
JUSTICE HOLDRIDGE delivered the judgment of the court.
Justices McDade and Carter concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court's determinations that the respondents were unfit by clear and convincing evidence were not against the manifest weight of the evidence. The trial court's determination, by a preponderance of the evidence, to terminate the the parental rights of each respondent as being in the minor's best interest was not against the manifest weight of the evidence.

¶ 2 On July 29, 2010, the State filed a juvenile petition alleging that D.K. was a neglected minor. The child was placed in foster care shortly before the adjudication hearing. At the time the child was taken into foster care, the respondent father, Devonte K. (Devonte), and the respondent mother, Arelle J. (Arelle), were served with notice of juvenile proceedings. On September 13, 2010, the minor was adjudicated neglected, and the trial court entered a dispositional order on the same day, finding both respondents to be unfit and ordering both to complete certain tasks before the minor could be returned to either of their custody. On June 15, 2011, the State filed separate petitions to terminate the parental rights of both respondents, each alleging that the respondents had failed to make reasonable progress toward the return of the minor during a nine-month period from September 13, 2010, to June 13, 2011.

¶ 3 Following a hearing on November 9, 2011, the trial court found that the State had proven the allegations of both petitions by clear and convincing evidence. A best interest hearing was held on December 13, 2011, after which the trial court found that it was in the best interest of the minor that the parental rights of both respondents should be terminated. Each respondent filed

appeals as to the order finding them unfit and the order of the termination of their parental rights. The two appeals were consolidated for disposition by this court.

¶ 4 BACKGROUND

¶ 5 The dispositional order, entered on September 13, 2010, required each respondent to complete certain tasks in order for the minor to be returned: (1) cooperate fully with the Department of Children and Family Services (DCFS) or its designee; (2) obtain a drug and alcohol assessment and successfully complete any course of treatment recommended; (3) perform random drug drops twice per month; (4) submit to a psychological examination and follow any resulting recommendations; (5) participate in and fully complete any recommended counseling; (6) successfully complete a parenting course; (7) inform their caseworkers about any personal relationships that might impact the child; (8) visit the child and demonstrate appropriate parenting skills during all visits; and (9) successfully attend school in the case of Arelle or, in Devonte's case, obtain a General Education Development certificate(GED).

¶ 6 The initial hearing on the petition to terminate took place on November 9, 2011. Neither respondent was present at the commencement of the hearing, and counsel for each made a motion to continue the hearing, which was denied. The trial court noted that the respondents had been previously warned about failure to promptly attend all hearings.

¶ 7 Alyssa Hoerr testified that she had been D.K.'s caseworker since July 10, 2010, and that she was familiar with the tasks assigned by the court to each of the respondents. She limited her testimony regarding each respondent to events occurring during the relevant nine-month period (September 2010 to June 2011).

¶ 8 Hoerr testified that Devonte had completed 13 of the 18 required drug drops during that time period and that none were positive for the presence of drugs. She also testified that Devonte had completed the assigned series of parenting classes, although he had to repeat the class in order to successfully complete the requirements. Devonte did not complete his assigned domestic violence counseling and was discharged from the program as unsuccessful in June 2011. Hoerr further testified that, during the relevant time period, Devonte failed to fully cooperate with her or her agency. She was unable to determine from Devonte whether he continued to have a relationship with the minor's mother, and, when she questioned Devonte, his answers were evasive and unresponsive.

¶ 9 Hoerr also testified that she was aware of an incident on June 6, 2011, wherein Devonte physically battered Arelle. Hoerr was notified by Arelle's school that she had reported to school that day with a black eye, "choke marks," and bite marks. When Hoerr inquired of Arelle, she denied, but then admitted, that Devonte had battered her. She also told Hoerr that it was not the first time he had attacked her. Hoerr instructed Arelle to file a police report and apply for an order of protection. When Hoerr later questioned Devonte about this incident, he refused to comment. Hoerr also testified that Devonte and Arelle continued to have telephone contact, even while Devonte was being held in custody on the domestic battery charge. Hoerr also testified that Devonte was arrested on May 11, 2011, for criminal damage to property, but he told her that he had been arrested for unpaid parking tickets.

