

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).

No. 3--10--0929

Order filed April 13, 2011

IN THE
APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2011

In re B.B., A.T., and T.B.,)
Minors)
(The People of the State of)
Illinois,)
Petitioner-Appellee,)
v.)
Quinn T.,)
Respondent-Appellant).)

) Appeal from the Circuit Court
) of the 10th Judicial Circuit,
) Peoria County, Illinois,
)
) Nos. 05--JA--276, 05--JA--277,
) and 07--JA--222
)
)
) Honorable
) Richard D. McCoy,
) Judge, Presiding.

PRESIDING JUSTICE CARTER delivered the judgment of the court.
Justices McDade and Schmidt concur in the judgment.

ORDER

Held: The trial court's determination that the respondent was an unfit mother and its subsequent decision that the termination of the respondent's parental rights was in the best interest of her children were not against the manifest weight of the evidence.

The respondent, Quinn T., is the mother of B.B., A.T., and T.B. The trial court found the respondent to be an unfit parent.

The court subsequently found that it was in the best interest of the children to terminate the respondent's parental rights. The respondent appeals. We affirm.

FACTS

When the respondent gave birth to B.B., his blood test indicated the presence of cocaine. As a result, the State filed a juvenile petition on November 21, 2005, alleging that B.B. was neglected.

At the time of B.B.'s birth, the respondent was living with her daughter, A.T., and B.B.'s father. The State filed a juvenile petition, concurrent to B.B.'s, alleging that A.T. was neglected. The petition alleged that A.T. observed B.B.'s father commit acts of domestic violence against the respondent.

The trial court adjudicated both minors neglected on February 14, 2006. The respondent was further found unfit because: (1) B.B. tested positive for cocaine at birth; (2) the respondent used drugs; (3) domestic violence occurred against the respondent while she was pregnant with B.B. and in the presence of A.T.; and (4) the respondent did not sufficiently participate in services. As a result, the trial court ordered the respondent to cooperate with the Department of Children and Family Services (DCFS), comply with the terms of her service plans, and correct the conditions that required removal of her children.

Initially, DCFS placed B.B. and A.T. with A.T.'s godmother.

However, this foster mother permitted the respondent to reside with the children. After DCFS' discovery that the respondent was living in this foster mother's home, the respondent fled with her children to Florida. On June 11, 2007, the respondent gave birth to T.B. in Florida. Hospital blood tests taken at the time revealed the presence of marijuana in the respondent's blood. After T.B.'s birth, the respondent returned to Illinois, leaving all three children with their first foster mother in Florida. The children were later returned to Illinois by social services workers. B.B., A.T., and T.B. were then placed with a second, unrelated, foster family and have remained with this family since their return.

On October 3, 2007, the State filed supplemental petitions to terminate the respondent's parental rights to B.B. and A.T. In April 2008, the trial court found that the State had proved its petitions to terminate the respondent's parental rights. Also in April 2008, the trial court adjudicated the respondent's third child, T.B., neglected. The Antioch Group was then ordered to prepare a bonding assessment that detailed the respondent's relationship with B.B. and A.T. The bonding assessment was specifically prepared as evidence for the trial court's July 2008 best interest hearing. The assessment indicated that B.B. and A.T. were bonded to the respondent.

At the July 7, 2008, best interest hearing, the respondent

informed the court that she was now involved with services and was willing to turn her life around in order to get her children back. In spite of the respondent's arguments and the results of the bonding assessment, the trial court terminated the respondent's parental rights. The trial court cited the respondent's failure to cooperate with DCFS, her long history of substance abuse, the incident of fleeing with her children to Florida, and her lack of a stable life or environment as evidence of her lack of progress.

The respondent appealed the trial court's termination. We reversed the termination, citing in part, its consideration of only 2 of the 10 statutory best interest factors. See 705 ILCS 405/1--3(4.05) (West 2008). We held that the respondent's strong mutual bonds to B.B. and A.T., combined with the minimal evidence presented by the State, demonstrated that the trial court's best interest findings were contrary to the manifest weight of the evidence. *In re B.B.*, 386 Ill. App. 3d 686 (2008). Since our first opinion, the trial court reinstated the respondent's visitation with B.B. and A.T.

