

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
Assigned on Briefs May 1, 2026

IN RE JESSIE L.¹

Appeal from the Juvenile Court for Dickson County
No. 09-24-051-TPR Jerred Allen Creasy, Judge

No. M2025-01682-COA-R3-PT

The trial court terminated a mother's parental rights to her minor child. The trial court found clear and convincing evidence of the grounds of severe abuse and persistent conditions and found that termination of the mother's parental rights was in the best interests of the child. The mother appeals. Upon diligent review of the record, we find no reversible error and affirm the judgment of the trial court.

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

KRISTI M. DAVIS, J., delivered the opinion of the Court, in which ANDY D. BENNETT and CARMA DENNIS MCGEE, JJ., joined.

Matthew A. Bromund, Dickson, Tennessee, for the appellant, Zenna L.

Jonathan Skrmetti, Attorney General and Reporter, and Mara L. Cunningham, Assistant Attorney General, for the appellee, Tennessee Department of Children's Services.

OPINION

Jessie L. (the "Child"), born in May 2022, is the minor child of Zenna² L. ("Mother") and Jesse N.³ The family became involved with the Tennessee Department of

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 Throughout the record, Mother's name is at times spelled "Zena" and at other times is spelled "Zenna." We adopt the spelling used on the Child's birth certificate contained in the record.

³ Jesse N. surrendered his parental rights on August 21, 2024, and is not a party to this appeal.

Children's Services ("DCS" or the "Department") on January 3, 2023, after the Child, then seven-months-old, was admitted to the emergency room at Monroe Carell Jr. Children's Hospital at Vanderbilt ("VCH") with significant head trauma. The Child had initially been taken to the emergency room at Maury Regional Medical Center ("MRMC") by Mother's then-boyfriend, Thomas F., who told hospital staff that he left the Child lying on a bed, turned to get his jacket, heard two thumps, and then found her lying on the floor unresponsive and not moving when he turned back around. When the Child and Thomas F. arrived at MRMC, the Child was "lethargic and unresponsive" and having "frequent tonic-clonic seizure activity." Staff at MRMC administered multiple medications, which decreased the Child's seizure activity, and performed a head CT, which revealed "acute bilateral subdural hematomas." The Child was transported by ambulance to VCH "for further evaluation and treatment at a facility with pediatric Level 1 trauma services available."

At some point on January 3, DCS received a referral alleging that the Child lacked proper supervision. DCS employees responded and met with an emergency department social worker who reported that Mother refused to allow anyone to speak with Thomas F. outside of Mother's presence. They also met with an emergency department physician who expressed concerns that the Child's injuries were not consistent with a fall from a bed, and the Child's hospital care team told DCS staff that they believed the injuries were "non-accidental . . . , most likely the result of a shaken baby." DCS employees stated that when they spoke to Mother, she "appeared very agitated and spoke very quickly[,] . . . was insistent on no one talking to [Thomas F.] without her present[, and] . . . reported that [Thomas F.] suffers from anxiety and anger issues and that she is the only one who can calm him." The DCS employees opined that Mother "appear[ed] to only be protective of [Thomas F.] as she attempted to leave the hospital before the [C]hild was transferred to Pediatric Intensive Care Unit [('PICU')], stating that she had other things to do." This is consistent with a report drafted by an emergency medicine physician at VCH, which notes the following:

. . . In the [emergency department] while taking photographs of the patient's petechial rash and bruises, [Mother] became upset and asked to speak to myself and Dr. Arnold outside the room. She expressed anger that she felt we were concerned that [the Child] had been abused and repeatedly stated that "this is the most loved child ever" and "nobody in her life would ever abuse her." She stated that she could tell we were concerned that her boyfriend had abused the [C]hild At multiple points throughout her stay in the emergency department, mom reiterated that the [C]hild['s] injuries were not a result of [non-accidental trauma] and insisted that they were results of falling off the bed. Mother's boyfriend also repeatedly stated the patient's injuries were accidental from falling off the bed.

. . . While transporting the patient up to the PICU, [Mother] stated “This might make me sound like a bad mother, but I have lots of laundry and errands to do” and indicated that she planned to return home shortly.

