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2012 IL App (3d) 110750-U

Order filed January 23, 2012

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IN THE APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2012

<i>In re</i> C.S.,	)	Appeal from the Circuit Court
	)	of the 10th Judicial Circuit,
a Minor	)	Peoria County, Illinois
	)	
(The People of the State of	)	
Illinois,	)	
	)	Appeal No. 3-11-0750
Petitioner-Appellee,	)	Circuit No. 09-JA-250
	)	
v.	)	
	)	
Lanny S.,	)	Honorable
	)	Chris L. Fredericksen,
Respondent-Appellant).	)	Judge, Presiding.

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JUSTICE CARTER delivered the judgment of the court.  
Justices Holdridge and Lytton concurred in the judgment.

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**ORDER**

¶ 1 *Held:* Trial court's finding—that it was in the minor's best interests to terminate respondent's parental rights—was not against the manifest weight of the evidence. The appellate court, therefore, affirmed the judgment of the trial court.

¶ 2 In the context of a juvenile-neglect proceeding, the State filed a petition to terminate respondent's parental rights to his minor son, C.S. After hearings on the matter, the trial court found that respondent was an unfit person and terminated respondent's parental rights. Respondent appeals,

arguing that the trial court erred in finding that termination of parental rights was in the minor's best interests. We affirm the trial court's judgment.

¶ 3

### FACTS

¶ 4 The minor in this case, C.S., was born on September 9, 2009. Respondent and Kayla J., who were in a dating relationship, were C.S.'s biological parents. On September 28, 2009, the State filed a petition seeking to have C.S. adjudicated a neglected minor, based upon an injurious environment, and made a ward of the court. On November 19, 2009, after a hearing, C.S. was adjudicated a neglected minor. Following a dispositional hearing, respondent and Kayla J. were found to be unfit parents. The finding of unfitness as to respondent was based on extreme domestic violence in the presence of children, daily use of marijuana, and a failure to appear for a drug and alcohol evaluation on three occasions. C.S. was made a ward of the court, and the Department of Children and Family Services (DCFS) was named guardian of C.S. At the time of disposition, respondent was given certain tasks to complete in order to correct the conditions that led to the removal of C.S. Those tasks included: (1) to cooperate fully and completely with DCFS; (2) to obtain a drug and alcohol assessment and successfully complete any recommended treatment; (3) to perform random drug tests two times per month and at any other time deemed necessary by his caseworker; (4) to successfully complete counseling to address family, anger management, and domestic violence issues; (5) to complete a parenting course or parenting classes, as specified by DCFS; (6) to obtain and maintain stable housing conducive to the safe and healthy rearing of C.S.; and (7) to visit with C.S. at the times and places specified by DCFS and to demonstrate appropriate parenting conduct during those visits.

¶ 5 On January 7, 2011, after respondent allegedly failed to make sufficient progress on those

tasks, the State filed a petition to terminate respondent's parental rights and to appoint a guardian with the power to consent to the adoption of C.S. The petition alleged that respondent was an unfit person as defined in section 50/1(D)(m)(ii) of the Adoption Act (750 ILCS 50/1(D)(m)(ii) (West 2008)) in that he failed to make reasonable progress toward the return of the minor within the first nine months following adjudication from November 19, 2009 to August 19, 2010.

¶ 6 A hearing on the unfitness portion of the State's petition was held on August 10, 2011. At the beginning of the hearing, on the State's request, the trial court took judicial notice of several of the pleadings in the case and admitted numerous certified records regarding respondent's attendance, or lack thereof, at domestic violence and substance abuse counseling, parenting classes, and drug tests. Those records showed, among other things, that respondent had failed to appear several times for counseling and was eventually discharged for non-attendance, that respondent failed to obtain substance abuse treatment, that respondent had only completed one drug test during the nine-month period and tested positive for cannabis, and that respondent failed to attend or complete parenting classes.

¶ 7 Brittany Bishop testified for the State that she was a Child Welfare Specialist at Lutheran Social Services and was the caseworker for C.S. and his parents. Bishop had been the caseworker for the family since about January of 2010. Before Bishop became the caseworker, the previous caseworker had made referrals for respondent to obtain most of the required services (drug testing, alcohol and drug treatment, and counseling), except parenting classes, for which Bishop made a referral. In February 2010, Bishop tried to assist respondent with transportation for the services that were required by providing respondent with a bus pass. Bishop made it known to respondent that she would provide him with bus passes when needed, but respondent did not request bus passes. For

the nine-month period in question, respondent lived with Kayla J. (C.S.'s mother) in the home of C.S.'s maternal grandmother and was never employed. Although the quality of respondent's visits with C.S. was good, respondent missed several visits. Respondent was supposed to visit with C.S. on a weekly basis. However, respondent did not attend a single visit from November 19, 2009, through January 11, 2010. After that period, respondent's visits were sporadic. During the nine-month period in question, respondent attended only about 14 of the 35 to 40 visits that were scheduled.