¶ 10 Devonte's counseling records from the Center for Prevention of Abuse indicated that he had been terminated from domestic violence counseling on June 7, 2011, due to a reported instance of domestic violence occurring while he was in counseling. The records also indicated

that he had missed two counseling sessions, slept in class on one occasion, and failed to complete homework assignments. Devonte's visitation records from Catholic Charities indicated that Devonte failed to show up for supervised visitation on many occasions and fell asleep during some of the visits with the minor. During one visit, the report indicated, Devonte simply laid on the floor and had little interaction with the child.

¶ 11 Hoerr also testified that Arelle had not been cooperative during the relevant nine-month period. She testified that Arelle had not been truthful with her regarding her progress on the plan or her relationship with Devonte. Arelle would tell Hoerr that she was progressing well in her receipt of family services and her education, but her statements were contradicted by the service providers. Arelle also told Hoerr that she and Devonte were no longer together when, in fact, they had been together until June 6, 2011, when Arelle reported the incident of domestic violence involving Devonte. Hoerr also testified that Arelle had completed only 10 of the 18 drug drops required during the nine-month period and failed to follow through on the drug and alcohol assessment. Hoerr also testified that Arelle failed to complete the required parenting classes and that she completed an anger management course only after failing it the first time due to a consistent failure to attend class. Hoerr further testified that Arelle told her that she had completed the anger management course the first time, admitting that she had failed the first attempt only after she successfully completed the second attempt.

¶ 12 Visitation reports admitted into evidence showed that Arelle had failed to attend scheduled visitation sessions on numerous occasions. Counseling records also admitted into evidence showed that Arelle failed to appear for several counseling sessions and had been dishonest with her counselors. The counseling records also contained notations by her social

worker that Arelle displayed a lack of commitment to receiving counseling services. In addition, school records were admitted into evidence which showed that Arelle failed to exhibit efforts to progress in school. During the nine-month period, she was suspended for three days for fighting, received another suspension for leaving school without permission, and another three-day suspension for fighting.

¶ 13 The trial court determined that the State had proven that both Devonte and Arelle were unfit, by clear and convincing evidence, in that each had failed to make reasonable progress toward the return of the child during the nine-month period from September 13, 2010, to June 13, 2011.

¶ 14 The matter then proceeded to a best interest hearing. At the hearing, Devonte was present to testify. Evidence was presented that Devonte resided in a home with his mother and siblings and that the home was safe and had sufficient room to accommodate D.K. Likewise, the evidence established that Arelle was living with her family and could provide safe and sufficient space for D.K. Devonte testified that he was visiting D.K. on a weekly basis, and the visits had been going well. Devonte testified that the child referred to him as "dad" and seemed happy to see him arrive and sad to see him go. Devonte also testified that he intended to complete all counseling and did not wish to have his parental rights terminated. He testified that he had a job offer waiting after he completed a short jail sentence. He also testified that his caseworker was not cooperating with his efforts in anticipation that his rights would be terminated.

¶ 15 Arelle also testified at the best interest hearing. She testified that, at the time of the hearing, she had re-enrolled in a parenting class and had attended all classes to date. She further testified that she had missed visitation only because she was enrolled in the parenting class which

conflicted with her visitation schedule. She testified that during her visits with D.K. he was happy to see her and called her "mommy." She explained that the fighting incidents that led to her suspensions from school arose from her need to defend herself and that her failure to attend several counseling sessions was the result of lack of a bus pass.

¶ 16 A best interest report was completed and entered into evidence which indicated that the minor, who was two years old at the time, had been in foster care for approximately a year and two months. The report indicated that the current foster parents had been providing for all the minor's needs and were willing and able to adopt him. The report indicated that the child was well adjusted in his foster care home and exhibited affection toward his foster parents, calling the foster mother "mom" and the foster father "dad." The foster parents' children viewed the minor as their sibling and expressed love and affection toward him. The report opined that it was in the best interest of the minor that both respondent's parental rights be terminated and the permanency goal be changed to adoption.