The Child was admitted to the PICU in critical condition, and further testing on January 4, 2023 revealed that she was suffering from “numerous hemorrhagic contusions on the brain” and “multiple bi-lateral retinal hemorrhages with a possible detachment.” Her treating providers explained that “due to the number of these contusions, they were unable to clearly tell if the [C]hild was having a stroke[,]” and “[t]he retinal detachment could not be confirmed due to the severe amount of bleeding.” The Dickson County Juvenile Court (the “trial court”) placed the Child in DCS’s temporary legal custody on January 5, 2023.

The trial court entered an adjudication order on May 22, 2024, finding clear and convincing evidence that the Child is dependent and neglected pursuant to Tennessee Code Annotated section 37-1-102. The trial court found that Mother and Thomas F.’s story about the Child receiving her injuries from falling off a bed was “not credible” and that the medical testimony from Dr. Karen Lakin that the Child’s injuries “were consistent with non-accidental trauma” was clear and convincing. The trial court also found clear and convincing evidence that even when the Child’s medical providers informed Mother that they believed the Child’s injuries to be the result of non-accidental trauma, Mother “consistently took the side of [Thomas F.] over the well[-]being of the [C]hild . . . and assisted in putting forth an incredulous story that was void of any credibility.” The trial court noted that Mother testified that “she is the only person that can help control [Thomas F.’s] anxiety and anger” and that, nevertheless, “Mother decided to leave [the C]hild with [Thomas F.] knowing of his anxiety and anger issues with no one there to help control it.” Based upon these findings, the trial court found by clear and convincing evidence that the Child was the victim of severe abuse and that Mother failed to protect the Child from such severe abuse.

On September 19, 2024, the Department filed a petition in the trial court to terminate Mother’s parental rights and make the Child available for adoption. The termination petition alleged grounds of persistent conditions and severe child abuse. The trial court heard the termination petition on August 21, 2025. Mother, Thomas F., DCS Case Manager Angelina Sims, DCS Case Manager Jessica Reed, the Child’s foster mother, and DCS Family Service Worker Vernece Hudson testified at the trial. The trial court also admitted into evidence the deposition testimony of Dr. Lakin along with more than three-thousand pages of the Child’s medical records that were an exhibit to the deposition.

Mother testified that she had arranged for Thomas F.’s mother to keep the Child while Mother worked on January 3, 2023. She stated that before she left for work, the Child was lying in a playpen and that although Mother did not enter the room, she could hear her sucking on her pacifier and making cooing sounds from the doorway. She testified

that she left for work at 6:00 a.m. and expected that Thomas F. would leave the house by 8:00 a.m. to drop the Child off at his parents' house. Mother stated that her dating relationship with Thomas F. began around July 4, 2022, and that it was "[n]ice . . . [not] perfect, but nothing really hard." However, she also conceded that they would argue and yell at each other, which contributed to their break-up. She denied ever seeing him have any "anxiety or anger issues" and said that "[i]t was just accusations."

When asked about the reports that she did not want anyone to speak with Thomas F. without her present due to his anxiety and anger, she claimed that was taken out of context. Instead, she explained, the providers were trying to speak with her alone and she told them she wanted Thomas F. to be present because they "both sometimes get a little stressed out or get anxiety," and they would help keep each other calm. She denied ever telling the providers that they could not speak with Thomas F. without her present. Mother testified that at the time of trial, she still believed the Child's injuries could have been caused by falling out of bed, and she did not believe that Thomas F. purposely injured the Child. She explained that she left the hospital as the Child was being transferred to the PICU because they had to go pick up another child and because she was in shock and still trying to process everything. Mother stated that she moved in with Thomas F. after the Child was removed from her custody and lived with him until their relationship ended in early 2025. She testified that she knew there was a DCS case pending in which Thomas F. was accused of physically abusing his own child because she had heard Thomas F. and his family members discussing the case. Despite this, she testified that she did not have any concerns about leaving the Child alone with Thomas F. for the first time on the morning of January 3, 2023. However, upon further questioning, Mother conceded that the allegations of Thomas F. abusing his own child did concern her, which is why she did not introduce him to the Child until three months into their relationship.

