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2011 IL App (3d) 110541-U

Order filed December 14, 2011

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT
A.D., 2011

In re J.J., Am.J., T.J., and At.J.,
Minors
(The People of the State of Illinois,
Petitioner-Appellee,
v.
Tyreese J.,
Respondent-Appellant).

) Appeal from the Circuit Court
) of the 10th Judicial Circuit,
) Peoria County, Illinois,
)
)
) Appeal No. 3-11-0541
) Circuit Nos. 09-JA-62, 09-JA-63, 09-JA-64,
) and 09-JA-65
)
)
) Honorable
) Mark E. Gilles,
) Judge, Presiding.

JUSTICE HOLDRIDGE delivered the judgment of the court.
Justices Lytton and Schmidt concurred in the judgment.

ORDER

- ¶ 1 Held: The trial court's determination that it was in the best interests of the children to terminate the respondent's parental rights was not against the manifest weight of the evidence.
- ¶ 2 The respondent, Tyreese J., is the biological father of the minors, J.J., Am.J., T.J., and At.J. On appeal, the respondent contends that the trial court's finding that it was in the best interests of the minors to terminate his parental rights was against the manifest weight of the

evidence.

¶ 3

FACTS

¶ 4 On March 3, 2009, the State filed four separate juvenile petitions alleging that each of the minors were neglected. The petitions relied on two counts of neglect. The first count generally concerned the minors' medical care. This count alleged that the respondent had not taken his children to a doctor's appointment in several years, J.J. had uncontrollable anger issues, At.J. was found lethargic and unable to cry or move, and Am.J. had been referred to Easter Seals but was not attending. Second, each of the minors were alleged to be neglected as a result of being in an environment that was injurious to their welfare. This count stated that the mother was reportedly overwhelmed in caring for the minors, there were domestic violence incidents between the respondent and the minors' mother, and the respondent had a criminal history.

¶ 5 In May 2009, the court adjudicated the minors neglected. Thereafter, J.J., Am.J., and T.J. were placed in the same foster home. At.J. was placed in a separate specialized foster care home. On June 15, 2009, the court found the respondent unfit as a result of the allegations in the State's juvenile petition and his positive drug drop in April 2009. The court then ordered the respondent to comply with a task plan to correct the conditions that led to the adjudication and removal of the children. The respondent's service plan required him to: (1) cooperate fully and completely with the Department of Children and Family Services (DCFS); (2) obtain a drug and alcohol assessment; (3) perform two random drug drops per month; (4) successfully complete individual counseling; (5) successfully complete a domestic violence course; (6) maintain stable housing conducive to the safe and healthy rearing of the children; and (7) attend scheduled visits with his children and demonstrate appropriate parenting conduct during the visits.

¶ 6 During the pendency of this case, the respondent failed to comply with his court-ordered tasks. The respondent made very few of his drug drops and tested positive for marijuana or cocaine on three occasions. He also did not complete the court-ordered drug and alcohol assessment and parenting class. The respondent was terminated from the domestic violence program without the opportunity for future referrals. DCFS noted that at the respondent's early visitations he showed little patience in parenting his children. In particular, he picked up J.J. roughly and placed him in a time-out chair. The respondent also struck J.J. in the face during an argument. DCFS staff instructed the respondent that he could not use corporal punishment, and the respondent did not engage in these actions throughout the remainder of the case. However, the respondent's caseworker noted in the best interest report that the respondent remained impatient and he was unable to consistently or positively parent the children. The report further noted that each of the children were well cared for and bonded with their foster families.

¶ 7 On December 30, 2010, the State filed a petition to terminate the respondent's parental rights. The petition alleged that the respondent was unfit and had failed to make reasonable progress toward the return of his children within nine months of the neglect adjudication from February 18, 2010, to November 18, 2010.