¶ 17 The trial court terminated each respondent's parental rights, citing Devonte's recent domestic violence incident against Arelle and his sentence of 60 days on that offense, Devonte's failure to successfully complete domestic violence classes, Arelle's failure to complete counseling, both respondents' lack of commitment to maintaining the visitation schedule, the lack of bonding between each respondent and the child during visitation, and the bonding between the minor and his foster family. The trial court found, therefore, that it was in the best interest of the minor that the parental rights of both Devonte and Arelle be terminated.

¶ 18

ANALYSIS

¶ 19 On appeal, both respondents maintain that the trial court's determination that each was unfit were against the manifest weight of the evidence. Parental rights may be involuntarily terminated where: (1) the State proves, by clear and convincing evidence, that a parent is unfit pursuant to grounds set forth in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2008)); and (2) the trial court finds that termination is in the child's best interest. *In re Donald A.G.*, 221 Ill. 2d 234, 244 (2006). On review, the trial court's fitness determination will not be disturbed unless it is against the manifest weight of the evidence. *In re M.R.*, 393 Ill. App. 3d 609, 613 (2009). A court's fitness determination is against the manifest weight of the evidence only where the opposite conclusion is clearly apparent. *Id.*

¶ 20 Pursuant to the Adoption Act, a parent is unfit if he or she "failed to make reasonable progress toward the return of the child to the parent during any 9-month period after the end of the initial 9-month period following the adjudication of neglected or abused minor." 750 ILCS 50/1(D)(m)(iii) (West 2008). Failure to make reasonable progress includes "the parent's failure to substantially fulfill his or her obligations under the service plan and correct the conditions that brought the child into care during" the relevant nine-month period. 750 ILCS 50/1(D)(m) (West 2008). Here, the State alleged that both Devonte and Arelle were unfit parents because each failed to make reasonable progress toward D.K.'s return during the nine-month period from September 13, 2010, to June 13, 2011.

¶ 21 The evidence presented showed that Devonte had failed to comply with several components of the court-ordered plan. The evidence was clear and convincing that he had failed to complete domestic violence counseling, engaged in acts of domestic violence during the

relevant nine-month period, and was sentenced to 60 days' incarceration for domestic violence. In addition, the record established that he had not successfully completed all drug assessments, had not attended school or progressed toward a GED, had not demonstrated appropriate parenting skills during supervised visitations, and had failed to keep his caseworker informed and otherwise cooperate with his caseworker as directed by the court.

¶ 22 The evidence presented showed that Arelle had failed to comply with several components of her court-ordered plan. The evidence was clear and convincing that she had failed to complete or make reasonable progress in social service counseling, had been dishonest and untruthful with her caseworkers and counselors, failed to successfully complete all drug screening requirements, failed to comply with the requirement that she stay in school and work toward high school graduation, and failed to exhibit commitment to visitation with D.K.

¶ 23 At issue is whether either of the respondents made sufficient reasonable progress toward returning the child to his care. Although each respondent's appeal has been consolidated in the instant matter, we have reviewed the merits of each case independently and have determined that neither respondent established that reasonable progress had been demonstrated in their case.

¶ 24 "Reasonable progress" is to be measured objectively in light of all relevant circumstances which would prevent a court from returning custody of the child to the parent. *In re C.N.*, 196 Ill. 2d 181, 217 (2001). The determination as to reasonable progress is based upon the amount of progress measured from the conditions existing at the time custody was taken from the parent. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1067 (2006). Given the record in the instant matter, we cannot say that the trial court's determination that Devonte and Arelle each had failed to make reasonable progress and was, therefore, an unfit parent was against the manifest weight of the

evidence. Devonte clearly failed to address his serious domestic violence issues and showed a lack of willingness to cooperate with his caseworkers in an effort to demonstrate the appropriate parenting skills necessary for the safe return of his son. Arelle likewise clearly failed to cooperate with her caseworkers and counselors and failed to demonstrate any serious commitment to staying in school and successfully graduating high school. Neither respondent exhibited a commitment to visitation with D.K. Thus, no reasonable person could conclude that either respondent had made reasonable progress toward the return of the child, and the record was clear and convincing that each respondent was unfit.

