

NOTICE
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2011 IL App (4th) 110307-U

Filed 9/2/11

NO. 4-11-0307

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

| | | |
|--------------------------------------|---|-------------------|
| In re: L.D., a Minor, |) | Appeal from |
| THE PEOPLE OF THE STATE OF ILLINOIS, |) | Circuit Court of |
| Petitioner-Appellee, |) | Champaign County |
| v. |) | No. 10JA70 |
| LORENZO DORRIS, |) | |
| Respondent-Appellant. |) | Honorable |
| |) | Richard P. Klaus, |
| |) | Judge Presiding. |

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

ORDER

¶ 1 *Held:* Where the evidence showed respondent was unfit and it was in the minor's best interest that respondent's parental rights be terminated, the trial court's unfitness finding and its ultimate decision on termination were not against the manifest weight of the evidence.

¶ 2 In November 2010, the State filed a petition for adjudication of wardship with respect to L.D., the minor child of respondent, Lorenzo Dorris. In December 2010, the State filed an amended expedited motion to terminate respondent's parental rights. In February 2011, the trial court found L.D. was a neglected minor and respondent was an unfit parent. In March 2011, the court made L.D. a ward of the court and terminated respondent's parental rights.

¶ 3 On appeal, respondent argues the trial court erred in terminating his parental rights. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In November 2010, the State filed a petition for adjudication of neglect and shelter care, alleging L.D., born in October 2010, was a neglected minor pursuant to section 2–3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2–3(1)(b) (West 2010)). The petition alleged L.D. was neglected because his environment was injurious to his welfare when he resided with his mother, Catina Riley-Moore, and/or respondent because of exposure to domestic violence and their failure to correct the conditions that resulted in a prior adjudication of parental unfitness in regard to L.D.'s sibling. The trial court found probable cause to believe L.D. was neglected and an immediate and urgent necessity existed to place him in shelter care.

¶ 6 In December 2010, the State filed an amended expedited motion to terminate respondent's parental rights as well as those of L.D.'s mother. The State realleged that L.D. was neglected based on an injurious environment. The petition noted the parental rights of respondent and Riley-Moore had been involuntarily terminated with respect to another child in 2005. The State alleged respondent was unfit because he was depraved in that he had been criminally convicted of at least three felonies under the law of Illinois and at least one of the convictions took place within five years of the filing of the motion to terminate parental rights. 750 ILCS 50/1(D)(i) (West 2010).

¶ 7 In February 2011, the trial court conducted the adjudicatory hearing. Respondent stipulated to the allegation of neglect pertaining to domestic violence and to the unfitness ground on depravity. The court took judicial notice of respondent's 10 prior felony convictions. The court found L.D. was neglected. The court also entered a finding of unfitness as to the termination of respondent's parental rights.

¶ 8 In March 2011, the trial court conducted the dispositional and best-interest

hearings. 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 the Department of Children and Family Services. The court also found respondent and Riley-Moore were unfit to act as custodial parents.

¶ 9 The trial court took judicial notice of this court's decision involving respondent and L.D.'s sibling. *In re K.D.*, No. 4-06-0304 (September 1, 2006) (unpublished order under Supreme Court Rule 23). Therein, this court noted respondent's convictions for arson, violation of an order of protection, residential burglary, and four theft offenses. The best-interest report indicated respondent had participated in 10 out of 15 visits. Respondent was referred to Prairie Center for a drug and alcohol assessment but had not made any contact. He also failed to make contact with Cognition Works to participate in domestic-violence classes.

¶ 10 The report indicated L.D. had been placed with his paternal grandmother and "interacts regularly with various family members." He was described as "a healthy, happy little baby boy" who was current on all of his immunizations. Although L.D.'s foster parent indicated an unwillingness to adopt him, her daughter, who resided in the same home, expressed a desire to adopt.

¶ 11 Pursuant to section 2-21(5) of the Juvenile Court Act (705 ILCS 405/2-21(5) (West 2010)), the trial court found it in L.D.'s best interest that respondent's parental rights be terminated. The court also terminated Riley-Moore's parental rights. This appeal followed.