When asked about her own mental health, Mother explained that stressful situations cause her "to either break down or . . . just go into a numb state because it's just so many things racing through [her] mind that [she] can't process." Mother testified that she had a pending criminal charge resulting from the Child's injuries and that her bond conditions had prohibited her from having any contact with the Child since the summer of 2023. She stated that she had known the Child's foster parents, Pamela and Kevin M. (together, "Foster Parents"), since Mother was approximately seven years old and that they were family friends who helped provide childcare for the Child. She testified that the Child had been staying with Foster Parents since shortly before Christmas 2022 and only returned to Mother's care on January 2, 2023, the day before the Child was injured. She stated that she had last tried reaching out to Foster Parents to check on the Child a couple of months prior to trial but that she stopped trying to reach out because they would not respond. Mother testified that she was not aware who the Child's treating providers were, what treatments she was receiving, or what her diagnoses were at the time of trial. She also stated that she was living in "an old log cabin" at the time of trial.

Thomas F. testified that he is Mother's former boyfriend and that they were in a relationship from July 2022 until January 2025. He stated that she lived with him from about February 2023 until January or February 2025. He asserted his Fifth Amendment right against self-incrimination when asked any further questions, including any questions related to the Child or to his own child.

Angelina Sims testified that she was the DCS case manager assigned to the case involving Thomas F.'s child, H.F. Ms. Sims stated that as part of her investigation of that case, she conducted a home visit on or about December 8, 2022, and Mother and the Child were present for that encounter. She testified that Mother "was there actively during the interview part, addressing allegations," including allegations of physical abuse. She also stated that Mother told her that she and the Child "did not live in the home, but that they had started a rumor to make [Thomas F.'s] ex-wife mad about it[.]" Ms. Sims conceded that she did not issue or seek any sort of protective order to keep Thomas F. away from the Child at that time because "[t]here was no concern of abuse at that moment[.]" and she has no authority to take any action to protect a child for whom the Department has not received a referral.

Ms. Sims also testified that she met with Thomas F. the morning after the Child was injured and that Mother was present at that meeting. She explained that during that meeting, they discussed the Child's injuries and, as a result of the incident, she restricted Thomas F. from "having access to" H.F. She testified that Mother was "very frustrated" that they were talking about the Child, and Mother said that neither Ms. Sims nor the doctors "knew what the hell [they] were talking about[.]" called Ms. Sims "a bitch[.]" and then left. However, Ms. Sims stated that before Mother left the meeting, Mother told her that Thomas F. "was quick to anger and that she was the only one that knew how to calm him down, and that's why she preferred they interviewed together." Ms. Sims explained that H.F. was ultimately found to be dependent and neglected due to abuse by Thomas F. and that, as a result, an order had been entered prohibiting Thomas F. from having any contact with H.F.

Jessica Reed testified that she was the DCS Case Manager assigned to the Child's case. She stated that she met with Mother at VCH on the afternoon of January 3, 2023, and that Mother told her she did not want DCS to interview Thomas F. without Mother present because of his anxiety and anger issues and Mother being the only one able to calm him down.

Pamela M. testified that she is the Child's foster mother and that the Child had lived in her home since she was released from the hospital, approximately two and a half years at the time of trial. She explained that she and her husband began babysitting the Child when she was about six weeks old and that the Child had stayed with them from December 21, 2022 until January 2, 2023. She stated that when the Child came to stay with them in December, she noticed that the Child had multiple bruises, including around her throat.

She said that earlier that month, she had asked Mother about a bruise on the Child's head, and Mother had said that it was caused by the Child hitting herself with a toy. However, she testified she was unsure about what to do when she saw the bruising around the Child's neck and decided to address it with Mother's father, who also frequently babysat the Child. She stated that she feared that Mother might restrict her from seeing the Child if she asked Mother about the neck bruising.

Pamela M. said that the Child was in the hospital for six weeks as a result of her injuries and that she and her husband stayed with her in the hospital. She stated that the Child has been diagnosed with "[s]evere brain injury." She explained that the Child left the hospital with a feeding tube, which she still had at the time of trial, that she and her husband had to be trained on how to use the tube to feed the Child and administer her medications, and that they had to attend a class to learn how to change the tube. She stated that the Child's feeding issues had improved since she left the hospital but that she was still only eating about ten to fifteen bites of pureed foods, despite being two years old at the time of trial. Pamela M. testified that the Child goes to therapy outside the home two days a week, and TEIS comes into their home to provide additional therapies two days a week. These therapies include speech therapy for her feeding issues, physical therapy, and occupational therapy. She also has a "rehabilitation doctor" that manages her medications, "a spine doctor[,] "a nutrition doctor[,] a pediatrician, and a dentist. She also stated that because of her brain injury, the Child has vision issues; is unable to walk, talk, or sit up; is no longer meeting age-appropriate milestones; and is only able to hold her head up for limited periods. She explained that when the Child was discharged from the hospital, her medical providers told Foster Parents "that was probably as good as it was going to be for [the Child] . . . [f]or the rest of her life." At the time of trial, Pamela M. was working to try to get her enrolled in a special-needs preschool.

