IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
March 25, 2015 Session

IN RE RAVEN S., ET AL.

Appeal from the Juvenile Court for Davidson County
No. 163929 W. Scott Rosenberg, Judge[*]

No. M2014-00789-COA-R3-PT – Filed December 21, 2015

Mother and Father appeal the termination of their parental rights to two of their children. Upon a finding of dependency and neglect, the juvenile court placed the children in the custody of Mother's aunt. Subsequently, the Guardian ad Litem petitioned to terminate parental rights. Following a one-day trial, the juvenile court took the matter under advisement. After the elapse of several months, the parents and the Guardian ad Litem filed a motion requesting a decision from the court on the petition to terminate parental rights. The trial court held a hearing on the motion after which it considered additional evidence, primarily related to contact between the children and parents since the previous hearing. At the conclusion of the evidentiary hearing, the court granted the petition to terminate on the grounds of abandonment by willful failure to support and visit. The court also found termination of Mother's and Father's parental rights to be in the children's best interest. Mother and Father both appeal the statutory grounds for termination and that termination was in the children's best interest. Mother and Father also assign error to the trial court reopening proof. We affirm.

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

W. NEAL MCBRAYER, delivered the opinion of the Court, in which FRANK G. CLEMENT JR., P.J., M.S. and RICHARD H. DINKINS, J., joined.

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[*] Magistrate Judge Rosenberg sat as a substitute judge. *See* Tenn. Code Ann. § 17-2-118 (2009); *In re Valentine*, 79 S.W.3d 539, 544-45 (Tenn. 2002).

David R. Grimmett, Nashville, Tennessee, for the appellant, Jeremy S.

K. Robert Barlowe, Nashville, Tennessee, for the appellant, Brittney M.

Stephanie Edwards, Nashville, Tennessee, for the appellee, Guardian ad Litem.

OPINION

I. FACTUAL BACKGROUND AND PROCEDURAL HISTORY

Brittany M. ("Mother") and Jeremy S. ("Father") are the parents of Raven S. and Elica S., born in 2007 and 2009, respectively. By order entered on September 23, 2011, a magistrate judge of the Juvenile Court of Davidson County found the children dependent and neglected and placed them in the custody of Mother's aunt, the children's great aunt ("Aunt"). Although both Mother and Father requested a rehearing before a juvenile court judge,[1] ultimately Mother, Father, and Aunt agreed that the findings of the magistrate judge would be adopted by the juvenile court judge.

The resulting order of the juvenile court, entered on December 22, 2011, set forth the basis for the finding of dependency and neglect, the conditions under which Mother and Father could exercise parenting time, and the process for the parents to increase their parenting time. The order provided, in pertinent part, as follows:

> It is further **ORDERED, ADJUDGED AND DECREED** that the Court finds that the parents had or were neglectful in providing medical care for the children, the living conditions of the home were not proper, and the physical condition of [Father] was not appropriate due to his alcohol poisoning and [Mother] neglected the care of the children. The living conditions were improper as there were multiple non-related individuals living in the home, drinking and using drugs and necessitating the police to be called to the residence and arrests to be made.
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> . . . .

[1] Both Tennessee Code Annotated section 37-1-107(e) (2014) and Tennessee Rule of Juvenile Procedure 4(c)(1) permit any party to request a rehearing before a juvenile court judge on certain matters heard by a magistrate.

> It is further **ORDERED, ADJUDGED AND DECREED** that any parenting time for the parents shall be supervised and at [Aunt's] discretion, and she can designate someone of her choosing to supervise their parenting time. The Court expects the person supervising to watch out for the children and the parents' supervised time shall not be prevented without good cause.
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> . . . .
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> It is further **ORDERED, ADJUDGED AND DECREED** that in the event a material change of circumstance occurs, either parent may file a Petition to increase their parenting time with the Court.

Nearly nine months later, on September 10, 2012, the Guardian ad Litem filed a petition for termination of Mother's and Father's parental rights. As grounds for termination, the Guardian ad Litem alleged abandonment by failure to visit and failure to support and persistence of conditions.

On July 22, 2013, the court held a hearing on the petition. Mother, Father, Aunt, and Mother's grandmother ("Grandmother") testified. The testimony established that Mother and Father had not provided any support or visited the children during the four-month period preceding the filing of the petition. However, Mother claimed that her attempts to visit had been frustrated and that her offers of support had been rebuffed. Mother and Father also testified that, after the filing of the petition to terminate parental rights, they had moved to a hotel and away from the non-related individuals with whom they previously lived.