¶ 25 The respondents each also maintain that the trial court erred in terminating their parental rights. At the best interest stage of these proceedings, the parent's rights must yield to the best interest of the child. *In re L.W.*, 383 Ill. App. 3d 1011, 1024 (2008). The decision to terminate parental rights in the best interest of the child must be supported by the preponderance of the evidence. *In re D.T.*, 212 Ill. 2d 347, 365 (2004). When reviewing the trial court's determination that it is in the best interest of the child to terminate parental rights, we will not overturn the trial court's determination unless it is against the manifest weight of the evidence. *In re B.B.*, 386 Ill. App. 3d 686, 697 (2008). A determination is against the manifest weight of the evidence only if the opposite conclusion is clearly apparent or the determination is unreasonable, arbitrary, or not based on the evidence. *In re D.F.*, 201 Ill. 2d 476, 498 (2002).

¶ 26 The statutory factors to be considered by the trial court prior to termination of parental rights include: (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; (4) the child's sense of attachment, including love, security, familiarity, and continuity of relationships with parent

figures; (5) the child's wishes and goals; (6) community ties; (7) the child's need for permanence; (8) the uniqueness of every family and every child; (9) the risks related to substitute care; and (10) preferences of the person available to care for the child. *In re B.B.*, 386 Ill. App. 3d at 698; 705 ILCS 405/1-3(4.04) (West 2008). However, in issuing a decision, the trial court is not required to expressly address each of the statutory factors (*In re Janira T.*, 368 Ill. App. 3d 883, 894 (2006)), nor does the trial court need to articulate any specific rationale in support of its determination. *In re Jaron Z.*, 348 Ill. App. 3d 239, 262-63 (2004).

¶ 27 Viewing the statutory factors, we cannot say that the trial court's decision to terminate Devonte's and Arelle's parental rights was against the manifest weight of the evidence. The record clearly established that, at the time of the best interest determination, neither respondent had yet addressed the significant problems which had led to the finding that each was not a fit parent for D.K. In addition, D.K. had been in foster care for all but the first few months of his life and was currently in a safe, stable, and loving environment with a foster family that was willing and able to adopt him. Moreover, the bonding report strongly indicated that D.K. had developed strong bonds with the foster family, while his bonds with Devonte were minimal at best, particularly where the respondent missed several visitations and was observed on occasion sleeping during other visitations. Likewise, the report indicated that D.K. was more significantly bonded with the foster family and only minimally bonded with Arelle.

¶ 28 Devonte maintains that the trial court placed too much emphasis on his domestic violence issues and not enough emphasis on other factors in favor of maintaining his parental rights, such as his young age and the family support of his mother and siblings. We cannot agree. The focus of the best interest determination shifts to the child and, based on the evidence, the court's

decision to terminate Devonte's parental rights as being in the best interest of the child was not against the manifest weight of the evidence.

¶ 29 Similarly, Arelle maintains that the trial court should have recognized the progress that she claimed to have made toward reunification with D.K. and given her more time. We cannot agree since, as noted above, the focus of the best interest determination shifts to the child and, based upon the evidence, the court's decision to terminate Arelle's parental rights as being in the best interest of the child was not against the manifest weight of the evidence. The child should not have to remain indefinitely in foster care while Arelle decides to cooperate with the steps necessary to become a fit parent.

¶ 30 CONCLUSION

¶ 31 For the foregoing reasons, we affirm the judgment of the circuit court of Peoria County finding each of the respondents to be unfit parents and terminating each of their parental rights.

¶ 32 Affirmed.