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2011 IL App (3d) 110393-U

Order filed October 5, 2011

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2011

| | | |
|---------------------------------------|---|-------------------------------|
| <i>In re</i> T.W., Jr., |) | 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. 3-11-0393 |
| |) | Circuit No. 08-JA-88 |
| v. |) | |
| |) | |
| T.W., Sr., |) | Honorable |
| |) | Chris L. Fredericksen, |
| Respondent-Appellant). |) | Judge, Presiding. |

JUSTICE SCHMIDT delivered the judgment of the court.
Presiding Justice Carter and Justice Wright concurred in the judgment.

ORDER

- ¶ 1 *Held:* The trial court's termination of respondent's parental rights was not against the manifest weight of the evidence.
- ¶ 2 The circuit court of Peoria County found that respondent, T.W., Sr., (hereinafter respondent) was an unfit parent to his son, T.W., Jr. (hereinafter T.W.). Following that determination, the court conducted a best interest hearing, and terminated respondent's parental

rights. Respondent appeals the trial court's termination of his parental rights, arguing that the court erred in its finding and that it would be in the best interest of T.W. to reunite with his father. We affirm.

¶ 3

FACTS

¶ 4 On March 25, 2009, the State filed a juvenile petition alleging that T.W. was neglected due to an injurious environment. The trial court entered an adjudication order on July 15, 2009, that found T.W. had been neglected. The neglect finding was based in part on respondent's stipulations to allegations that he had committed a sexual offense against T.W.'s sibling, and that he had prior convictions for gambling, escape, aggravated unlawful use of weapons, and two counts of resisting police. On August 19, 2009, the trial court found respondent to be dispositionally unfit. Thereafter, the State filed a petition for termination of respondent's parental rights. The trial court found that respondent was unfit by clear and convincing evidence and scheduled a best interest hearing for May 25, 2011.

¶ 5 At the best interest hearing, the trial court considered a written report prepared by Lutheran Social Services of Illinois. The report recommended that respondent's parental rights be terminated. It stated that T.W. was two years old and that he had resided at the same foster home since he was one. T.W.'s foster mother was willing and able to adopt him. While with his foster family, T.W.'s basic needs, as well as his medical needs, were taken care of by his foster mother. He was progressing through developmental milestones as expected and was playful and outgoing. T.W. had established a strong relationship with his foster mother; he was affectionate towards her and called her "mom." While with his foster family, T.W. was able to interact with his biological siblings during visits with them. T.W.'s relationship with respondent, however,

was minimal at best.

¶ 6 Respondent also testified at the best interest hearing. He stated that it was accurate that T.W. would not really know who he was, mainly because he had been incarcerated for some time. Despite being incarcerated, respondent had written many letters to caseworkers in an effort to contact T.W. and find out how he was doing. Respondent stated that he would be incarcerated for another 10 or 11 months; however, he would be able to provide for T.W. once he was released. Respondent testified that he loved T.W. and that he thought it was in his son's best interest that he be given another opportunity to parent him.

¶ 7 At the conclusion of the hearing, the trial court ruled that it was in the best interest of T.W. that respondent's parental rights be terminated. Respondent appeals.

¶ 8 ANALYSIS

¶ 9 Respondent argues that the trial court erred when it terminated his parental rights. Following a finding of parental unfitness, the trial court must determine whether it is in the minor's best interest to terminate the parental rights of the unfit parent. *In re D.T.*, 212 Ill. 2d 347 (2004). Accordingly, at a best interest hearing, the parent's interest in maintaining the parent-child relationship must yield to the minor's interest in a stable, loving home life. *Id.* In that vein, the trial court must consider several factors: (1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's background and ties, including familial, cultural, and religious; (4) the child's sense of attachments; (5) the child's wishes and long-term goals; (6) the child's community ties; (7) the child's need for permanence; (8) the uniqueness of every family and child; (9) the risks attendant to entering and being in substitute care; and (10) the preferences of the persons available to care for the child. 705 ILCS 405/1-3(4.05) (West

2010). The trial court's decision to terminate parental rights will not be disturbed unless that determination is against the manifest weight of the evidence. *In re Tiffany M.*, 353 Ill. App. 3d 883 (2004).

¶ 10 Here, evidence presented to the trial court established that T.W.: (1) had resided at the same foster home since he was one year old; (2) was receiving all of his basic needs and medical attention; (3) was progressing through developmental milestones as expected; (4) was playful and outgoing; (5) had established a strong relationship with his foster mother; (6) called his foster mother "mom" and was affectionate with her; (7) was able to interact with his siblings while at the foster home; and (8) had a minimal at best relationship with respondent. Further, the trial court heard evidence that T.W.'s foster mother was willing and able to adopt him.

¶ 11 Respondent contends that the trial court abused its discretion because it should have given the minor child an opportunity to reunite with him in order to strengthen their family ties. Respondent is correct in stating that a primary goal of the Juvenile Court Act of 1987 (Act) is to preserve and strengthen the minor's family ties. See 705 ILCS 405/1-2 (West 2010). However, in a best interest hearing, the child's familial ties represent only 1 factor among 10 enumerated factors that the court must consider. 705 ILCS 405/1-3(4.05) (West 2010). Even if we were to assume that all of respondent's contentions regarding his devotion to T.W. are accurate—an assumption that is questionable, given respondent's parenting history—that one factor would not be sufficient to reverse the trial court's determination, in light of all the other factors listed under section 1-3(4.05) of the Act. Therefore, after a review of all of the evidence presented, we cannot say that the trial court's termination of respondent's parental rights was against the manifest weight of the evidence.

¶ 12

CONCLUSION

¶ 13 The judgment of the circuit court of Peoria County is affirmed.

¶ 14 Affirmed.