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No. 3--10--0798

Order filed February 9, 2011

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2011

*In re* J.D., ) Appeal from the Circuit Court  
a Minor ) of the 14th Judicial Circuit,  
) Rock Island County, Illinois,  
)  
(The People of the State of )  
Illinois, )  
)  
Petitioner-Appellee, ) No. 04--JA--84  
)  
v. )  
)  
Pamela D., ) Honorable  
) John R. McClean,  
Respondent-Appellant). ) Judge, Presiding.

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JUSTICE O'BRIEN delivered the judgment of the court.  
Presiding Justice Carter and Justice Holdridge concurred in  
the judgment.

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**ORDER**

*Held:* The trial court did not err when it determined that the respondent was an unfit parent for failing to make reasonable progress toward the return home of her minor son from the time period of July 23, 2007, to April 23, 2008, because she failed to acknowledge or address her mental health issues, she physically assaulted the caseworker, and, generally, she was no closer to the minor's return home than when the State

opened the juvenile case against her. Likewise, as the minor was stable, well cared for, and comfortable in his foster home, the court did not err when it determined that it was in the minor's best interest to terminate the respondent's parental rights.

The court adjudicated Pamela D., the respondent, an unfit parent for failing to make reasonable progress toward the return home of J.D., her minor son, during four separate nine-month periods. 750 ILCS 50/1(D)(m)(iii) (West 2008). The court also found that it was in J.D.'s best interest to terminate the respondent's parental rights. We affirm.

#### FACTS

The record shows that the respondent gave birth to J.D. on June 2, 2004. On July 23, 2004, the Department of Children and Family Services (DCFS) filed a juvenile petition alleging that J.D. was a neglected minor due to an injurious environment. DCFS specifically alleged, *inter alia*, that: (1) the respondent struck J.D.'s teenaged sister in the face and gave her a black eye; (2) the respondent and J.D.'s father, Eric D., had a history of "domestic disputes"; and (3) Eric had been indicated by DCFS for sexual molestation and risk of sexual injury. On that day, the court granted DCFS' petition for temporary custody of J.D., and DCFS placed him in the home of his aunt.

At a hearing on August 20, 2004, the court adjudicated J.D. a neglected minor based on the respondent's stipulation to the allegations in the juvenile petition. The court then conducted a dispositional hearing and found that the respondent was a

dispositionally unfit parent, named J.D. a ward of the court, and appointed DCFS as his guardian. The court ordered the respondent to: (1) complete parenting and domestic violence classes; (2) obtain a substance abuse evaluation and follow any recommended treatment; (3) participate in mental health treatment and complete the recommended treatment, including taking any prescribed medication; (4) maintain stable housing and employment; and (5) visit J.D.

A permanency review report filed by Lutheran Social Services (LSS) caseworker Randall Manuel on March 3, 2005, indicated that the respondent had stable housing and employment, completed a substance abuse evaluation with no further recommended treatment, completed domestic violence classes that focused on anger management, was participating individual counseling, and was consistently visiting J.D. However, Manuel reported that the respondent became romantically involved with another man who was a sex offender. Manuel believed that the respondent showed "poor processing," in that she displayed an inability to process information and make decisions, which in turn affected her ability to parent J.D.

An addendum to Manuel's report revealed that the respondent completed a psychological evaluation with Dr. Robert Lawton on March 2, 2005. Dr. Lawton diagnosed the respondent with major depressive disorder, and disclosed that the respondent did not

want to take psychotropic medication to help her cope with this disorder. The report indicated that the respondent's mental health was a "major barrier" to the return home of J.D., and noted that the respondent routinely exhibited "erratic behavior, random out burst[s] [sic] of anger and lack of successful progress [in] therapy over the [p]ast year."

The record shows that as of September 2005, the respondent had progressed on her tasks such that DCFS returned J.D. to her care. However, on December 23, 2005, DCFS removed J.D. from the respondent's custody because she became romantically involved with a third man who was a sex offender, and subsequently married him. At that time, DCFS placed J.D. in nonrelative foster care. The record further reveals that the respondent subsequently lost her housing and employment, both of which had remained stable for over a decade.

The State filed a supplemental petition to terminate the respondent's parental rights on March 24, 2010. In it, the State specifically alleged that the respondent was an unfit parent for failing to make reasonable progress toward the return home of J.D. during the following nine-month periods after the initial nine-month period following the adjudication of neglect: (1) January 23 to October 23, 2006; (2) October 23, 2006, to July 23, 2007; (3) July 23, 2007, to April 23, 2008; and (4) June 23, 2009, to March 23, 2010. 750 ILCS 50/1(D)(m)(iii) (West 2008).