Pamela M. denied that Mother has ever sent the Child clothes, toys, items to assist with her medical care, birthday gifts, or Christmas gifts since she entered foster care. She testified that the Child is very attached to her other children and that they have a "sibling-like" relationship. Pamela M. stated that she loves the Child, "would do anything for her," feels like she is a part of their family, feels like she has a parental relationship with the Child, and that she and the Child are bonded to one another. She confirmed that if the Child were to be made available for adoption, Foster Parents would be willing and able to adopt her.

Vernece Hudson testified that she is the DCS Family Service Worker assigned to the Child's case. She explained that Mother submitted to a mental health assessment and parenting assessment at the Department's request and that following those assessments, the Department asked her to participate in outpatient therapy and complete parenting classes. Ms. Hudson stated that although Mother completed ten parenting classes, the Department had not received any evidence that she had participated in outpatient therapy. She testified that she visited Mother's home on April 23, 2025 and July 31, 2025, and that no one was

home either time. However, she said that the home is a “very old log cabin[,]” and from the road she could “see all the way through the house because the front door was open” and into the backyard, which was “very grown up.” Accordingly, she opined that Mother’s home would not be a safe or suitable home for the Child. Conversely, she testified that Foster Parents’ home is in good shape, the Child “has everything she needs there[,]” and their home is safe and suitable for the Child. Ms. Hudson stated that she has no concerns about Foster Parents’ care for the Child, that she’s “never seen a child more loved and more adored[,]” and that, considering the Child’s injuries, she feels like “she has done amazingly well there.” She also testified that every member of Foster Parents’ family is “very bonded” with the Child and that the Child “absolutely” appears to be bonded to them. She stated that she believes removing the Child from Foster Parents’ home “would destroy” the Child and impact her medically, emotionally, and mentally. Ms. Hudson testified that she does not believe that Mother “realizes the depth of [the Child’s] injuries and special needs” or that she “has exhibited parental care as far as providing for [the Child].” She explained that Mother had never reached out to her specifically to talk about what the Child’s needs are, she does not believe that Mother has done anything to prepare to have the Child back in her care, and Mother has not shown any ability to assume custody of the Child or provide long-term care for her.

Karen Lakin, M.D., specializes in child abuse and neglect, evaluated the Child while she was at VCH, and consulted with her treating physicians. Dr. Lakin testified that the Child was unconscious and having seizures when she arrived at MRMC. She confirmed that imaging performed at MRMC and VCH revealed that the Child had bilateral subdural hemorrhages, significant bilateral retinal hemorrhages, thrombosed cortical veins, multiple anterior rib fractures, a petechiae rash across her face, bruising on both arms, and bruising behind her left knee. Dr. Lakin testified that the Child’s injuries were life-threatening and opined that they “were much, much more extensive than what you would expect from a simple fall” and were instead “consistent with nonaccidental trauma; specifically, abusive head trauma.” She explained that these types of injuries are often “acceleration-deceleration injuries” caused by things such as shaking, being slammed down onto a surface, or direct blows to the head, though she noted that the Child did not have a skull fracture.

On October 6, 2025, the trial court entered an order finding clear and convincing evidence that the conditions persist that led to the removal of the Child from Mother’s custody; that Mother failed to protect the Child from severe abuse; and that it is in the Child’s best interests for Mother’s parental rights to be terminated.

Mother timely appealed.

ISSUES

Mother raises two issues on appeal:

1. Whether the trial court erred in finding by clear and convincing evidence that persistent conditions exist pursuant to Tennessee Code Annotated section 36-1-113(g)(3).
2. Whether the trial court erred in finding by clear and convincing evidence that Mother knowingly or with gross negligence failed to protect the [C]hild from severe abuse pursuant to Tennessee Code Annotated section 36-1-113(g)(4).

Mother does not challenge the trial court's finding that termination is in the Child's best interests. Nevertheless, we must also review that finding. *In re Carrington H.*, 483 S.W.3d 507, 525–26 (Tenn. 2016).

