NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2012 IL App (3d) 110698-U

Order filed February 14, 2012

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2012

In re A.J. and C.S.,	)	Appeal from the Circuit Court
	)	of the 10th Judicial Circuit,
Minors	)	Peoria County, Illinois,
	)	
(The People of the State of Illinois,	)	
	)	
Petitioner-Appellee,	)	Appeal No. 3-11-0698
	)	Circuit No. 09-JA-249 and 09-JA-250
v.	)	
	)	
Kayla J.,	)	Honorable
	)	Chris L. Fredericksen,
Respondent-Appellant).	)	Judge, Presiding.
	)	

JUSTICE LYTTON delivered the judgment of the court.
Justices O'Brien and Wright concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court's finding that it was in the minors' best interest to terminate respondent's parental rights was not against the manifest weight of the evidence.

¶ 2 The trial court found respondent, Kayla J., to be an unfit parent. At the best interest hearing, the trial court determined that it was in the best interest of the minors, A.J. and C.S.,

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

¶ 3 FACTS

¶ 4 Respondent has two children, A.J. and C.S., who have two different biological fathers. A.J. was born on December 28, 2007, and C.S. was born on September 9, 2009.

¶ 5 On November 19, 2009, the trial court adjudicated A.J. and C.S. neglected minors based on an injurious environment, in part, due to the history of domestic violence between respondent and Lanny S., C.S.'s father. Following a dispositional hearing, respondent was found unfit, and A.J. and C.S. were made wards of the court.

¶ 6 Respondent was instructed to complete certain tasks to correct the conditions that lead to the removal of the minors. Among other things, respondent was ordered to (1) obtain drug and alcohol assessment and successfully complete any treatment recommended, (2) perform random drug drops twice a month or at any time that the caseworker deemed it necessary, (3) participate and successfully complete counseling for anger management and domestic violence, (4) participate and successfully complete a parenting course, (5) obtain stable housing, (6) visit with the children as scheduled, (7) meet with her psychiatrist, take prescribed medication and attend appointments, and (8) attend G.E.D. classes or obtain employment.

¶ 7 On January 7, 2011, the State filed a petition to terminate respondent's parental rights. The petition alleged that respondent was an unfit parent in that she failed to make

reasonable progress toward the return of A.J. and C.S. within the first nine months following adjudication from November 19, 2009 through August 19, 2010 (750 ILCS 50/1(D)(m)(ii) (West 2008)).

¶ 8 Respondent's fitness hearing was held on August 10, 2011. Brittany Bishop testified that she had been the caseworker for the family since January 2010. On February 19, 2010, Bishop met with the respondent to review the court ordered services with her. Bishop testified that respondent did not show progress toward completing any of the tasks from November 19, 2009 to August 19, 2010. Respondent did not visit A.J. or C.S. once between November 19, 2009 and January 11, 2010. After January 11, respondent's visitation with the children was sporadic. Respondent had 35 to 40 visits scheduled but only attended 14.

¶ 9 Bishop testified that respondent continued to live with Lanny S. during the entire nine-month period despite respondent being physically abused by him. Bishop stated that respondent failed to obtain suitable housing, failed to find employment during the progress period, and failed to see her psychiatrist or take her prescribed bi-polar medication.

¶ 10 Several certified records from service providers at the Human Service Center, Proctor First Care, and the Peoria Boys and Girls Club were admitted into evidence. Those records demonstrated that respondent had not appeared for any drug tests in the nine-month period. In addition, respondent failed to attended drug and alcohol abuse counseling and parenting classes and failed to regularly attend domestic violence counseling. Respondent had been discharged from several programs for nonattendance.

¶ 11 The certified records also showed that respondent was inconsistent in attending

individual counseling sessions. Respondent failed to show up for several counseling sessions. The therapist's notes illustrate respondent's lack of progress and indicate that the therapist believed respondent was unlikely to become a fit parent in the near future. The notes also stated that respondent told the therapist she was smoking marijuana daily.

¶ 12 At the conclusion of the hearing, the trial found by clear and convincing evidence that respondent did not make reasonable progress toward the return of A.J. and C.S. during the applicable nine-month period.