The court conducted a hearing on the State's petition on August 30, 2010. At the start of that hearing, the court took judicial notice of the orders it had previously entered in the case.

Jaylee Jeffery Martin testified that she was the respondent's caseworker from October 2006 through March 2008. Martin testified that she evaluated the respondent's progress on her court-ordered tasks during this time period, including for client service plans filed in November 2007 and June 2008. Martin's testimony and the November 2007 service plan indicated that the respondent earned satisfactory ratings on the tasks of obtaining appropriate housing and refraining from substance abuse. However, the respondent received a rating of unsatisfactory for the tasks of parenting, domestic violence, mental health, individual counseling and employment.

Martin rated the respondent's parenting skills as unsatisfactory because she failed to apply the skills she learned in parenting class and she brought her new boyfriend, Ron B., to her visits with J.D., although DCFS did not first approve it. Martin also reported that the respondent engaged in physical altercations with Ron on October 14 and 21, 2007, and the police became involved in both incidents.

Martin further reported that the respondent was attending individual counseling sessions, but that she was not making

progress because she consistently failed to apply the skills she learned. Martin disclosed that the respondent's counselor planned to discharge the respondent because the counselor felt that she had provided the respondent with all of the help she could, but Martin requested that the counselor work with the respondent on how to appropriately respond to stress and how to use coping skills to make appropriate decisions.

Regarding the respondent's mental health, Martin stated that the respondent underwent a second mental health evaluation. Dr. Harpering, the psychiatrist who performed the evaluation, diagnosed the respondent with a personality disorder, and opined that this disorder was treated through self-awareness. However, Martin disclosed that the respondent "continue[d] to blame others for the issues in her life, rather than accept[] responsibility and work[] on [them]." Martin also reported that the respondent "continue[d] to make poor decisions and blame others for them." Martin further stated that the respondent had lost two different jobs during the previous six months. Overall, Martin rated the respondent's progress as unsatisfactory.

Martin also provided information to another caseworker in order to evaluate the respondent's progress on her tasks for the service plan filed in June 2008. The June 2008 client service plan indicated that the respondent received unsatisfactory ratings for the tasks of parenting, domestic violence, mental

health, individual counseling and employment.

Regarding the respondent's progress on her domestic violence and anger management issues, Martin testified that she stopped working as the respondent's caseworker in March 2008 because the respondent physically assaulted her.

Regarding the assault incident, Martin explained that she was transporting J.D. to the respondent's residence for a visit. Once she arrived at the respondent's residence, Martin went inside to drop off J.D. Martin and the respondent conversed, and at some point the respondent became upset, grabbed Martin by her arm, and shoved her out of the residence. Since J.D. was present during the altercation, Martin called the police to check on J.D.'s welfare. The record indicated that the respondent subsequently pled guilty to an assault charge stemming from this incident. Overall, Martin believed that the respondent's progress through March 2008 was unsatisfactory, and that she was no closer to J.D.'s return home than when the State first opened the instant juvenile case.

The respondent testified. According to her, she voluntarily and temporarily relinquished care of J.D. to her sister in July 2004 because she had medical and personal issues. The respondent believed that DCFS became involved with J.D. because they were already investigating her family at that time. The respondent testified that DCFS informed her that J.D. would return to her

care that September.

The respondent acknowledged that she had married two men who were sex offenders, and that she dated another man who was a sex offender. The respondent also acknowledged that she sought five orders of protection against Eric, one against Ron, and another against a different boyfriend.

The respondent further testified that she pled guilty to assaulting Martin because her attorney advised her to do so, but the respondent denied assaulting Martin. The respondent also expressed doubt that she had mental health issues or a personality disorder, and stated that her only mental health problem was "coping with people who ha[d] problems with [her]." The respondent further stated that Dr. Harpering, the psychiatrist with whom she had participated in counseling over the course of the six years, did not know her well enough to diagnose her with a personality disorder.

Two friends of the respondent testified that the respondent was capable of caring for J.D. and that it was in J.D.'s best interest to be returned to the respondent's care. Both witnesses acknowledged that they had not seen J.D. in the respondent's care since he was an infant. The respondent's mother also testified, and opined that the respondent was a good mother.

The respondent's landlord testified that the respondent's current residence was suitable for a child. He also stated that

he saw the respondent and J.D. together "a couple [of] times [per] year," and that he believed it was in J.D.'s best interest to reside with the respondent.

