

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).

FIRST DIVISION
FILED: JUNE 24, 2011

IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

IN THE INTEREST OF)	APPEAL FROM THE
IVORY J., A MINOR,)	CIRCUIT COURT OF
)	COOK COUNTY
)	
)	No. 04 JA 995
(The People of the State of Illinois,)	
Petitioner-Appellee,)	
)	
v.)	
)	
Rhonda K.,)	HONORABLE
)	DEMETRIOS KOTTORAS,
Respondent-Appellant).)	JUDGE PRESIDING.

JUSTICE HOFFMAN delivered the judgment of the court. Presiding Justice Hall and Justice Lampkin concurred in the judgment.

ORDER

Held: Circuit court's decision to terminate the respondent's parental rights was not against the manifest weight of the evidence.

The respondent, Rhonda K., appeals from the circuit court's order terminating her parental rights to the minor Ivory J. On appeal, the respondent argues that the circuit court erred in

No. 1-11-0314

finding that termination of her parental rights was in Ivory J.'s best interests. For the reasons that follow, we affirm the judgment of the circuit court.

In August 2004, the State filed a petition for adjudication of wardship regarding Ivory J., to allege that he was neglected based on the respondent's substance abuse and based on physical abuse observed by staff of the Department of Human Services. In January 2005, citing findings of an injurious environment and a substantial risk of physical injury, the circuit court entered an order finding Ivory J. to be neglected and placed him in the custody of the Department of Children and Family Services. In April 2005, the court entered an order setting the permanency goal as return home within 12 months. That order stated that the respondent was "engaged in services." An August 2005 evaluation of the respondent's progress on her case management objectives indicates unsatisfactory progress towards the goal of re-engaging services to address her substance abuse problems, lack of parenting skills and mental health problems. A report contained in the record indicates that the respondent completed inpatient drug treatment in January 2005 but subsequently ran away from a recovery home and resumed drug and alcohol abuse. The report also detailed her psychological problems and continued drug problems that led to her incarceration.

A later, February 2006 report contained in the record

No. 1-11-0314

indicates that the respondent was released from prison in October 2005, relapsed into drug use in November 2005, and missed several drug abuse counseling appointments. At the time of the February report, the respondent was pursuing recovery services. The report listed the respondent's progress as unsatisfactory.

In a June 2006 order, the circuit court altered the permanency goal from return home to substitute care pending termination of parental rights; the order cited the respondent's inadequate progress in services and her self-reported relapse into drug abuse as grounds for the new goal. The court entered the same permanency goal in January 2007, July 2007, and January 2008 orders, which recited that the respondent had not made any progress in her services or had not engaged in services aimed at reunification. In August 2008, the State filed a petition asking that the respondent be found unfit, her parental rights be terminated, and that a guardian be appointed for Ivory J. The petition cited, among other things, the respondent's failure to maintain a reasonable degree of interest, concern or responsibility as to Ivory J.'s welfare, and her failure to make reasonable efforts to correct the conditions that caused the removal of the child.

At the hearings regarding the respondent's fitness, Rickie Harris, who served as the case worker on Ivory J.'s case from October 2005 through July 2006, testified that the respondent

No. 1-11-0314

completed drug treatment programs but withdrew from mental health services around May 2006. Harris also noted that the respondent did not maintain contact with him or make herself available for services after she withdrew from mental health services. He described the respondent's visitation attendance and behavior as consistent prior to May 2006 but not afterward, and he indicated that, during the time she was attending services, she did not test positive for drug use. Harris agreed that he rated the respondent's progress as unsatisfactory in February 2006 because she had not complied with recommended services.

Another case worker, Bobbie Kittling, who worked on Ivory J.'s case from January 2008 through April 2010, testified that the respondent completed one stage of drug treatment in December 2009 but that she received no documentation indicating that the respondent had completed further stages. Kittling also testified that the respondent did not comply with a request for regular drug testing. Based on her observations of the respondent's visitations with her son, Kittling also questioned the respondent's parenting skills and suspected that the respondent was using drugs or alcohol.