¶ 13 The best interest hearing was held on September 21, 2011. The best interest report prepared by the caseworker indicated that A.J. was approximately three years and nine months old and had been living with her biological father, Billy D, since April 23, 2010. A.J.'s father had been meeting all of her basic needs. The reported stated that A.J. was healthy and comfortable in her father's home and that she had a strong bond with her father. A.J.'s father lived with his girlfriend, and his girlfriend played a positive and active role in A.J.'s life. A.J. was doing well socially and had developed several friendships in her neighborhood. According to the report, A.J. had a limited relationship with respondent. During supervised visits, A.J. often did not recognize respondent as an authority figure. In the caseworker's opinion, it was in A.J.'s best interest to terminate respondent's parental rights.

¶ 14 The caseworker also reported that C.S. had been in the same foster home since 2009. C.S. was doing well in the home and was developing as expected. C.S. had a strong personality and was very outgoing. He had a loving relationship with his foster mother and father and referred to them as "Mom" and "Dad." C.S. was very affectionate around his

foster mother by hugging and kissing her. C.S. also had a close and comfortable relationship with his foster father. The foster parents were willing to adopt C.S. The caseworker's report indicated that C.S. was removed from respondent when he was only a few months old. He did not have a relationship with respondent because respondent had not attended any visits with C.S. during the last reporting period. The caseworker believed that it was in the best interest of C.S. that respondent's parental rights be terminated so that he could be adopted by his current foster family.

¶ 15 After considering all the evidence and arguments, the trial court found that it was in A.J. and C.S.'s best interest to terminate respondent's parental rights.

¶ 16 ANALYSIS

¶ 17 Respondent argues that the trial court's finding that it was in the best interest of A.J. and C.S. to terminate her parental rights was against the manifest weight of the evidence.

¶ 18 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). A finding is against the manifest weight of the evidence where a review of the record demonstrates that the opposite conclusion is clearly evident. *In re B.B.*, 386 Ill. App. 3d 686 (2008).

¶ 19 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 minors' best interest. *In re D.T.*, 212 Ill. 2d 347 (2004). In determining best interests, the focus shifts to the child, and the parent's interest in maintaining a parent/child relationship must yield to the child's interest in having a stable and loving home life. *Id.* at 364. The trial court must consider

several statutory factors, including (1) the minors' physical safety and welfare, (2) the development of the minors' identity, (3) the minors' familial, cultural and religious background and ties, (4) the minors' sense of attachment and continuity of relationships with parental figures, (5) the minors' wishes, (6) the minors' community ties, (7) the minors' need for permanence, (8) the uniqueness of every family and child, (9) the risks related to substitute care, and (10) the preferences of persons available to care for the minors. 705 ILCS 405/1-3(4.05) (West 2008).

¶ 20 In this case, the record indicates that the State proved by a preponderance of the evidence that it was in A.J.'s and C.S's best interest to terminate respondent's parental rights. Respondent's failure to cooperate with any court ordered tasks, such as drug and alcohol treatment, counseling for anger management and domestic violence, parenting courses, scheduled visitations with the children or meetings with her psychiatrist, shows she is unable to provide a safe and stable environment for A.J. and C.S. Moreover, both children had been removed from respondent for a significant portion of their lives. A.J. was living with her biological father and had a strong and healthy relationship with him. C.J. was integrated into his foster family and had developed a loving bond with both foster parents. His foster parents loved him and wished to adopt him. Thus, permanence for A.J. and C.S. were best served by terminating respondent’s parental rights.

¶ 21 Respondent's contention that she has a relationship with A.J. and C.S. that should be preserved fails to recognize that at a best interest hearing, the parent's interest in maintaining the parent/child relationship must yield to the child's interest in being raised in a safe and nurturing home. See *D.T.*, 212 Ill. 2d at 364. In this case, the trial court's determination that

terminating respondent's parental rights was in the minors' best interest was not against the manifest weight of the evidence.

¶ 22 CONCLUSION

¶ 23 For the foregoing reasons, the judgment of the trial court of Peoria County is affirmed.

¶ 24 Affirmed.