The court found that the State had proven by clear and convincing evidence that the respondent was an unfit parent for failing to make reasonable progress toward J.D.'s return home during each of the time periods alleged in the termination petition. The court acknowledged that the respondent made efforts toward J.D.'s return home, but believed that she had not made reasonable progress toward J.D.'s return home during any of the specified time periods.

The court conducted a best interest hearing on September 27, 2010. Collette Terrell, who was the respondent's caseworker from February to March 2009, and from November 2009 to the time of the best interest hearing, filed a best interest report and testified at the hearing. Overall, Terrell opined that it was in J.D.'s best interest to terminate the respondent's parental rights.

According to Terrell, J.D., who was six years old at the time of the best interest hearing, had lived with his foster mother, Mildred B., for the majority of his life. Terrell opined that J.D. was stable, comfortable, secure, and well cared for in Mildred's home. Terrell also reported that J.D. was performing well in school and that he enjoyed being at the same school as his foster brother, whom J.D. referred to as his "brother."

Additionally, Mildred's extended family knew J.D. and accepted him as one of their own.

Terrell acknowledged that J.D. called the respondent "mom" and had built a relationship with her because she consistently visited him. However, Terrell further stated that J.D. also thought of Mildred as his mother, that he was excited to see Mildred once his visits with the respondent were over, and he would spontaneously tell Mildred that he loved her.

Mildred testified that she had been J.D.'s foster mother for the past 4½ years. According to her, J.D. admired his oldest foster brother and exhibited a great deal of affection towards Mildred. Mildred took J.D. and his two foster brothers to church, and the church community accepted and supported J.D. Mildred was willing to adopt J.D. were he made available for adoption. Mildred acknowledged that J.D. would be upset were he not able to see the respondent, but believed he would be more upset if he had to leave her home.

The court found that it was in J.D.'s best interest to terminate the respondent's parental rights. The court noted that it had considered the testimony of the witnesses at the fitness hearing who opined that it was in J.D.'s best interest to return to the respondent's care. However, the court noted that none of the respondent's witnesses testified about the respondent's current relationship with J.D. The court also expressed concern

about J.D.'s safety were it to return him to the respondent's care, and also noted that the respondent denied the existence of any mental health issues.

Regarding the statutory best interest factors in section 1--3(4.05) of the Juvenile Court Act of 1987 (705 ILCS 405/1--3(4.05) (West 2008)), the court stated that J.D. had bonded with Mildred and his foster brothers, and he was accepted by Mildred's extended family and the church community. The court believed that J.D.'s sense of familiarity and security were with Mildred, and that Mildred was his least disruptive placement alternative. The court also found that J.D.'s need for permanence favored Mildred, given the respondent's history of mental health issues and her refusal or inability to correct the conditions that led to J.D.'s removal. The court noted that it could not determine whether the respondent was able to provide long-term care to J.D. The court concluded that J.D. was "better off in the home of the foster mother than the home of the [respondent]."

The respondent appealed.

#### ANALYSIS

The respondent first contends that the court's determination that the State had proven that she was an unfit parent for failing to make reasonable progress toward the return home of J.D. during each of the four periods alleged in the termination petition was against the manifest weight of the evidence. In

making her argument, the respondent sometimes refers to a "reasonable efforts" standard.

Section 1(D)(m)(iii) of the Adoption Act (750 ILCS 50/1(D)(m)(iii) (West 2008)) states that a parent may be declared unfit if she fails to make reasonable progress toward the return of the minor within any nine-month period after the end of the initial nine-month period following the court's adjudication order. Whether a parent makes reasonable progress on the goal of reunification is a separate and distinct inquiry as to whether the parent has exhibited reasonable efforts towards reunification, as reasonable efforts encompass a subjective determination of that particular parent's efforts. *In re Daphnie E.*, 368 Ill. App. 3d 1052 (2006). In contrast, the question of reasonable progress is an objective judgment, and at a minimum, requires a measurable or demonstrable movement towards reunification. *In re Janine M.A.*, 342 Ill. App. 3d 1041 (2003). A parent makes reasonable progress when her actions are of such quality that the minor can be returned to the parent in the near future. *In re A.P.*, 277 Ill. App. 3d 592 (1996).

When multiple grounds of unfitness are alleged, a finding that any one ground has been proven is sufficient to declare the respondent unfit. *In re J.P.*, 261 Ill. App. 3d 165 (1994). On review, a trial court's finding of parental unfitness will not be reversed unless the finding is contrary to the manifest weight of

the evidence. *In re D.F.*, 201 Ill. 2d 476 (2002). A determination is against the manifest weight of the evidence if the opposite conclusion is clearly evident or the determination is unreasonable, arbitrary or not based on the evidence presented. *D.F.*, 201 Ill. 2d 476.