¶ 12 II. ANALYSIS

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

¶ 14 Because termination of parental rights is a serious matter, the State must prove

unfitness by clear and convincing evidence. *In re M.H.*, 196 Ill. 2d 356, 365, 751 N.E.2d 1134, 1141 (2001). A reviewing court accords great deference to a trial court's finding of parental unfitness, and such a finding will not be disturbed on appeal unless it is against the manifest weight of the evidence. *In re Veronica J.*, 371 Ill. App. 3d 822, 828, 867 N.E.2d 1134, 1139 (2007).

¶ 15 Section 2–21(5) of the Juvenile Court Act (705 ILCS 405/2–21(5) (West 2010)) provides as follows:

"The court may terminate the parental rights of a parent at the initial dispositional hearing if all of the following conditions are met:

(i) the original or amended petition contains a request for termination of parental rights and appointment of a guardian with power to consent to adoption; and

(ii) the court has found by a preponderance of evidence, introduced or stipulated to at an adjudicatory hearing, that the child comes under the jurisdiction of the court as an abused, neglected, or dependent minor under Section 2–18; and

(iii) the court finds, on the basis of clear and convincing evidence admitted at the adjudicatory hearing that the parent is an unfit person under subdivision D of Section 1 of the Adoption Act; and

(iv) the court determines in accordance with the rules of

evidence for dispositional proceedings, that:

(A) it is in the best interest of the minor and public that the child be made a ward of the court;

(A-5) reasonable efforts under section (1-1) of Section 5 of the Children and Family Services Act are inappropriate or such efforts were made and were unsuccessful; and

(B) termination of parental rights and appointment of a guardian with power to consent to adoption is in the best interest of the child pursuant to Section 2-29."

¶ 16 Respondent does not challenge the trial court's finding of unfitness on appeal. Instead, he argued the trial court erred in its compliance with section 2-21(5)(iv)(A-5) and 2-21(5)(iv)(B). Respondent claims the court erred in finding reasonable efforts were inappropriate because programs were not tried with him.

¶ 17 In the case *sub judice*, the evidence indicated respondent had been uncooperative with services. He failed to address the issue of domestic violence, which continued the injurious environment that existed in the minor's home. Now on appeal, respondent cannot claim none of the programs were tried on him given the fact that he failed to avail himself of the services offered. Respondent also had a lengthy criminal history spanning over 20 years. The trial court found neither respondent nor Riley-Moore had learned anything as to their problems with domestic and family violence since their previous termination order in 2006. Given respondent's

criminal history and his unwillingness to partake in the services necessary to address the issues of domestic violence, the trial court's finding that reasonable efforts would be inappropriate was not against the manifest weight of the evidence.

¶ 18 Respondent also argues the trial court abused its discretion in terminating his parental rights because the State failed to establish a connection between his depraved conduct and the need to terminate. Courts will not lightly terminate parental rights because of the fundamental importance inherent in those rights. *M.H.*, 196 Ill. 2d at 362-63, 751 N.E.2d at 1140. Once the trial court finds the parent unfit, "all considerations must yield to the best interest of the child." *In re I.B.*, 397 Ill. App. 3d 335, 340, 921 N.E.2d 797, 801 (2009).

¶ 19 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 Gwynne P.*, 346 Ill. App. 3d 584, 599, 805 N.E.2d 329, 342 (2004). A decision will be found to be against the manifest weight of the evidence in cases "where the opposite conclusion is clearly evident or where the findings are unreasonable, arbitrary, and not based upon any of the evidence." *In re Tasha L.-I.*, 383 Ill. App. 3d 45, 52, 890 N.E.2d 573, 579 (2008).

¶ 20 Here, L.D. was doing well in his relative foster placement, and another relative indicated a desire to adopt him. The best-interest report indicated the home is "safe and stable" and he had adapted well. L.D. was described as active and pleasant and "eats and sleeps without any problems." Respondent's criminal history and his apparent unwillingness to engage in the necessary services indicate he could not provide L.D. with the care and permanency he needs as a growing boy. The trial court's finding that it was in L.D.'s best interest that respondent's parental rights be terminated was not against the manifest weight of the evidence.

III. CONCLUSION

¶ 21

¶ 22

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

¶ 23

Affirmed.