

No. 1-11-1518

Notice: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

---

IN THE APPELLATE COURT  
OF ILLINOIS  
FIRST JUDICIAL DISTRICT

---

IN THE INTERESTS OF:	)	Appeal from the
	)	Circuit Court of
Shenice S. And Stephen S.	)	Cook County
Minors-Respondents-Appellees,	)	
	)	No. 02 JA 72
(PEOPLE OF THE STATE OF ILLINOIS,)	)	02 JA 1384
Petitioner-Appellee,	)	
	)	Honorable
v.	)	Rena M. Van Tine,
	)	Judge Presiding.
Terry L.,	)	
Respondent-Guardian-Appellant.	)	

---

JUSTICE KARNEZIS delivered the judgment of the court.  
Presiding Justice Hoffman and Justice Hall concurred in the judgment.

ORDER

*HELD:* Where the trial court's findings were supported by the manifest weight of the evidence, the trial court's order terminating the mother's parental rights was affirmed. It was in the best interests of the children to terminate the mother's parental rights where the mother resided in a nursing home due to her mental health illnesses, had been unable to care for the children since their birth and was not allowed visits with the children.

¶ 1 Respondent, Terry L., is the maternal grandmother of minors Shenice S. and Stephen S. The minors' biological mother is Lavon C.<sup>1</sup> Respondent appeals from the trial court's order, which terminated the mother's parental rights. Respondent contends on appeal that it is not in the best interest of the children to terminate their mother's parental rights because it is important for the children to maintain a relationship with their biological family. For the following reasons, we affirm the trial court's order terminating the mother's parental rights.

¶ 2 Shenice was born on December 16, 2001, and shortly thereafter, the Illinois Department of Children and Family Services (DCFS) took protective custody of her. Subsequently, the State filed a petition for adjudication of wardship, which alleged that Shenice was abused due to substantial risk of injury and neglected due to lack of care and an injurious environment. Following a hearing, the court entered an order granting temporary custody of Shenice to the DCFS guardianship administrator. The court issued an order denying any visits between Shenice and her mother and, in April 2002, Shenice was placed in respondent's care. The court adjudicated Shenice neglected due to exposure to an injurious environment and the court noted that the mother had a history of schizophrenia and had made no preparations for Shenice's care either before or after Shenice was born. Following a dispositional hearing, the court entered an order

---

<sup>1</sup> Respondent became the mother's plenary guardian in 2010, due to the mother's mental health illnesses.

1-11-1518

making Shenice a ward of the court, and granted guardianship to the DCFS guardianship administrator.

¶ 3 Stephen was born on October 2, 2002. Shortly thereafter, DCFS took protective custody of Stephen. The State filed a petition for adjudication of wardship, alleging that Stephen was abused due to substantial risk of injury and neglected due to an injurious environment. The court appointed the Cook County Public Guardian as attorney and guardian *ad litem* for Stephen and he was placed in a non-relative foster home. Following an adjudicatory hearing, the court adjudicated Stephen neglected due to his exposure to an injurious environment. Following a dispositional hearing, the court granted guardianship of Stephen to the DCFS guardianship administrator. In August 2004, Stephen was moved from his non-relative foster home and placed in respondent's care with Shenice.

¶ 4 Several years later, in May 2007, Shenice and Stephen were removed from respondent's home because Shenice reported being sexually abused by a man who also resided in the home. The children were placed together in a foster home but were subsequently separated due to their sexualized behavior. They were each placed in separate non-relative foster homes, where they currently remain.

¶ 5 Numerous permanency hearings were held. Initially, the permanency goals of "return home" were entered; however, the goals were later changed to "substitute care pending court determination of termination of parental rights."

¶ 6 In 2009 and 2010, the State filed termination petitions for Shenice and Stephen

1-11-1518

alleging that the mother was unfit to parent the children pursuant to the Adoption Act (750 ILCS 50/1(D) (West 2010)) and that it was in their best interest to terminate the mother's parental rights.

¶ 7 The court held a termination hearing in May 2011. The court first heard testimony regarding whether the mother was unfit to parent the children. Clinical psychologist Dr. Sweety Agrawal testified that she had completed an evaluation of the mother. Dr. Agrawal stated that the mother had been diagnosed over a period of years with numerous mental illnesses including psychotic disorder, paranoid schizophrenia, bipolar disorder and major depression. Dr. Agrawal also stated that the mother had not attended all of the recommended counseling sessions and did not consistently take her medication. Dr. Agrawal further stated that the children would be at risk of harm and or neglect if they were in the mother's care because the mother's psychiatric condition made it difficult for her to care for herself. Dr. Agrawal concluded that the mother's inability to discharge her parental responsibilities would likely be long term.