At the close of the Guardian ad Litem's proof, Mother and Father moved to dismiss the petition to the extent it sought termination on the ground of persistence of conditions.[2]

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[2] Rule 41.02(2) of the Tennessee Rules of Civil Procedure, which is made applicable to cases involving the termination of parental rights by Rule 1(b) of the Tennessee Rules of Juvenile Procedure, provides, in pertinent part, as follows:

> After the plaintiff in an action tried by the court without a jury has completed the presentation of plaintiff's evidence, the defendant, without waiving the right to offer evidence in the event the motion is not granted, may move for dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief.

Tenn. R. Civ. P. 41.02(2).

The court granted the motion, finding that the conditions that led to the children's removal did not persist. At the close of all proof, the court took the matter under advisement. Although commenting that the remaining grounds for termination were "pretty obvious," the court noted that the parents had "made some efforts" and questioned whether those efforts were "too little or too late."

The matter remained under advisement for several months, leading the parties, on January 28, 2014, to file a "Joint Motion for Review." The motion requested a final decision on the petition to terminate parental rights. The court held a hearing on the motion during which it requested additional proof to assist it in determining whether the parents' efforts towards the children were genuine. Specifically, the court sought evidence regarding visitation and support by Mother and Father since the hearing on July 22, 2013. The court indicated such evidence was relevant to its best interest determination.

Counsel for Father objected to reopening the proof. The following exchange between counsel and the court encapsulates the basis for counsel's objection and the court's rationale for requesting additional proof:

> Counsel: Of course, we would argue if the best interest did not exist by clear and convincing evidence at the date of trial, then it should be dismissed.
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> The Court: Well, it did in my mind exist, based on what I had. It was just that only that – that – that thing inside that says, you know, will they turn it around? And I hate to – I have to cut someone's parental rights off forever. Like I say, at the time, we're trying, we're trying, we're trying, we just – it just – we just aren't getting there.
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> And so, you know, at that point, it looked to me that it was all talk and no action, but I, again, that – that little thing in the back of me. I'm glad to (inaudible) and say, okay, rule on it based on that and the best interest is, you know, they hadn't got it together, they weren't pulling together and go forward, or I can hear about what's going on to see if anything can be shown.

After the exchange, the Guardian ad Litem offered that, although she could introduce additional evidence, she was prepared for the court to render a decision based on the proof from the trial.

Ultimately, the court again heard testimony from Mother, Father, Aunt, and Grandmother. Father testified that he had seen Raven and Elica "about a dozen times" since

the previous hearing. When asked why more visitations had not occurred, Father explained that the birth of his latest child with Mother and work schedules made visits with the older children "massively hard." Father also blamed difficulties in communicating with Aunt and Grandmother, although Father acknowledged he never communicated with either in connection with visitations. When asked if he had provided support for Raven and Elica, Father testified "I'm going to say no. I didn't know what to do." Father did provide money to Mother from which she paid support for the children.

Mother testified that, if she were free from working, she would visit her older children more often. She also testified that Aunt was keeping Raven and Elica from her and Father. In regard to access to her children, Mother disputed testimony that Aunt had offered visitation on alternate days to accommodate Mother's work schedule or that Grandmother had offered transportation to facilitate visitation. As for support, Mother stated that she had made support payments ever since they were ordered by the court, which was after the petition to terminate was filed.

At the conclusion of the hearing, the court announced it was granting the petition to terminate parental rights. In its order, the court found that Mother and Father had abandoned Raven and Elica both by willfully failing to support and to visit them during the four months immediately preceding the filing of the petition. The court also found that termination was in the best interest of the children.

Mother and Father raise three issues on appeal. They argue that the trial court erred: (1) in finding that Mother and Father willfully abandoned the children; (2) in finding that termination of parental rights was in the children's best interest; and (3) in reopening proof seven months after the original proceedings. The second issue is related to the third in that Mother and Father argue that the court reopened proof only because it was unconvinced after the trial that termination was in the children's best interest. Because the second and third issues are related, we will address them together in our discussion of the children's best interest.

II. ANALYSIS

Termination of parental rights is one of the most serious decisions courts make because "[f]ew consequences of judicial action are so grave." *Santosky v. Kramer*, 455 U.S. 745, 787 (1982). Terminating parental rights has the legal effect of reducing the parent to the role of a complete stranger and of "severing forever all legal rights and obligations of the parent or guardian." Tenn. Code Ann. § 36-1-113(*l*)(1) (2014).