At the October 13, 2009, permanency review hearing, the trial court determined that the respondent had not made reasonable progress towards the return of her children. Between May 11, 2009, and the hearing date, the respondent continued to struggle to complete her services, had been dropped from two

domestic violence classes, and had missed drug drops and several call-ins for her drug drops. Additionally, the respondent was the victim of two physical attacks during this period and continued to associate with her attackers, in spite of her caseworker's warnings. The respondent also entered into a relationship with one of her attackers, against whom she had filed two domestic violence reports. In rendering its decision that the respondent had failed to make reasonable progress, the trial court noted that the respondent was "not credible in her testimony."

At the respondent's April 6, 2010, permanency review hearing, the trial court again found that the respondent had failed to make reasonable progress. Since the trial court's October 2009 hearing, the respondent had discontinued individual counseling, needed to complete another domestic violence program, and did not inform her caseworker when she moved into her mother's home. Following a high-risk pregnancy, the respondent gave birth to her fourth child in February 2010. The respondent's fourth child was fathered by her paramour that she had been instructed to dissociate with. From October 2009 to April 2010, the respondent also did not call in for her drug drops or perform a drug drop.

The children's caseworker reported at the hearing that B.B. and T.B. were bonded with their foster family. The caseworker

also noted that A.T. was bonded with her foster family but was simultaneously bonded with the respondent. The report concluded that all three children had been in the same home for more than two years and were in need of permanency. As a result, the trial court determined that the respondent failed to make reasonable progress and set the goal for all three children to substitute care pending the court's decision.

On March 1, 2010, the State filed petitions to terminate the respondent's parental rights to B.B., A.T., and T.B. The petition alleged that the respondent was an unfit parent in that she had failed to make reasonable progress toward the return of the minors from May 11, 2009, to February 11, 2010. The trial court found the respondent to be unfit.

On November 10, 2010, the trial court conducted a best interest hearing on the State's petitions. The respondent told the trial court at the hearing that she thought it was in her children's best interest that her rights not be terminated

"[b]ecause I love my children, sorry, and I can take care of them just as good as the foster parents. I have a job, I have--I can provide clothes, food, shelter, and I'm sure I can--if the Court don't think that they're as bonded to me as the foster parents, I can regain that if I was to regain my visits back. I can provide for them just like anybody else could."

The trial court also considered the most recent bonding assessment, conducted by the Antioch Group. Unlike the June 2008 report, this assessment observed the parent-child relationships "as much different in the children's approach to their mother." The assessor concluded "the children have been able to form a healthy parent-child bond and positive sense of belonging with their current foster family."

Considering the evidence presented, the trial court terminated the respondent's parental rights. The trial court stated that the best interest report "overwhelmingly support[ed] termination of parental rights." Moreover, the bonding assessment concluded that "there [was] no healthy parent/child bond with any of the three children[.]" The trial court also noted that the report stated that the respondent "lacked insight into how her choices have affected her children, and noted that she acknowledged the care and mutual love between the children and the foster families." The trial court concluded its ruling with consideration of the 10 statutory best interest factors. See 705 ILCS 405/1--3(4.05) (West 2008). Each of these factors favored termination of the respondent's parental rights, "with the exception of the children's expressed desire on long-term goals" because the judge did not receive "any credible evidence from any party on that particular issue." A written order was then entered finding that the State had proved by a preponderance

of the evidence that termination of the respondent's parental rights was in the best interests of the children. The respondent appeals.

ANALYSIS

On appeal, the respondent first challenges the trial court's determination that she was unfit to parent her three minor children.

A mother's failure to make reasonable progress towards the return of her children provides grounds for an unfitness adjudication. 750 ILCS 50/1(D)(m)(ii) (West 2008). A trial court looks for a mother's "progress toward the return of the child *** within 9 months after an adjudication of neglected or abused minor" or "any 9-month period after the end of the initial 9-month period ***." 750 ILCS 50/1(D)(m) (West 2008). The State must prove by clear and convincing evidence that the mother failed to make reasonable progress. *In re J.J.*, 316 Ill. App. 3d 817 (2000). The benchmark for

"measuring a parent's 'progress toward the return of the child' under section 1(D)(m) of the Adoption Act encompasses the parent's compliance with the service plans and the court's directives, in light of the condition which gave rise to the removal of the child, and in light of other conditions which later become known and which would prevent the court from returning custody *** to the parent." *In re*

C.N., 196 Ill. 2d 181, 216-17 (2001).