¶ 8 At the conclusion of the hearing, after the trial court heard the evidence presented and the arguments of counsel, the trial court found that the State's petition had been proven by clear and convincing evidence and that respondent was an unfit person. The trial court set the case for a hearing on the best-interests portion of the State's petition.

¶ 9 The best-interests hearing took place about a month later on September 21, 2011. The only evidence or information presented at the hearing was the best-interests report prepared by the caseworker and her supervisor. The report indicated that C.S. had been out of respondent's care for almost two years, as of the date of the report, and had been in the same foster home since the end of 2009. The foster parents provided for C.S.'s needs regarding food, shelter, and clothing. The foster parents' home was in adequate condition and met all of DCFS's licensing standards for a non-relative foster home. C.S. was doing well in the home and was progressing through the developmental milestones as expected. C.S. had developed a strong temperament, was very outgoing, and had excellent verbal skills for his age. C.S. had a very loving relationship with his foster mother and father, who were willing to adopt him. According to the report, C.S. did not have a relationship with respondent, as respondent did not attend any of the visits with C.S. during the last reporting period,

and it was unclear whether C.S. understood that his foster father was not his biological father. The caseworker recommended in the report that respondent's parental rights be terminated because: (1) C.S.'s basic needs of safety and welfare, including food, shelter, clothing, health, and education, had been met and were being met by the current foster parents; (2) C.S.'s sense of security and familiarity were with the foster family, which C.S. referred to as his family; (3) C.S.'s placement in the foster home was the least disruptive placement; and (4) C.S. needed to have permanency.

¶ 10 At the conclusion of the hearing, the trial court found that it was in the best interests of C.S. that respondent's parental rights be terminated. The trial court terminated respondent's parental rights, named DCFS as the guardian of C.S. with the right to consent to adoption, and changed C.S.'s permanency goal to adoption. This appeal followed.<sup>1</sup>

¶ 11 ANALYSIS

¶ 12 On appeal, respondent argues that the trial court erred in finding that it was in C.S.'s best interests to terminate respondent's parental rights. Respondent asserts that: (1) C.S. should have been given the opportunity to reunite with his parents in light of the Juvenile Court Act's policy on maintaining family ties wherever possible; and (2) the best-interests report, standing alone, was insufficient to prove that it was in C.S.'s best interests to terminate respondent's parental rights. The State disagrees with those assertions and argues that the trial court's ruling was proper and should be affirmed.

¶ 13 In a proceeding on a petition to terminate parental rights, once the trial court makes a finding of unfitness, the focus of the proceeding shifts to the child, and the parent's interest in maintaining

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<sup>1</sup>The parental rights of C.S.'s biological mother, Kayla J., were also terminated. Her appeal was filed separately under appellate case No. 3-11-0698.

the parent-child relationship must yield to the child's interest in having a stable and loving home life. See *In re D.T.*, 212 Ill. 2d 347, 364 (2004). From that point forward, the issue is no longer whether parental rights can be terminated, but rather, whether in the child's best interests, parental rights should be terminated. *D.T.*, 212 Ill. 2d at 364. In making a best-interests determination, the trial court must consider, in the context of the child's age and developmental needs, the numerous statutory factors listed in section 1-3(4.05) of the Juvenile Court Act of 1987. See 705 ILCS 405/1-3(4.05) (West 2008). Some of those factors include the physical safety and welfare of the child, the development of the child's identity, the child's sense of attachment, and the child's need for permanence and stability. 705 ILCS 405/1-3(4.05) (West 2008). A trial court's ultimate determination of whether to terminate parental rights will not be reversed on appeal unless it is against the manifest weight of the evidence. *In re Tiffany M.*, 353 Ill. App. 3d 883, 892 (2004).

¶ 14 In the present case, the undisputed evidence indicated that C.S. had lived with his foster family since the end of 2009 and considered them to be his family. C.S.'s was doing very well in the foster home, and his needs were being met. The foster parents had a very loving relationship with C.S. and indicated that they were willing to adopt C.S. In addition, the caseworker opined that keeping C.S. in the current foster home was the least disruptive placement for C.S. Based on the evidence and information presented, we conclude that the trial court's finding—that it was in C.S.'s best interests to terminate respondent's parental rights—was not against the manifest weight of the evidence. Respondent's assertions to the contrary are unavailing and fail to recognize that at a best-interests hearing, the parent's interest in maintaining the parent-child relationship must yield to the child's interest in having a stable and loving home life. See *D.T.*, 212 Ill. 2d at 364.

¶ 15 For the foregoing reasons, we affirm the judgment of the circuit court of Peoria County.

¶ 16 Affirmed.