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

Grounds for termination

I. Severe abuse

Parental rights may be terminated when

[u]nder a prior order of a court or by the court hearing the petition to terminate parental rights or the petition for adoption, a child has been found to be a victim of severe child abuse, as defined in § 37-1-102, and the parent or guardian has been found to have knowingly or with gross negligence either committed severe child abuse or failed to protect the child from severe child abuse.

Tenn. Code Ann. § 36-1-113(g)(4) (effective July 1, 2024 to June 30, 2025).⁴ Among other things, severe child abuse is defined as “[e]xposure of a child to serious bodily injury or death, or the risk of serious bodily injury or death, caused by brutality, abuse, neglect, or

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 termination petition in this case was filed on September 19, 2024.

use of force[.]” Tenn. Code Ann. § 37-1-102(b)(27)(A)(i) (effective July 1, 2024 to December 31, 2024). As used in that section, serious bodily injury includes “a fracture of any bone, . . . subdural or subarachnoid bleeding, [and] retinal hemorrhage[.]” Tenn. Code Ann. § 39-15-402(c) (effective July 1, 2019 to December 31, 2025); *see* Tenn. Code Ann. § 37-1-102(b)(27)(A)(ii). In this context,

a person’s conduct is considered “knowing,” and a person is deemed to “knowingly” act or fail to act, when “he or she has actual knowledge of the relevant facts and circumstances or when he or she is either in deliberate ignorance of or in reckless disregard of the information that has been presented to him or her.” *In re S.J.*, 387 S.W.3d [576,] 592 [(Tenn. Ct. App. 2012)] (citing *In re R.C.P.*, [No. M2003-01143-COA-R3-PT,] 2004 WL 1567122, at *7 [(Tenn. Ct. App. July 13, 2004)]). Under this standard, the relevant facts, circumstances, or information would alert a reasonable parent to take affirmative action to protect the child. For deliberate ignorance, persons can be found to have acted knowingly “when they have specific reason to know” the relevant facts, circumstances, or information “but deliberately ignore them.” *In re R.C.P.*, 2004 WL 1567122, at *7. For reckless disregard, if the parent has been presented with the relevant facts, circumstances, or information and recklessly disregards them, the parent’s failure to protect can be considered “knowing.”

In re Markus E., 671 S.W.3d at 464–65.

As Dr. Lakin testified, the Child’s injuries were life-threatening, and the Child suffered rib fractures, subdural bleeding, and retinal hemorrhage. Accordingly, there is no question that the Child was the victim of severe abuse, and Mother does not dispute this finding. However, Mother argues that she did not knowingly fail to protect the Child from such severe abuse because “an appropriate benchmark for what a reasonable person would do in her position was what DCS *actually did* to protect [the Child] from [Thomas F.] in December 2022.” What a reasonable person would or should have done under a given set of circumstances is generally a question of fact. *Mullins v. Precision Rubber Prods. Corp.*, 671 S.W.2d 496, 500 (Tenn. Ct. App. 1984) (citing *O’Brien v. Smith Bros. Engine Rebuilders*, 494 S.W.2d 787, 792 (Tenn. Ct. App. 1973)). Accordingly, as to whether the relevant facts, circumstances, or information would alert a reasonable parent to take affirmative action to protect the child, we presume the trial court’s finding to be correct unless the evidence preponderates against it. Regarding whether Mother acted knowingly, the trial court found as follows:

In assessing the knowledge of [Mother] [f]or failure to prevent child abuse, the [c]ourt notes that [Mother] had given a statement to the medical staff as well as Ms. Jessica [Reed] that [Thomas F.] suffered from anxiety and that she was the only one that could calm him. Ms. Reed’s testimony is that

[Mother] did not want [Thomas F.] to talk to the staff without her being present. [Mother] also testified that she was aware of the previous allegations of physical abuse by [Thomas F.] and still allowed him to solely care for [the Child]. In determining the fact of Severe Abuse and the failure to protect the [C]hild from Severe Abuse, the [c]ourt looked closely at the statements and testimony of [Mother]. Things that made the evidence clear and convincing was [Mother's] knowledge, [Mother's] continued protection of [Thomas F.], the advancement of a story even after confronted with medical evidence to the contrary, staying with the perpetrator of the abuse even after seeing the condition of [the Child], leaving the hospital when [the Child] was in serious condition, and even trying to blame or insinuate that the [foster] family was or could be responsible for the injuries. . . . The [c]ourt also relied on testimony of DCS worker Angelina [Sims] as further proof as to the knowledge of [Mother] as well as her protection of [Thomas F.]. When taking all of the evidence as a whole and the totality of all the circumstances the [c]ourt finds the evidence to be clear and convincing that [Mother] failed to protect [the Child] from Severe Abuse.