¶ 8 Christina Vanseth, the mother's caseworker also testified at the hearing regarding whether the mother was unfit to parent the children. She stated that the mother was in need of parenting classes, individual therapy, medical follow-up, psychiatric assessment/services, job training, stable housing and homemaker services. Vanseth further stated that although the mother had completed a substance abuse evaluation, a psychological evaluation and a parenting assessment, she never completed any services.

1-11-1518

¶ 9 The trial court found that the State had proven the mother unfit by clear and convincing evidence on grounds (p) and (m) of the Adoption Act. Ground (p) related to the mother's inability to discharge parental responsibilities, and ground (m) related to the mother's failure to make reasonable progress toward the return of the child.

¶ 10 The parties proceeded to the best interest phase of the hearing. Rhonda Jones testified that she has been Shenice's caseworker since June 2008. Shenice was currently nine years old and had been living in her foster home since June 2008. Home visits, which are conducted three times per month, indicate that the home was "safe and appropriate." Shenice calls her foster mother "mommy" and their relationship is loving and healthy. She and Stephen visit with each other at least twice a month, which will continue if the foster mother is allowed to adopt Shenice. Shenice has never asked Jones about any of her biological relatives, except Stephen, and has no pictures of them in her room. Shenice wants to continue living with her foster mother and wants her foster mother to adopt her. The foster mother also wishes to adopt Shenice. Jones further stated that terminating parental rights was in Shenice's best interest.

¶ 11 Hope Smith testified that she has been Stephen's caseworker since October 2008. Stephen was currently seven years old and had been living in his foster home since November 2007. Stephen and his foster father have a "loving and affectionate" relationship and Stephen considers his foster father his dad. Smith testified that there had been two unusual incident reports. The first incident occurred in February 2011 when Stephen was suspended from school for one day because he urinated on a

1-11-1518

student's foot in the bathroom. Stephen had claimed it was an accident. The second incident occurred in March 2011 when Stephen reported to the Public Guardian that his foster father hit him on his bottom when he was misbehaving. Stephen later claimed that he had lied about the incident. Smith stated that she investigated the incident and Stephen did not have any marks or bruises and was affectionate towards the foster father. She supported Stephen remaining in the home. Stephen does not ask about his biological family, except Shenice, and has never expressed a desire to visit with them. Smith further stated that termination of parental rights was in Stephen's best interest.

¶ 12 Respondent testified that she is Shenice and Stephen's grandmother. She stated that it would not be in the children's best interest to terminate their mother's parental rights because the children should be raised by their biological family.

¶ 13 The court determined that it was in the best interests of both children to terminate the mother's parental rights. Specifically, the court found that both children were doing well in their homes and had a healthy, loving relationship with their foster parent. The court also found that the foster parents were willing to follow the children's therapists' advice regarding any therapy or counseling they needed. Considering the best interest factors, the court noted that each child's foster parent was providing for the physical safety and welfare of the child, and had provided each child with food, shelter, health and clothing and would continue to do so in the future. The foster parents were complying with the advice of the children's therapists that the children not visit with their

1-11-1518

biological family, but were open to the possibility of reestablishing a relationship if recommended by the therapists in the future. The children felt love and attachment and a sense of being valued in their foster homes as opposed to respondent's belief that the children should be with their biological family. The children's foster homes were the least disruptive placement alternatives and both children have indicated they want to continue to reside in their current homes and be adopted by their foster parents. The court further stated that both children have been in the system "way, way too long," and the children needed permanency "sooner rather than later." The court noted that it was not in the children's best interest to wait several years in case respondent might possibly become compliant with services such that the children could return to her home. The court entered an order terminating the mother's rights and appointed a guardian with the right to consent to adoption.

¶ 14 On appeal, respondent contends that it is not in the best interests of the children to terminate the mother's parental rights. She argues that a "less drastic" best interest determination, such as guardianship, would allow the children to remain in their foster homes, but would also allow for the possibility that the children could maintain a relationship with their biological family. Respondent does not contest the court's findings regarding the mother's fitness.

