

NOTICE
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NO. 4-10-0997

Order Filed 3/29/11

IN THE APPELLATE COURT
OF ILLINOIS

FOURTH DISTRICT

In re: J.B., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Champaign County
v.)	No. 10JA17
TYRAN BASCOMB,)	
Respondent-Appellant.)	Honorable
)	John R. Kennedy,
)	Judge Presiding.

JUSTICE TURNER delivered the judgment of the court.
Justices McCullough and Pope concurred in the judgment.

ORDER

Held: Where it was in the minor's best interest that respondent's parental rights be terminated, the trial court's decision on termination was not against the manifest weight of the evidence.

In March 2010, the State filed a petition for adjudication of neglect with respect to J.B., the minor child of respondent, Tyran Bascomb. In May 2010, the trial court adjudicated the minor a ward of the court and placed custody and guardianship with the Illinois Department of Children and Family Services (DCFS). In June 2010, the guardian *ad litem* filed a motion to terminate respondent's parental rights. In October 2010, respondent stipulated to two counts of unfitness. In December 2010, the trial court found it in the minor's best interest that respondent's parental rights be terminated.

On appeal, respondent argues the trial court erred in

terminating his parental rights. We affirm.

I. BACKGROUND

In March 2010, the State filed a petition for adjudication of neglect and shelter care on behalf of Jup.F., Juc.F., Jak.F., and J.B. As this appeal concerns J.B., of whom respondent was alleged to be the putative father, we will set forth the facts pertinent to his case. The petition alleged J.B., born in December 2008, was a neglected minor pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (705 ILCS 405/2-3(1)(b) (West Supp. 2009)) because his environment was injurious to his welfare when he resided with his mother based on the exposure to substance abuse, criminal activity, and inadequate supervision. The trial court entered a temporary custody order, finding probable cause to believe the minor was neglected and an immediate and urgent necessity existed to place the minor in shelter care.

In May 2010, the trial court found the minor neglected based on an injurious environment due to exposure to substance abuse, criminal activity, and inadequate supervision. In its June 2010 dispositional order, the court found it in the minor's best interest that he be made a ward of the court and placed custody and guardianship with DCFS.

In June 2010, the guardian *ad litem* filed a motion to terminate respondent's parental rights. The motion alleged

respondent was unfit because he (1) was depraved (750 ILCS 50/1(D)(i) (West 2008)); (2) failed to maintain a reasonable degree of interest, concern, or responsibility as to J.B.'s welfare (750 ILCS 50/1(D)(b) (West 2008)); (3) was incarcerated as a result of a criminal conviction and his repeated incarceration has prevented him from discharging his parental responsibilities (750 ILCS 50/1(D)(s) (West 2008)); and (4) was incarcerated and such incarceration will prevent him from discharging his parental responsibilities for a period in excess of two years after the filing of the termination motion (750 ILCS 50/1(D)(r) (West 2008)).

In October 2010, the trial court conducted a hearing on the motion to terminate parental rights. Respondent stipulated he was unfit based on depravity and his repeated incarcerations. The State agreed to withdraw the remaining two counts. The court entered an order finding respondent unfit.

In December 2010, the trial court conducted the best-interest hearing. The best-interest report indicated J.B. was placed in the home of his paternal aunt. The report stated he "eats very well and sleeps all night." He was described as "a happy toddler" and his behavior was age appropriate.

Renee Frazier, J.B.'s maternal grandmother, testified respondent lived with J.B. for about a year prior to his incarceration. She stated he "took full responsibilities" as to

caring for J.B. and Frazier's granddaughters. Frazier stated respondent bathed, dressed, and fed J.B. He also "did his hair" and took him to the park.

Blake Bernard, J.B.'s foster parent, testified she is respondent's sister. She stated respondent plays with J.B., reads to him, and was protective and nurturing. In the two letters she received from respondent, he asked about J.B.

Following closing arguments, the trial court found it in the minor's best interest that respondent's parental rights be terminated. This appeal followed.

II. ANALYSIS

Respondent argues the trial court erred in terminating his parental rights. We disagree.

Courts will not lightly terminate parental rights because of the fundamental importance inherent in those rights. *In re M.H.*, 196 Ill. 2d 356, 362-63, 751 N.E.2d 1134, 1140 (2001). Once the trial court finds the parent unfit, "[t]he parent's rights must yield to the best interest of the child." *In re Veronica J.*, 371 Ill. App. 3d 822, 831, 867 N.E.2d 1134, 1142 (2007). When considering whether termination of parental rights is in a child's best interest, the trial court must consider a number of factors within "the context of the child's age and developmental needs." 705 ILCS 405/1-3(4.05) (West Supp. 2009). These include the following:

"(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 and ties; (4) the
child's sense of attachments, including love,
security, familiarity, continuity of affec-
tion, and the least[-]disruptive placement
alternative; (5) the child's wishes and long-
term goals; (6) the child's community ties;
(7) the child's need for permanence, includ-
ing the need for stability and continuity of
relationships with parent figures and sib-
lings; (8) the uniqueness of every family and
child; (9) the risks related to substitute
care; and (10) the preferences of the person
available to care for the child." *In re*
Daphnie E., 368 Ill. App. 3d 1052, 1072, 859
N.E.2d 123, 141 (2006).

See also 705 ILCS 405/1-3(4.05)(a) through (4.05)(j) (West Supp.
2009).

The trial court's finding that termination of parental
rights is in a child's best interest will not be reversed on
appeal unless it is against the manifest weight of the evidence.
In re Anaya J.G., 403 Ill. App. 3d 875, 883, 932 N.E.2d 1192,

1199 (2010). A decision will be found to be against the manifest weight of the evidence "if the facts clearly demonstrate that the court should have reached the opposite conclusion." *Daphnie E.*, 368 Ill. App. 3d at 1072, 859 N.E.2d at 141.

The best-interest report indicated J.B. was doing well in the home of his paternal aunt. He is developmentally on target and current on all his immunizations. The report stated J.B. was happy, healthy, and thriving in his current placement.

In a request to admit facts, respondent admitted he was arrested in June 2009 and had remained in custody. His list of criminal convictions included possession with intent to deliver a controlled substance, manufacture or delivery of a controlled substance, two instances of obstructing justice, and theft. As of June 7, 2010, respondent had been sentenced to nine years in federal prison.

In the case *sub judice*, the evidence indicated respondent has been in custody for most of J.B.'s young life. Respondent has an extensive criminal history. A review of the website of the federal Bureau of Prisons indicates his actual or projected release date to be June 2017. See *People v. Mitchell*, 403 Ill. App. 3d 707, 709, 936 N.E.2d 659, 661 (2010) (noting an appellate court may take judicial notice of official prison records). J.B., on the other hand, is a young boy in need of stability in his life that his current placement has provided.

While it appears respondent cared for his son for the short period of time he was not in custody in this case, respondent's criminal history and lengthy prison sentence indicate he cannot provide the stability J.B. needs for the foreseeable future. Based on the evidence presented, we find the trial court's order terminating respondent's parental rights was not against the manifest weight of the evidence.

III. CONCLUSION

For the reasons stated, we affirm the trial court's judgment.

Affirmed.