Jacquelyn Moore, Ivory J.'s case manager at the time of the hearings, testified that she had received no documentation indicating that the respondent had completed drug treatment but

No. 1-11-0314

that the respondent had contacted her to facilitate visitation with Ivory J.

The respondent herself testified that she had completed approximately five substance abuse programs since 2004 and had not used drugs or alcohol since October 2009. She also testified that she was pursuing services, including vocational and educational training.

On December 1, 2010, at the conclusion of the evidentiary hearings, the circuit court entered an order finding that the respondent had been proven unfit due to her failure to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare, failure to make reasonable efforts to correct the conditions that led to the child's removal or progress toward the return of the child within 9 months of the adjudication of neglect, and depravity. See 750 ILCS 50/1D(b), (m), (i) (West 2004)). The court found that the respondent had displayed interest at times and had several times attempted to address her drug and alcohol problems but that her progress was inconsistent on both fronts. The court thus scheduled the matter for a best interests hearing.

At that hearing, Moore testified regarding the suitability of Ivory J.'s foster parents, and she opined that adoption was in his best interests. Ivory J.'s foster mother also described her family's positive relationship with him. On December 28, 2010, the

No. 1-11-0314

circuit court found that termination of the respondent's parental rights, and placement with his foster family, was in Ivory J.'s best interests. In so finding, the circuit court cited evidence regarding Ivory J.'s attachment to his foster family and discomfort around the respondent, as well as the respondent's drug relapse history and unstable living situation. The respondent thereafter filed a timely notice of appeal from the circuit court's December 28 judgment.

On appeal, the respondent argues that the circuit court erred in concluding that termination of her parental rights was in Ivory J.'s best interests. Proceedings to terminate parental rights are divided into two stages. Under the first stage, the State must establish that the parent is unfit under one or more of the grounds set forth in the Adoption Act (750 ILCS 50/1D (West 2004)). *In re D.T.*, 212 Ill. 2d 347, 352, 818 N.E.2d 1214 (2004). If the circuit court finds the parent to be unfit, then the court may move to the second stage to determine whether termination of parental rights would be in the minor's best interests. *D.T.*, 212 Ill. 2d at 352. Here, the respondent does not contest the circuit court's finding that she was an unfit parent; she specifically confines her argument to the circuit court's determination that termination was in Ivory J.'s best interests.

In order to make a best interests determination, the circuit

No. 1-11-0314

court must balance several statutory factors. *D.T.*, 212 Ill. 2d at 354 (citing 705 ILCS 405/1-3(4.05 (West 2000))). A circuit court's best interests finding will not be reversed on appeal unless it is against the manifest weight of the evidence. *In re Veronica J.*, 371 Ill. App. 3d 822, 831-32, 867 N.E.2d 1134 (2007). A finding will be deemed contrary to the manifest weight of the evidence only if the opposite conclusion is clearly apparent. *In re Arthur H.*, 212 Ill. 2d 441, 464, 819 N.E.2d 734 (2004).

The respondent offers us scant reason to overturn the circuit court's best interest finding in this case. She notes that she cares for her child, that the legal system has stymied her efforts at visitation with her child, that there were some discrepancies in Moore's and the foster mother's testimony regarding Ivory J.'s sleeping quarters and medical conditions, and that the respondent made some efforts at completing services. However, against those points stands evidence of the respondent's relapses into drug and alcohol abuse, of her unstable situation, and of Ivory J.'s far superior relationship with his foster family. Given that evidence, we cannot say that the circuit court committed a clearly apparent error when it found that termination of the respondent's parental rights was in Ivory J.'s best interests.

For the foregoing reasons, we affirm the judgment of the circuit court.

No. 1-11-0314

Affirmed.