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2011 IL App (3d) 110324-U

Order filed August 15, 2011

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2011

<i>In re</i> D.F.,)	Appeal from the Circuit Court
)	of the 10th Judicial Circuit,
a Minor)	Peoria County, Illinois,
)	
(The People of the State of Illinois,)	
)	
Petitioner-Appellee,)	Appeal No. 3-11-0324
)	Circuit No. 07-JA-216
v.)	
)	
D.D.,)	Honorable
)	Chris L. Fredericksen,
Respondent-Appellant).)	Judge, Presiding.

PRESIDING JUSTICE CARTER delivered the judgment of the court.
Justices O'Brien and Schmidt concurred in the judgment.

ORDER

- ¶ 1 *Held:* The trial court's order finding that it was in the minor's best interest to terminate the respondent's parental rights was not against the manifest weight of the evidence where the minor was bonded to the foster family, the foster parent was willing and able to adopt the minor, and the respondent was unable to provide a safe and secure environment for the minor.
- ¶ 2 The trial court entered orders finding the respondent, D.D., to be an unfit parent and

terminating the respondent's parental rights to the minor, D.F. On appeal, the respondent argues that the trial court erred when it found that it was in the minor's best interest to terminate the respondent's parental rights. We affirm.

¶ 3

FACTS

¶ 4 On August 22, 2007, the State filed a juvenile petition alleging that the minor was neglected. The petition alleged, in part, that the respondent: (1) was 18 years old and a ward of the court; (2) tested positive for marijuana; (3) had not been cooperative with parenting classes; (4) had not cooperated with counseling; and (5) had a domestically violent relationship with D.F.'s father. At the subsequent dispositional hearing, the trial court found the respondent to be unfit and made D.F. a ward of the court.

¶ 5 The State filed a petition for termination of parental rights on September 1, 2010. The petition alleged that the respondent was unfit in that she had failed to make reasonable progress toward the return of the minor within the initial nine-month period following the adjudication of neglect. 750 ILCS 50/1(D)(m)(ii) (West 2008).

¶ 6 The fitness hearing took place on March 16, 2011, which the respondent did not attend. At that hearing, the State presented evidence that the respondent's second child had been born with marijuana in his meconium, that the respondent had recently been the victim of domestic violence but refused to give a written statement against the alleged perpetrator, and that she had recently served three months' imprisonment for mob action (720 ILCS 5/25-1(a)(1) (West 2010)). The State also produced documentation showing that the respondent had missed a number of her counseling sessions. The trial court ultimately found by clear and convincing evidence that the respondent failed to make reasonable progress toward D.F.'s return home.

¶ 7 The matter proceeded to a best interest hearing on April 20, 2011. In preparation for the hearing, Lutheran Social Services (LSS) filed a best interest report. The report stated that the minor had been in traditional foster care since she was two years old and had remained in her current placement for approximately 2½ years. The report indicated that the foster mother "adored" D.F., and that she was "thrilled" to have D.F. in the home. There were many observations of D.F. and the foster mother hugging, smiling, laughing, and snuggling. In addition, the foster parent was able and willing to adopt D.F.

¶ 8 The report further demonstrated that when the minor was asked to list members of her family, she would give the names of her foster family and not mention the respondent. The minor attended Webster Head Start and Myah's just for Kids Learning Center in downtown Peoria. She had developed friendships at the day care and at school.

¶ 9 The report indicated that the minor called her foster mother "mom" and the respondent "mommy." At times, the respondent would tell D.F. that the foster parent was not her mother, but D.F. "would ignore this information and would not seem affected." However, the report also acknowledged that the minor had a relationship with the respondent.

¶ 10 At the best interest hearing, the respondent appeared and testified that she had obtained an apartment, and that she had regular weekly visits with D.F. since the beginning of 2011. She stated that during these visits they would play, count to 100, read, color, and sing songs. She further testified that she offered to buy anything that her daughter needed, and that she had asked the foster parent to keep her apprised of doctor's appointments, but that she was never told of any appointments until after they occurred. She also stated that she had received permission from LSS to have family portraits taken of her, D.F., and her other son, and that those portraits had

been done.

¶ 11 The trial court found that it was in D.F.'s best interest to terminate the respondent's parental rights. While acknowledging that the respondent loved her daughter and that a relationship existed between her and D.F., the court stated that the only permanency the minor had experienced was while she was in foster care. The court also expressed concerns that D.F. would not be in a safe and secure environment if she was returned to the respondent due to the respondent's recent criminal activity. The respondent appealed.

¶ 12 ANALYSIS

¶ 13 The respondent argues on appeal that the trial court erred in holding that it was in D.F.'s best interest to terminate her parental rights. On review, we will not disturb the trial court's best interest ruling unless it is contrary to the manifest weight of the evidence. *In re Austin W.*, 214 Ill. 2d 31 (2005).

¶ 14 At the best interest hearing, all considerations must yield to the best interest of the minor. *In re G.L.*, 329 Ill. App. 3d 18 (2002). It is the State's burden to prove by a preponderance of the evidence that terminating parental rights is in the minor's best interest. *In re D.T.*, 212 Ill. 2d 347 (2004). The trial court must consider several statutory factors including: (1) the minor's physical safety and welfare; (2) the development of the minor's identity; (3) the minor's familial, cultural, and religious background and ties; (4) the minor's sense of attachment and continuity of relationships with parental figures; (5) the minor's wishes; (6) the minor's community ties; (7) the minor's need for permanence; and (8) the preferences of persons available to care for the minors. 705 ILCS 405/1-3(4.05) (West 2008).

¶ 15 In this case, it is clear that the minor still has a relationship with the respondent; however,

the existence of a bond "does not automatically insure that the parent will be fit or that the child's best interests will be served by that parent." *In re J.B.*, 198 Ill. App. 3d 495, 499 (1990). The evidence in this case shows that nearly all the other statutory factors favor terminating the respondent's parental rights. The foster parent and D.F. openly express mutual love and affection for one another. The foster parent has given D.F. stability over the past 2½ years, and she has also expressed a desire to adopt the minor. Moreover, D.F. views the foster family as her actual family, as evidenced by the fact that she lists the people in her foster placement when asked to describe her family. She has also developed community ties to the area through her current school and day care.

¶ 16 The record also supports the trial court's finding that D.F. would potentially be exposed to an unsafe and insecure environment if she was returned to the respondent. The respondent has a history of becoming involved with abusive men, and she also recently spent three months in jail for instigating a fight. Consequently, when considering the minor's physical safety and welfare, this best interest factor also favors terminating the respondent's parental rights.

¶ 17 The respondent speculates that terminating her parental rights will ultimately harm D.F. because D.F.'s brother, whom D.F. lives with, will still have visitation with the respondent. However, nothing in the record supports such an assertion, and instead all the other evidence demonstrates that D.F. is bonded to her foster family and considers her foster placement her actual family. Accordingly, the trial court's determination that terminating the respondent's parental rights was in the minor's best interest was not against the manifest weight of the evidence.

¶ 18

CONCLUSION

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

¶ 20 Affirmed.