A parent has a fundamental right, based on both federal and State constitutions, to the care, custody, and control of his or her own child. *Stanley v. Illinois*, 405 U.S. 645, 651 (1972); *In re Angela E.*, 303 S.W.3d 240, 250 (Tenn. 2010); *Nash-Putnam v. McCloud*, 921 S.W.2d 170, 174 (Tenn. 1996*); In re Adoption of Female Child*, 896 S.W.2d 546, 547-48 (Tenn. 1995). Although this right is fundamental, it is not absolute. The state may interfere with parental rights through judicial action in some limited circumstances. *Santosky*, 455 U.S. at 747; *In re Angela E.*, 303 S.W.3d at 250.

Our Legislature has identified those circumstances in which the State's interest in the welfare of a child justifies interference with a parent's constitutional rights by setting forth the grounds upon which termination proceedings may be brought. Tenn. Code Ann. § 36-1-113(g) (2014). Termination proceedings are statutory, *In re Angela E.*, 303 S.W.3d at 250; *Osborn v. Marr*, 127 S.W.3d 737, 739 (Tenn. 2004), and parental rights may be terminated only where a statutorily defined ground exists. Tenn. Code Ann. § 36-1-113(c)(1) (2014); *Jones v. Garrett*, 92 S.W.3d 835, 838 (Tenn. 2002); *In re M.W.A., Jr.*, 980 S.W.2d 620, 622 (Tenn. Ct. App. 1998).

A. Burden of Proof and Standard of Review

To terminate parental rights, a court must determine by clear and convincing evidence that at least one of the statutory grounds for termination exists and that termination is in the best interest of the child. Tenn. Code Ann. § 36-1-113(c) (2014); *In re Valentine*, 79 S.W.3d 539, 546 (Tenn. 2002). This heightened burden of proof is one of the safeguards required by the fundamental rights involved, *see Santosky*, 455 U.S. at 769, and its purpose "is to minimize the possibility of erroneous decisions that result in an unwarranted termination of or interference with these rights." *In re Bernard T.*, 319 S.W.3d 586, 596 (Tenn. 2010); *see also In re Angela E.*, 303 S.W.3d at 250*; In re M.W.A., Jr.*, 980 S.W.2d at 622. "Clear and convincing evidence enables the fact-finder to form a firm belief or conviction regarding the truth of the facts, and eliminates any serious or substantial doubt about the correctness of these factual findings." *In re Bernard T.*, 319 S.W.3d at 596 (citations omitted). The party seeking termination has the burden of proof. *In re Audrey S.*, 182 S.W.3d 838, 861 (Tenn. Ct. App. 2005).

On appeal, we review the trial court's findings of fact in termination proceedings de novo on the record, with a presumption of correctness, unless the evidence preponderates otherwise. Tenn. R. App. P. 13(d); *In re Bernard T.*, 319 S.W.3d at 596; *In re Angela E.*, 303 S.W.3d at 246. Next, "[i]n light of the heightened burden of proof in [termination] proceedings . . . [we] must then make [our] own determination regarding whether the facts, either as found by the trial court or as supported by a preponderance of the evidence, provide

clear and convincing evidence that supports all the elements of the termination claim." *In re Bernard T.*, 319 S.W.3d at 596-97. We review the trial court's conclusions of law de novo with no presumption of correctness. *In re J.C.D.*, 254 S.W.3d 432, 439 (Tenn. Ct. App. 2007); *Presley v. Bennett*, 860 S.W.2d 857, 859 (Tenn. 1993).

B. STATUTORY GROUNDS FOR TERMINATING PARENTAL RIGHTS

The court found that Mother and Father had abandoned Raven and Elica, which is one of the statutory grounds for initiating a termination proceeding. Tenn. Code Ann. § 36-1-113(g)(1) (2014). "Abandonment is defined as the willful failure to visit, to support, or to make reasonable payments toward the support of the child during the four-month period preceding the filing of the petition to terminate parental rights." *In re Adoption of Angela E.*, 402 S.W.3d 636, 640 (Tenn. 2013); *see also* Tenn. Code Ann. § 36-1-102(1)(A)(i) (2014). The statutory definition of the term "abandonment" makes clear that a parent's failure to pay support or visit does not lead to termination of parental rights unless the failure is willful. "The element of willfulness has been held to be both a statutory and a constitutional requirement." *In re C.T.B.*, No. M2009-00316-COA-R3-PT, 2009 WL 1939826, at *4 (Tenn. Ct. App. July 6, 2009).