During the DCS home visit in December 2022 and when the Child was injured in January 2023, the Child was in Mother's custody, and DCS had not received a referral regarding the Child. Accordingly, Mother – not DCS – was responsible for protecting the Child. *Mullins v. State*, 320 S.W.3d 273, 280–81 (Tenn. 2010). She did not do so. Instead, she left the Child alone with Thomas F., whom she reportedly told multiple people had “anxiety and anger issues,” despite having concerns about the fact that he was being investigated for allegedly abusing his own minor child.

We cannot find that the evidence preponderates against the trial court's finding, and the record contains clear and convincing evidence that Mother knowingly failed to protect the Child from severe child abuse.⁵ Therefore, we affirm the trial court's ruling as to this ground.

⁵ Moreover, on May 22, 2024, the trial court entered an order in the dependency and neglect proceeding finding that the Child was the victim of severe abuse and that Mother failed to protect the Child from such severe abuse. Any challenge to that order should have been brought by direct appeal, and there is no evidence that Mother did so. This appeal was taken from the termination of parental rights proceeding, which was a new and separate proceeding. Accordingly, the trial 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).

II. *Persistent conditions*

Parental rights may also be terminated when

[t]he 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 child is alleged to be 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)(A). “Each of the statutory elements that make up the ground known as persistence of conditions must be established by clear and convincing evidence.” *In re Aaron E.*, No. M2014-00125-COA-R3-PT, 2014 WL 3844784, at *8 (Tenn. Ct. App. Aug. 4, 2014) (citing *In re Valentine*, 79 S.W.3d 539, 550 (Tenn. 2002)). This ground is meant “to prevent the child's lingering in the uncertain status of foster child if a parent cannot within a reasonable time demonstrate an ability to provide a safe and caring environment for the child.” *In re Navada N.*, 498 S.W.3d 579, 606 (Tenn. Ct. App. 2016) (quoting *In re A.R.*, No. W2008-00558-COA-R3-PT, 2008 WL 4613576, at *20 (Tenn. Ct. App. Oct. 13, 2008)).

The Child was removed from Mother's custody in January 2023 and was later adjudicated dependent and neglected; the trial court heard the termination petition on August 21, 2025.⁶ Mother argues that the condition that led to the Child's removal was the Child's “exposure to” Thomas F. and that, because Mother and Thomas F. have broken up, the trial court's finding of persistent conditions is “factually illogical.” However,

⁶ For purposes of section 36-1-113(g)(3), “[t]he six (6) months must accrue on or before the first date the termination of parental rights petition is set to be heard[.]” Tenn. Code Ann. § 36-1-113(g)(3)(B).

this ground for termination may be met when either the conditions that led to the removal persist 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[.]” [Tenn. Code Ann. §] 36-1-113(g)(3)(A)(i). Thus, even if the initial reasons that the children were placed in DCS custody have been remedied, if other conditions continue to persist that make the home unsafe, this ground may still be shown.

In re Daylan D., No. M2020-01647-COA-R3-PT, 2021 WL 5183087, at *9 (Tenn. Ct. App. Nov. 9, 2021). The trial court found that

[f]or well over a year after the removal of [the Child,] [Mother] continued to live with [Thomas F.] and continued to advance and believe the incredulous story that the [Child] suffered extensive traumatic brain injuries from a fall from a bed described to be around 3 [feet] high. Even when presented with solid medical proof and explanations from Dr. Lakin, [Mother] continued to advance the story of a fall. . . . there are still concerns related to [Mother’s] judgment and ability to parent [the Child]. . . . The [c]ase workers as well as [Mother] testified as to the conditions of the current home of Mother and of the numerous handicaps of the [C]hild as well as the number of doctor and therapy appointments to which it does not appear that [Mother] would be capable of handling. . . . Based on the testimony of [Pamela M.], it takes her family of some adult children, minor children and her [h]usband to provide appropriate care for [the Child] and it does appear not having this support would be detrimental to [the Child] and doesn’t seem to be something that [Mother] could accomplish.