In the instant case, the State has not alleged that the respondent failed to exhibit reasonable efforts toward reunification with J.D. Rather, the State has alleged, *inter alia*, that the respondent failed to make reasonable progress toward the return home of J.D. from July 23, 2007, to April 23, 2008.

The record shows that concerning this time period, the respondent received an overall unsatisfactory rating on her service plan tasks. Specifically, the respondent engaged in two instances of domestic violence with Ron. She also grabbed Martin and shoved Martin out of her house, resulting in a conviction for assault. Thus, although the respondent had previously participated in domestic violence and anger management classes, her subsequent behavior indicated that she failed to apply the skills that she learned.

Furthermore, the record shows that the respondent had suffered from mental health issues since the inception of the instant juvenile case, and that during the relevant time period Dr. Harpering diagnosed her with a personality disorder. We do

not believe that a parent is necessarily unfit because the parent suffers from a mental health issue. However, when a parent fails to acknowledge the diagnosis or accept responsibility for the conditions that led to her child's removal, and she does not work on her mental health issues so that she may understand how her choices affect her child, a finding of parental unfitness is justified. Such was the case with the respondent.

Overall, we believe that the respondent has not displayed progress or behavior such that J.D. could be returned to her care. Specifically, the respondent continues to become involved with inappropriate paramours seemingly following the same pattern of dating known sex offenders on three occasions. In addition the respondent has been involved in numerous domestic violence situations with these men. Therefore, we conclude that the court did not err when it adjudicated the respondent an unfit parent for failing to make reasonable progress during the time period from July 23, 2007, to April 23, 2008. Since we have affirmed the court's determination regarding this allegation of unfitness, we need not comment on the remaining allegations in the petition. See *J.P.*, 261 Ill. App. 3d 165.

The respondent next contends that the trial court's termination her parental rights was against the manifest weight of the evidence.

Once the trial court has found the parent to be unfit, all

considerations must yield to the best interest of the child. *In re D.T.*, 212 Ill. 2d 347 (2004). Accordingly, at the best interest hearing, the parent's interest in maintaining a parent-child relationship yields to the child's interest in a stable, loving home life. *D.T.*, 212 Ill. 2d 347. The State must prove by a preponderance of the evidence that termination is in the child's best interest. *D.T.*, 212 Ill. 2d 347. The court's decision requires consideration of statutory factors, including: (1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's family, cultural, and religious background and ties; (4) the child's sense of attachments, including love, attachment, and security; (5) the child's wishes; (6) the child's need for permanence; (7) the risks related to substitute care; and (8) the preferences of persons available to care for the child. 705 ILCS 405/1--3(4.05) (West 2008). Additionally, a court may consider the nature and length of a minor's relationship with his present caretaker, as well as the effect that a change in placement would have on the minor's emotional and physical well-being. *In re Jaron Z.*, 348 Ill. App. 3d 239 (2004).

On review, the trial court's determination will not be disturbed unless it is contrary to the manifest weight of the evidence. *In re Austin W.*, 214 Ill. 2d 31 (2005). In this case, the trial court's determination to terminate the respondent's

parental rights to J.D. was not against the manifest weight of the evidence. Although the trial court was not required to do so, it explicitly commented on a number the statutory best interest factors (*Jaron Z.*, 348 Ill. App. 3d 239) and found that they favored keeping J.D. in Mildred's care. The record supports these findings.

Specifically, the record shows that J.D. lived with Mildred for most of his life, and he felt comfortable and secure in Mildred's home. Furthermore, J.D.'s foster brothers, Mildred's extended family, and the church community accepted J.D. as one of their own. J.D. expressed love for Mildred and was affectionate towards her. J.D. had also performed well in school, enjoyed attending the same school as one of his "brother[s,]" and considered his oldest foster brother a role model.

Additionally, J.D. was well cared for by Mildred, and Mildred was willing to provide J.D. with permanency by adopting him. We acknowledge that J.D. had bonded with the respondent, and that Mildred believed that he would be upset if he could no longer see her. Nonetheless, we agree with the trial court's determination that it would be harder on J.D. to remove him from Mildred's home. Thus, we conclude that the trial court's termination of the respondent's parental rights to J.D. was not against the manifest weight of the evidence.

#### CONCLUSION

For the foregoing reasons, the order of the trial court of  
Rock Island County is affirmed.

Affirmed.