We have previously addressed, in some detail, what constitutes "willfulness" in the context of parental termination proceedings:

> "[W]illfulness" does not require the same standard of culpability as is required by the penal code. Nor does it require malevolence or ill will. Willful conduct consists of acts or failures to act that are intentional or voluntary rather than accidental or inadvertent. Conduct is "willful" if it is the product of free will rather than coercion. Thus, a person acts "willfully" if he or she is a free agent, knows what he or she is doing, and intends to do what he or she is doing.
>
> Failure to visit or support a child is "willful" when a person is aware of his or her duty to visit or support, has the capacity to do so, makes no attempt to do so, and had no justifiable excuse for not doing so. Failure to visit or to support is not excused by another person's conduct unless the conduct actually prevents the person with the obligation from performing his or her duty, or amounts to a significant restraint of or interference with the parent's efforts to support or develop a relationship with the child . . . .
>
> The willfulness of particular conduct depends upon the actor's intent.

> Intent is seldom capable of direct proof, and triers-of-fact lack the ability to peer into a person's mind to assess intentions or motivations. Accordingly, triers-of-fact must infer intent from the circumstantial evidence, including a person's actions or conduct.

In re Audrey S., 182 S.W.3d at 863-64 (internal citations and footnotes omitted). Whether a parent failed to visit or support is a question of fact. Whether a failure to support or visit was willful is a question of law. *In re Adoption of Angela E.*, 402 S.W.3d at 640. Therefore, we review a willfulness determination de novo, with no presumption of correctness. *Id.*

Although they concede they failed to support or visit the children during the four months preceding the filing of the petition, Mother and Father argue that such failures were not "willful." Father's and Mother's reasons for failing to support or visit their children differ. Father claims that he lacked the financial ability to support his children. For her part, in addition to a lack of financial ability, Mother claims that "the parties agreed that she would not pay support, therefore she was unaware of any duty to provide support." On the failure to visit, Father only states that the Guardian ad Litem failed to show an intent not to visit. Mother claims "that pain and discomfort from her pregnancy and post-delivery recovery," her work schedule, and difficulties with Aunt kept her from visiting.

We conclude that the parents' failure to support Raven and Elica was willful. As Mother and Father point out, a parent's financial capacity to pay support must be considered in determining willfulness. If a parent is financially incapable of paying support, the parent is not willfully failing to support. *Pierce v. Bechtold*, 448 S.W.2d 425, 429 (Tenn. Ct. App. 1969). Therefore, in most instances, the court should examine the parent's means, including income and available resources for support. *See In re Adoption of Angela E.*, 402 S.W.3d at 641.

Here, Mother and Father both testified they had the ability to pay support. Although there was testimony suggesting that Mother and Father were struggling financially, we find Mother's and Father's admissions sufficient to establish that they had the capacity to offer some level of support to their children. In addition, Mother claimed that she had volunteered to pay support and would have done so if asked, further indicating capacity.

If a parent has the capacity to pay support, we next consider whether the parent made an attempt to do so or whether there was a justifiable excuse for not doing so. *See id.* Aunt testified that no offer of support was made during the four-month period preceding the filing of the petition. Mother testified that she made several offers to pay support to Grandmother but that each time Grandmother declined, stating that Mother had a greater need for the

funds. Based on Grandmother declining her offers of support, Mother claims that there was an agreement for her not to pay support. We disagree. Even if we were to accept Mother's testimony, we find that her offers to Grandmother did not excuse her failure to contact Aunt, who had custody of her children, to make an offer of support.

We also conclude that the parents' failure to visit Raven and Elica was willful. Father was content to let Mother arrange for visitation, and he apparently made no effort to visit with Raven and Elica on his own. For her part, Mother admits she stopped requesting visits in the weeks leading up to the delivery of her youngest child in June 2012. She then testified to missing four weeks of visitation after the delivery of the baby. After that, Mother claimed she was "brushed off" regarding visitation or that her work schedule made visitation difficult. However, Mother also admitted that she "gave up" for a period of time during the four months preceding the filing of the petition for termination.