When called upon to review a trial court's unfitness determination, a reviewing court will apply the manifest weight of the evidence standard. *In re Adoption of Syck*, 138 Ill. 2d 255 (1990). A trial court's decision is contrary to the manifest weight of the evidence where the opposite conclusion is clearly evident or the determination is unreasonable, arbitrary, or not based upon the evidence presented. *In re D.F.*, 201 Ill. 2d 476 (2002).

In analyzing a termination finding, we give great deference to the trial court's determination because it was in the best position to evaluate the credibility of the witnesses. *Syck*, 138 Ill. 2d 255. Therefore, we must not substitute our judgment for that of the trial court on issues of "the credibility of witnesses, the weight to be given to the evidence, or the inferences to be drawn." *D.F.*, 201 Ill. 2d at 499.

The respondent argues that she is fit to parent her minor children. The respondent asserts that she participated in some services before and during the period of May 11, 2009, through February 11, 2010. She further contends that the appointments and drug drops she missed were excusable because she was recovering from a physical attack during the nine-month period and her participation was limited by her high-risk pregnancy. Consequently, the respondent contends that she was in substantial

compliance with her services and had, to the extent possible, corrected the condition that gave rise to the wardship.

Although the respondent has completed some of her services and has made some progress, the majority of this progress falls outside of the relevant nine-month period. Additionally, the respondent's argument overlooks the negative incidents that occurred between May 11, 2009, and February 11, 2010. In particular, the respondent was the victim of two physical attacks. Following these incidents she chose to continue to associate with her attackers. The respondent also maintained a relationship with an individual who was the focus of two domestic violence police reports within one year. The children's caseworker also reported that the respondent struggled to fully cooperate with her services, missed drug drops and appointments, was having difficulty with her individual counselor, and was dropped from two domestic violence classes.

At the start of the nine-month period, the respondent had not resolved the issues of domestic violence, which also prompted the wardship. Her limited progress during the nine-month period is outweighed by her repeated poor decisions and lack of stability. Therefore, the trial court's decision was not against the manifest weight of the evidence.

The respondent next argues that the best interest of B.B. and A.T. were not furthered by terminating her parental rights.

At the termination of parental rights stage, we focus our analysis on the approach that best provides for the children's well-being. At this stage, the focus shifts from scrutinizing the actions of the parent to determining the best interest of the child. See *In re D.T.*, 212 Ill. 2d 347 (2004). 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.*

To terminate a parent's rights, the trial court must consider 10 statutory factors and find that termination is in the best interest of the child. 705 ILCS 405/1--3(4.05) (West 2008). The statutory factors to be considered by the trial court include: (1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's familial, cultural and religious background; (4) the child's sense of attachment, including love, security, familiarity, and continuity of relationships with parent figures; (5) the child's wishes and goals; (6) the child's community ties; (7) the child's need for permanence; (8) the uniqueness of every family and every child; (9) the risks related to substitute care; and (10) the preferences of the person available to care for the child. 705 ILCS 405/1--3(4.05) (West 2008).

When called to review a trial court's determination that a child's best interest favors termination of a parents rights, we

apply a manifest weight of the evidence standard. *In re R.L.*, 352 Ill. App. 3d 985 (2004).

The respondent argues that the termination of her parental rights was not in the best interest of B.B. and A.T. In making this argument, the respondent contends that the trial court ignored her substantial progress in turning her life around, did not consider efforts of the foster parents and the State in purportedly creating a false bond between her children and the foster parents, and relied on a flawed second bonding assessment. As a result of the tainted history of this case, the respondent contends, the true best interests of B.B. and A.T. were not ascertainable.

We first note that the respondent's argument is focused solely on the trial court's best interest determination for two of her three children. Thus, we limit our analysis to the trial court's determinations that affected B.B. and A.T.

The respondent's argument is flawed by her failure to specifically address the 10 factors considered by the trial court in making its best interest findings. See 705 ILCS 405/1--3(4.05) (West 2008). Although the respondent's argument raises several points that might implicate one of the statutory factors, she does not argue that the trial court failed to consider the relevant factor. Rather, the record indicates that the trial court considered each of the 10 best interest factors in making

its decision. Unlike the previous termination, the trial court specifically determined that 9 of the 10 factors indicated that termination was in the best interest of the children. The only factor that did not favor termination was "the children's expressed desire on long-term goals[.]" The trial judge noted that this factor may have favored termination as well if he had received "any credible evidence from any party on that particular issue."

The trial court's best interest findings were not unreasonable and were based on the evidence presented. Therefore, we hold that they were not against the manifest weight of the evidence.

CONCLUSION

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

Affirmed.