This Court has previously found the ground of persistent conditions under similar circumstances. In *Farmer v. Dep’t of Child. Servs.*, No. 01A01-9610-JV-00485, 1997 WL 803709 (Tenn. Ct. App. Dec. 30, 1997), a mother’s parental rights to her three children were terminated after two of her children were sexually abused by third parties. *Id.* at *4. The trial court found that the mother had continued allowing the third parties to have access to the children even after she was made aware of the allegations of abuse. *Id.* Between when the children were removed and when the termination trial occurred, the mother had attended parenting classes, received counseling, visited the children, submitted to psychological evaluations and parenting assessments, moved into a new home, and “substantially complied with the plan of care.” *Id.* at *8. Nonetheless, the mother “was not able to acknowledge any wrongdoing on her part” or show any understanding of the actions she would need to take to meet her children’s special needs. *Id.* The trial court found that the ground of persistent conditions had been proven, and this Court affirmed the trial court’s judgment. *Id.* at *9. *See also In re Holly B.C.*, No. E2012-00362-COA-R3-PT, 2012 WL 6727609, at *9–10 (Tenn. Ct. App. Dec. 27, 2012) (“This Court has

previously found that where parents deny responsibility for their children being in custody and fail to exhibit concern over same, this demonstrates that the conditions which persist are unlikely to be remedied.” (citing *Farmer*, 1997 WL 803709)).

Moreover, “[a] parent’s continued inability to provide fundamental care to a child, even if not willful, . . . constitutes a condition which prevents the safe return of the child to the parent’s care.” *In re Navada N.*, 498 S.W.3d at 605 (quoting *In re A.R.*, 2008 WL 4613576, at *20). In this case, the Child is, and will be, profoundly disabled for the remainder of her life. Mother conceded at trial that she does not know the Child’s diagnoses, what treatments she requires, or how to meet her day-to-day needs. The record also reflects that Mother’s current home is not suitable or safe for the Child. Meanwhile, the evidence shows that the Child is receiving the care she needs and is safe in Foster Parents’ home, and Mother’s continued involvement may prevent her from being adopted by Foster Parents.

Considering the foregoing, we agree with the trial court that DCS proved persistent conditions by clear and convincing evidence.

Best interests

In addition to proving at least one statutory ground for termination, petitioners in a termination case must prove, by clear and convincing evidence, that termination serves the child’s best interests. 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.”). Further, “the prompt and permanent placement of the child in a safe environment is presumed to be in the child’s best interest.” Tenn. Code Ann. § 36-1-113(i)(2).

When determining whether termination is in a child’s best interests, we refer to twenty non-exclusive factors found at Tennessee Code Annotated section 36-1-113(i)(1)(A)-(T). In this case, the trial court applied the correct statutory factors and engaged in a thorough analysis in its final order:

(A) The effect of termination of parental rights will have on the child’s critical need for stability and continuity of placement throughout the child’s minority; The Court finds the testimony of the current custodian Mrs. Pam M[.] to be very relevant as to the amount of care needed as well as her family’s ability to provide care and support for the [Child] throughout her

minority. The Court also heard testimony from Ms. [Vernece] Hudson, the DCS family case worker, as to the support of the [foster] family for [the Child] and of all of their training to take care of [the Child] who suffers from many conditions and who needs a lot of care. This factor favors termination.

(B) The effect a change of caretakers and physical environment is likely to have on the child's emotional, psychological, and medical condition; Based on the testimony of the [c]urrent custodian and DCS family case worker it is clear that a change of caretakers would be detrimental to the [Child]. This factor favors termination.

(C) Whether the parent has demonstrated continuity and stability in meeting the child's basic material, educational and safety needs; Based on the testimony of CPS investigator Jessica Reed as well as DCS Family case worker [Vernece] Hudson, [Mother] has not provided for the basic needs of the [C]hild and failed to keep the [C]hild safe. This factor favors termination.

(D) Whether the Parent [and] child have a secure and healthy parental attachment; The testimony of [Mother] as well as the case workers and [Pamela M.] do not indicate a secure and healthy parental attachment. This factor favors [t]ermination.

(E) Whether the parent has maintained regular visitation or other contact; [Mother's] testimony reveals that there has not been regular visitation and contact and some may be due to bond conditions and pending criminal charges. This factor favors termination.