Where a parent attempts to visit his or her child but is obstructed by the acts of another, his or her failure to visit is not "willful" within the meaning of the statute. *In re M.L.P.*, 281 S.W.3d 387, 392 (Tenn. 2009). A parent's attempts at visitation are obstructed where another person's conduct creates "a significant restraint of or interference with the parent's efforts to support or develop a relationship with the child." *In re Audrey S.*, 182 S.W.3d at 864. As such, failing to visit is only willful if it is a "product of free will, rather than coercion." *Id.* at 863.

We find that Mother was not obstructed, as we interpret that term, from visitation. As did the trial court, we credit the testimony of Grandmother, who supervised all visits and who Mother claimed she contacted to arrange for visits. *See Gillock v. Bd. of Prof'l Responsibility*, 656 S.W.2d 365, 367 (Tenn. 1983) ("[T]he appellate court gives great weight to the trial judge's findings on the issue of credibility."). Grandmother testified that there was never a time she denied Mother's or Father's request for visitation and that she would work with Mother and Father to make up visitation if the specific day requested was not available. Grandmother also offered to transport Mother and Father to and from visitations. Despite this, Grandmother stated that Mother and Father requested no visits during the four-month period preceding the filing of the petition for termination:

> Counsel: When did the visits – when did [the parents] stop asking for visits on a weekly or when did they start decreasing . . . ?
>
> Grandmother: That would be about May, June, July and August of 2012.

Counsel: Did you receive a request from either [Mother] or [Father] to visit with the children between May 10th of 2012 and September 10th, 2012?[3]

Grandmother: I don't recall any.

Counsel: If you had been asked, what would you have done?

Grandmother: I would have . . . let them come and visit.

Counsel: Would you have arranged the visit?

Grandmother: Yes.

Counsel: But during that time period [were there] any requests made?

Grandmother: Not that I can recall, no.

Aunt also testified that she was never contacted by the parents or Grandmother about arranging for a visit during the four-month period preceding the filing of the petition for termination.

Having found clear and convincing evidence of a statutory ground for termination of parental rights, we next must consider whether termination of parental rights is in the best interests of the children. Tenn. Code Ann. § 36-1-113(c) (2014).

C. BEST INTERESTS OF THE CHILDREN

The focus of the best interest analysis is on what is best for the child, not what is best for the parent. *In re Marr*, 194 S.W.3d 490, 499 (Tenn. Ct. App. 2005); *White v. Moody*, 171 S.W.3d 187, 194 (Tenn. Ct. App. 2004). "Because not all parental conduct is irredeemable, Tennessee's termination of parental rights statutes recognize the possibility that terminating an unfit parent's parental rights is not always in the child's best interest." *In re Jacobe M.J.*, 434 S.W.3d 565, 573 (Tenn. Ct. App. 2013). However, when the interests of the parent and child conflict, we resolve the conflict in favor of the rights and best interest of the child.

[3] The Guardian ad Litem was under the mistaken impression that the last day of the four-month period was the date of the filing of the petition for termination. *See In re Jacob C.H.*, E2013-00587-COA-R3-PT, 2014 WL 689085, at *6 (Tenn. Ct. App. Feb. 20, 2014) (concluding that the day before the petition is filed is the last day in the relevant four -month period).

Tenn. Code Ann. § 36-1-101(d) (2014).

> Courts consider nine statutory factors in making a best interest determination:
>
> (1) Whether the parent or guardian has made such an adjustment of circumstance, conduct, or conditions as to make it safe and in the child's best interest to be in the home of the parent or guardian;
>
> (2) Whether the parent or guardian has failed to effect a lasting adjustment after reasonable efforts by available social services agencies for such duration of time that lasting adjustment does not reasonably appear possible;
>
> (3) Whether the parent or guardian has maintained regular visitation or other contact with the child;
>
> (4) Whether a meaningful relationship has otherwise been established between the parent or guardian and the child;
>
> (5) The effect a change of caretakers and physical environment is likely to have on the child's emotional, psychological, and medical condition;
>
> (6) Whether the parent or guardian, or other person residing with the parent or guardian, has shown brutality, physical, sexual, emotional or psychological abuse, or neglect toward the child, or another child or adult in the family or household;
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> (7) Whether the physical environment of the parent's or guardian's home is healthy and safe, whether there is criminal activity in the home, or whether there is such use of alcohol, controlled substances or controlled substance analogues as may render the parent or guardian consistently unable to care for the child in a safe and stable manner;
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> (8) Whether the parent's or guardian's mental and/or emotional status would be detrimental to the child or prevent the parent or guardian from effectively providing safe and stable care and supervision for the child; or
>
> (9) Whether the parent or guardian has paid child support consistent with the child support guidelines promulgated by the department . . . .