¶ 8 On January 5, 2011, DCFS filed a motion to vacate its guardianship, terminate its wardship, and close the case. DCFS' motion specifically named J.J., Am.J., and T.J. The motion alleged that the foster parents of J.J., Am.J., and T.J. were qualified to serve as their guardians pursuant to section 11-3 of the Probate Act of 1975. See 755 ILCS 5/11-3 (West 2010). Further, it was in the children's best interest to remain with their foster parents because adoption was not a permanency option.

¶ 9 On May 25, 2011, the court found that the State had proved both counts of its petition for termination of the respondent's parental rights by clear and convincing evidence. The court then proceeded to a best interest hearing on July 20, 2011. At the hearing, the court noted that it had considered the evidence submitted, the best interest hearing reports, and the statutory best interest factors. The court concluded that it was in the best interests of all of the children to terminate the respondent's parental rights.

¶ 10 Five days after the court terminated the respondent's parental rights, DCFS filed a motion to reconsider and vacate portions of the best interest order entered July 20, 2011. DCFS alleged that J.J., Am.J., and T.J.'s permanency goal of guardianship was achieved on February 8, 2011, when its petition to appoint the children's foster parents as guardians was heard by the probate court. DCFS attached the order from the probate court that appointed the foster parents of J.J., Am.J., and T.J. as guardians to their motion.

¶ 11 On August 11, 2011, the court entered an order vacating DCFS guardianship, terminating its wardship, and closing the case. The court found that it was in the best interests of J.J., Am.J., and T.J. to remain in the care of their foster parents.

¶ 12 The respondent appeals the termination of his parental rights and the best interest order.

¶ 13 ANALYSIS

¶ 14 The respondent argues that the trial court's determination that it was in the best interest of the minors to terminate his parental rights was against the manifest weight of the evidence. In support, the respondent contends that the permanency goal for J.J., Am.J., and T.J. at the time of the best interest hearing was guardianship. Consequently, it was not in the best interest of J.J., Am.J., and T.J. to terminate his parental rights. The respondent contends that entry of the

guardianship award, without terminating his parental rights, would allow the children to benefit from his financial and psychological support. Lastly, the respondent contends that guardianship is an alternative to parental rights termination.

¶ 15 Following a finding of parental unfitness, a court may terminate the parental rights of a parent at a subsequent dispositional hearing. See 705 ILCS 405/2-21(5)(iii) (West 2010). At the termination of parental rights stage, the focus shifts from the actions of the parent to the best interests of the children. See *In re D.T.*, 212 Ill. 2d 347 (2004). For a trial court to terminate a parent's rights, the State must prove, by a preponderance of the evidence, that termination is in the best interest of the children. *Id.* In making this decision, a trial court is statutorily required to consider 10 best interest factors. 705 ILCS 405/1-3(4.05) (West 2010).

¶ 16 We review a trial court's termination of a parent's rights under the manifest weight of the evidence standard. *In re Adoption of Syck*, 138 Ill. 2d 255 (1990). Under this standard, the trial court's determination is afforded great deference because it was in the best position to evaluate the credibility of the witnesses. *Id.*

¶ 17 Preliminarily, we note that the respondent does not contest the termination of his parental rights to At.J. Therefore, we limit our review to the trial court's actions concerning J.J., Am.J., and T.J.

¶ 18 Contrary to the respondent's argument, we find that the trial court did not err in terminating his parental rights. The trial court noted that it considered the evidence and statutory best interest factors in making its determination. Moreover, the respondent's substance abuse issues and poor parenting skills do not indicate that the children would benefit by maintaining a relationship with the respondent. In comparison, the record reflects that the children were well

cared for and bonded with their foster family. The children's placement also provided permanence as the trial court resolved the problems created by the guardianship award and termination award with its August 11, 2011, order. Therefore, we find that the trial court's termination of the respondent's rights was not against the manifest weight of the evidence.

¶ 19

CONCLUSION

¶ 20 For the foregoing reasons, the judgment of the circuit court of Peoria County is affirmed.

¶ 21 Affirmed.