Mother and Father would place them at continued risk.

Mother's and Father's continued denials of the abuse remains an enormous obstacle to their ever safely resuming custody of the Children. At the beginning of this case, Mother and Father acknowledged having known about the sexual abuse perpetrated by Q.D. Mother and Father waived an adjudicatory hearing in the juvenile court proceedings and later entered guilty pleas in criminal court stemming from the sexual abuse that occurred in their home. By trial, Mother and Father's stated position was that they had done so only because they had been led to believe it was in their best interests. While that is their position, the trial court was the finder of fact, and it saw and heard the witnesses testify. Parties regularly dispute facts, but that does not mean courts are helpless to make factual determinations, nor did Mother's and Father's adamant denials at trial mean that the trial court was obliged to refrain from deciding contrary to the parents' accounts. The trial court explicitly credited the testimony of the caseworkers, the detective, and C.D. The trial court found Mother and Father had no credibility at all. In addition, the trial court specifically rejected Mother's testimony that Q.D. would not return to her home. That credibility finding is entitled to deference. Nothing in the record gives us any reason to disturb it or any of the trial court's credibility determinations.

The parents' denial of knowledge of Q.D.'s abuse goes against overwhelming evidence, including the Children's disclosures, C.D.'s testimony, and Mother's and Father's own interviews. The parents' continued denial means that there is an unacceptable risk that the Children could be subjected to further abuse if ever returned to their care since, in the parents' eyes, nothing wrong took place to begin with. Furthermore, it is far from clear that Mother and Father would provide the Children with the necessary counseling or therapy to address the trauma of their abusive environment since, again, they deny anything happened.

Even as Mother and Father continue their denials, the Children's lives have moved on. The Children are receiving the necessary treatment to help them recover from the abusive environment they endured. Although, regrettably, not each of the Children was in a pre-adoptive home by trial, as E.D.'s case illustrates, the prospect of ever returning the Children to Mother and Father's care in view of their ongoing denials that any sexual abuse

took place creates an unacceptable risk that the Children would be subjected to further abuse. Keeping the Children in limbo prevents them from achieving the permanency they need and deserve after emerging from such a harrowing ordeal in their young lives. The evidence does not preponderate against the trial court's findings as to best interests. Clear and convincing evidence supports the conclusion that termination of Mother's and Father's parental rights is in the Children's best interests. We affirm.

CONCLUSION

The judgment of the Chancery Court for Rhea County is affirmed, and this case is remanded for proceedings consistent with this opinion. Costs on appeal are assessed jointly and severally to the appellants, O.D. and M.D., for which execution may issue if necessary.

KRISTI M. DAVIS, JUDGE