Id. § 36-1-113(i). The best interest factors are neither exhaustive nor are they all applicable in every case. *See In re William T.H.*, No. M2013-00448-COA-R3-PT, 2014 WL 644730, at *4 (Tenn. Ct. App. Feb. 18, 2014).

In finding that termination of Mother's and Father's parental rights was in the best interests of the children, the court found factors (1), (2), (3), (4), (5), and (9) weighed against Mother and Father. The court additionally determined termination of parental rights was in the best interest of the children because Mother and Father showed little interest in the welfare of the children; Mother and Father continued to make lifestyle choices that prevented them from parenting or providing a home; the children were in the home of a relative who wished to adopt them; and the children had a strong bond with the relative.

Mother and Father argue that the evidence at trial was not clear and convincing that terminating Mother's and Father's parental rights was in the children's best interests. They further argue that the court abused its discretion by reopening the proof and considering events occurring after the trial.

Based on our review of the record from the trial alone, the court correctly found the statutory factors weighed in favor of terminating Mother's and Father's parental rights. Although non-relatives no longer resided with them, Mother and Father lived in a small motel room with no kitchen facilities. Father admitted the room was not suitable for a family of five. Mother and Father had acquired a car by the time of the trial, but Father's driver's license had been suspended.

Mother and Father were slow to adjust their circumstances after the children were removed from their home. Although Father conceded that the non-relatives living with them were a bad influence and Mother stated the non-relatives were on drugs and drinking, Mother and Father did not move away until October 2012. Due to the delay, Mother and Father were unable to avail themselves of services being offered by the Department of Children's Services.

Mother and Father did not maintain regular visitation with the children. Aunt testified visitation was fairly regular immediately after removal of the children, became more infrequent, and stopped altogether between March and April 2012. After that, visitations did not resume until over a year later, when the State apparently initiated a child support proceeding against Mother.

When visits did occur, they were brief and never progressed beyond supervised visits. When visitation resumed after the petition to terminate parental rights was filed, Aunt

testified that, although Elica called the parents "Mama" and "Daddy," Raven asked who Father was. In contrast, Aunt testified to having a strong bond with both children. The children had been with Aunt for well over a year, since March 18, 2011. Aunt also expressed an intention to adopt the children.

After their removal from their home, Mother and Father did not support the children financially. Although proof was presented that Mother had made two child support payments by the time of the trial, the payments were made after the filing of the petition to terminate parental rights.

The fact that the court reopened proof does not undermine the best interest finding or convince us that the decision to terminate parental rights should be reversed. The decision to reopen proof is within the trial court's discretion. *Simpson v. Frontier Cmty Credit Union*, 810 S.W.2d 147, 149 (Tenn. 1991). "[T]he decision of the trial judge . . . will not be set aside unless there is a showing that an injustice has been done." *Id.* (quoting *State v. Bell*, 690 S.W.2d 879, 882 (Tenn. Crim. App. 1985)).

In the context of a parental termination case, reopening proof after a trial is certainly ill-advised, especially given the General Assembly's mandate that trial courts "make[] specific findings of fact and conclusions of law within thirty (30) days of the conclusion of the hearing." Tenn. Code Ann. § 36-1-113(k) (2014). However, in this circumstance, we cannot conclude that an injustice has been done. First, the court "specifically f[ound] that the proof set forth by Petitioner on July 22, 2013 . . . established by clear and convincing evidence that the termination of the Respondents' parental rights to the children was in the children's best interest." Our review of the testimony and exhibits presented at the trial confirms this. Second, reopening the proof appeared to be motivated by a desire on the part of the court to give Mother and Father an opportunity to demonstrate an adjustment of circumstance, conduct, or conditions and regularity in visitation and child support.

III. CONCLUSION

The record contains clear and convincing evidence to support terminating Mother's and Father's parental rights on the grounds relied upon by the court and to support the court's finding that terminating Mother's and Father's parental rights is in the children's best interests. Accordingly, the judgment terminating Mother's and Father's parental rights to Raven S. and Elica S. is affirmed.

W. NEAL McBRAYER, JUDGE