¶ 15 The Juvenile Court Act of 1987 (705 ILCS 405/1-1 *et seq.* (West 2010)) provides a two-step process for the involuntary termination of parental rights. *In re Deandre D.*, 405 Ill. App. 3d 945, 952 (2010). The State must first prove that the parents are unfit as

1-11-1518

defined in section 1(D) of the Adoption Act (750 ILCS 50/1(D)(b) (West 2010)). *In re Deandre D.*, 405 Ill. App. 3d at 952. If the court makes a finding of unfitness, the court will then consider whether it is in the best interest of the child to terminate parental rights. *In re Deandre D.*, 405 Ill. App. 3d at 952. The State has the burden of proving by a preponderance of the evidence that termination is in the child's best interest. *In re D.T.*, 212 Ill. 2d 347, 366 (2004). A trial court's finding regarding termination will not be reversed unless it is against the manifest weight of the evidence. *In re S.H.*, 284 Ill. App. 3d 392, 401 (1996).

¶ 16 Section 1-3(4.05) of the Juvenile Court Act (705 ILCS 405/1-3(4.05) (West 2010)) requires the court to consider numerous factors in making a best interest determination.

These factors include:

"(a) the physical safety and welfare of the child, including food, shelter, health, and clothing;

(b) the development of the child's identity;

(c) the child's background and ties, including familial, cultural, and religious;

(d) the child's sense of attachments, including:

(i) where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);

(ii) the child's sense of security;

(iii) the child's sense of familiarity;

1-11-1518

- (iv) continuity of affection for the child;
- (v) the least disruptive placement alternative for the child;
- (e) the child's wishes and long-term goals;
- (f) the child's community ties, including church, school, and friends;
- (g) the child's need for permanence which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives;
- (h) the uniqueness of every family and child;
- (i) the risks attendant to entering and being in substitute care; and
- (j) the preferences of the persons available to care for the child. 705 ILCS 405/1-3(4.05) (West 2010).

¶ 17 Here, the trial court discussed the best interest factors and made specific findings regarding the factors. In general, the court found that Shenice and Stephen were bonded to their foster parents and thought of them as their mother and father. They were each doing well in their foster homes and were receiving any therapy or counseling services they needed. The foster parents were facilitating visits between Shenice and Stephen twice a month, to help maintain their familial ties. Their foster homes were "safe and appropriate" and they were provided with ample food and clothing. Shenice and Stephen each wished to remain in their homes and to be adopted by the foster parents and the foster parents wanted to adopt them. Both foster parents acknowledged that they were open to the possibility of reestablishing a

1-11-1518

relationship with the children's biological family, if recommended by the children's therapists. We conclude that the trial court's findings that it was in the best interests of the children to terminate the mother's parental rights were not against the manifest weight of the evidence.

¶ 18 Respondent relies on *In re M.F. and T.R.*, 326 Ill. App. 3d 1110 (2002) and *In re B.B and A.T.*, 386 Ill. App. 3d 686 (2008) for support. In both these cases this court reversed the trial court's order terminating the mothers' parental rights. However, respondent does not specifically argue how these cases are similar to the case at bar or why this court should come to the same conclusion.

¶ 19 In *In re M.F. and T.R.*, this court reversed the trial court's order terminating the mother's parental rights as to only one of her children because the mother and child had an ongoing relationship when the case began, the mother had supervised visits with the child every weekend and the child had resided with the father since the mother and father's divorce. *In re M.F. and T.R.*, 326 Ill. App. 3d at 1117. This court affirmed the termination of the mother's parental rights as to her other child because the child was only nine months old when taken into custody such that their bond was "not yet great," the mother would not be able to parent the child without help and supervision and, there were numerous families that would potentially adopt the child. *In re M.F. and T.R.*, 326 Ill. App. 3d at 1116-7. The case at bar is distinguishable because Shenice and Stephen were removed from their mother's care almost immediately after birth and they did not have an ongoing relationship with the mother or consistent visits. Additionally,

1-11-1518

neither the mother nor respondent were permitted to visit with the children and the children's therapists did not know whether in the future if visits would be recommended.

¶ 20 In *In re B.B and A.T.*, this court reversed the trial court's order terminating the mother's parental rights because the evidence indicated that the children were bonded to their mother due to the mother's continued presence at the foster parent's home, which included sleeping and showering at the home, and the mother's actions of taking the children, without permission, to another state to live with her for a period of time. *In re B.B and A.T.*, 386 Ill. App. 3d at 701-02. The court also found that after the children were placed with a different foster family, the children had supervised visits with the mother and the children struggled emotionally at the end of each visit. *In re B.B and A.T.*, 386 Ill. App. 3d at 703. The case at bar is distinguishable because, as stated above, the evidence indicated that Shenice and Stephen did not have an ongoing relationship with the mother or have visits with her. Additionally, the mother was not a consistent presence in the children's lives nor would she ever likely be, due to her mental health illnesses.

¶ 21 Accordingly, we affirm the judgment of the trial court.

¶ 22 Affirmed.