(F) Whether the child is fearful of living in the parent's home; Not applicable so does not favor termination.

(G) Whether the parent or parents' home triggers the child's trauma experience; No proof under the circumstances of this case so it does not favor termination.

(H) Whether the child has created a healthy parental attachment with another person or persons; Based on the testimony of Ms. Hudson and [Pamela M.] as well as videos of the [C]hild, it is apparent that the [C]hild has a healthy attachment to current foster family. This factor favors termination.

(I) Whether [the] child has emotionally significant relationships and ability to know of the child's heritage; Based on the testimony of [Mother] as well as [Pamela M.], the current foster family has known [Mother] for a long time and is familiar with her family and heritage and have the ability to convey

this information in the event [the Child] is capable of understanding it. This factor favors termination.

(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, for the use of alcohol, controlled substances, or controlled substance analogs which may render the parent unable to consistently care for the child in a safe and stable manner; [Mother] has criminal charges from this case based upon her own testimony. This factor favors termination.

(K) Whether the parent has taken advantage of available programs or services in making a lasting adjustment of circumstances, conduct and conditions; According to the testimony of the DCS family case worker [Vernece] Hudson, [Mother] has completed some tasks and not others. This factor does not weigh for or against termination, therefore it weighs against termination.

(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; Based upon the filings of the department as exhibit 1 and testimony of Ms. Hudson the [c]ourt has consistently held that the Department has made reasonable efforts to assist the parent. This factor favors termination.

(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; Based upon the totality of the case as well as the testimony of Ms. Hudson, Ms. Reed and exhibit#1, the parent has not demonstrated a sense of urgency to change what lead to the removal. This factor weighs in favor of termination.

(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; Based upon the testimony of [Mother] as well as [Thomas F.], the parties are separated but it was this conduct that led to the abuse in this case. This factor weighs in favor of termination.

(O) Whether the parent has ever provided safe and stable care for the child or any other child; According to the testimony of [Pamela M.] and [Mother]

there may have been a short period of time that [Mother] provided safe care for this [C]hild. The factor weighs against termination.

(P) Whether the parent has demonstrated an understanding of the basic and specific needs required for the child to thrive; According to the testimony of [Pamela M.], Ms. Hudson and [Mother's] testimony it does not appear that [Mother] fully understands the specific current needs of [the Child]. This factor weighs toward termination.

(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; According to the testimony of Ms. Hudson, after working as the family care worker and viewing the home of [Mother], it does not appear that the foregoing has happened. This factor weighs in favor of termination.

(R) Whether the physical environment of the parents' home is healthy and safe for the child; Ms. Hudson testified that it is not. This factor weighs in favor of termination.

(S) Whether the parent has consistently provided more than token financial support for the child; It appears from the testimony of [Mother] that she has provided more than token support. This factor weighs against termination.

(T) Under 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 [C]hild.^[7]

Although Mother argues that the trial court erred in finding that grounds exist to terminate her parental rights, in his closing argument at trial, Mother's attorney argued that the evidence "is pretty close to uncontroverted" that it is in the Child's best interests that she "remain in the care of the family that has been giving [her] care for the vast majority of [her] life, especially because the [C]hild's need for care is going to require skill, experience, and patience." Accordingly, Mother did not argue before the trial court or on appeal that termination does not serve the [C]hild's best interests because, as her attorney argued, the Child "is better off with [Foster Parents] right now." "Ascertaining a child's best interests does not call for a rote examination" of statutory factors, and "depending upon the circumstances of a particular child and a particular parent, the consideration of one factor may very well dictate the outcome of the analysis." *In re Audrey S.*, 182 S.W.3d at 878 (citing *White*, 171 S.W.3d at 194). Given the unique and tragic circumstances of

⁷ The trial court quotes the language of section 36-1-113(i)(1)(T) but does not make a determination regarding that factor.

this case, the trial court's findings of fact are apt and supported by the record. Accordingly, we conclude that there is clear and convincing evidence that terminating Mother's parental rights is in the Child's best interests, and we affirm.

CONCLUSION

The judgment of the Juvenile Court for Dickson County is affirmed, and this case is remanded for proceedings consistent with this opinion. Costs on appeal are assessed to the appellant, Zenna L., for which execution may issue if necessary.

KRISTI M. DAVIS, JUDGE