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2012 IL App (3d) 120135-U

Order filed July 3, 2012

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2012

<i>In re</i> J-L.W.,)	Appeal from the Circuit Court
)	of the 10th Judicial Circuit,
a Minor)	Peoria County, Illinois,
)	
(The People of the State of Illinois,)	
)	Appeal No. 3-12-0135
Petitioner-Appellee,)	Circuit No. 11-JA-225
)	
v.)	
)	Honorable
Brandi M.,)	Mark E. Gilles,
)	Judge, Presiding.
Respondent-Appellant).)	

JUSTICE O'BRIEN delivered the judgment of the court.
Presiding Justice Schmidt and Justice Wright concurred in the judgment.

ORDER

- ¶ 1 *Held:* The trial court's order terminating a mother's parental rights was affirmed on appeal because the trial court's conclusion that it was in the best interest of the infant minor to terminate her mother's parental rights due to the mother's significant drug problem was not against the manifest weight of the evidence.
- ¶ 2 The trial court found the respondent mother, Brandi M., unfit to care for the minor, J.-

L.W., and that it was in the best interest of the minor that the respondent's parental rights be terminated. The respondent appeals, arguing that the trial court's finding that it was in the best interest of the minor to terminate the respondent's parental rights was against the manifest weight of the evidence. We affirm.

¶ 3

FACTS

¶ 4 The State filed a petition alleging that J-L.W. was neglected because she was born with cocaine in her system and her mother, the respondent, had previously been found unfit with no subsequent finding of fitness. At the same time, the State filed a petition to terminate the respondent's parental rights. The respondent stipulated to both allegations in the neglect petition, and the trial court adjudicated the minor neglected and found the respondent to be unfit.

¶ 5 Thereafter, the trial court held a best interest hearing. The best interest report submitted to the trial court indicated that J.-L.W. was a three-month old infant, who was born on September 25, 2011, and was in a relative foster placement. Her father had also been found unfit, but he was working toward reunification. The respondent was enrolled in an outpatient drug treatment program, but she had missed two of the six sessions and was in danger of being discharged. The respondent participated in random drug drops, and she tested positive for cocaine on November 21, 2011, but indicated her last cocaine use was in September. In an addendum to the best interest report, dated January 9, 2012, it was noted that the respondent had a positive drug screen for cocaine on December 27, 2011, and she admitted to using cocaine. It was also noted that the respondent was participating in the outpatient treatment program, and she had not been discharged. Then, at the best interest hearing on January 18, 2012, the State informed the trial court that the respondent had again tested positive for cocaine on January 3, 2012.

¶ 6 The trial court considered the reports and the arguments that were presented to it, the statutory considerations and the best interest factors, and it found that it was in J.-L.W.'s best interest to terminate the respondent's paternal rights. The respondent appealed..

¶ 7 ANALYSIS

¶ 8 The respondent argues that the trial court's finding that it was in the best interest of J.-L.W. to terminate the respondent's parental rights was against the manifest weight of the evidence. The respondent argues that the minor's young age, the risks associated with substitute care, and the minor's attachment to the respondent all weighed against termination.

¶ 9 Once the trial court has found a parent to be unfit, all considerations must yield to the best interest of the child. *In re D.T.*, 212 Ill. 2d 347 (2004). Thus, at the best interest hearing, the parent's interest in maintaining a parent-child relationship yields to the child's interest in a stable, loving home life. *D.T.*, 212 Ill. 2d at 364. At the termination hearing, the trial court focuses on the child's welfare and whether termination would improve the child's future, including his financial, social, and emotional well-being. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1072 (2006).

¶ 10 In determining whether termination of a parent's rights is in a minor's best interest, the trial court considers a number of applicable factors, including: (1) the minor's physical safety and welfare; (2) the minor's sense of attachments; (3) the minor's need for permanence, including the need for stability and continuity of relationships with parent figures and siblings; and (4) the risks related to substitute care. 705 ILCS 405/1-3(4.05) (West 2008). The State must prove by a preponderance of the evidence that termination is in the child's best interest. *In re D.T.*, 212 Ill. 2d at 366. We will not reverse a trial court's finding regarding termination unless it is against the

manifest weight of the evidence. *In re Deandre D.*, 405 Ill. App. 3d 945 (2010).

¶ 11 In this case, the trial court's best interest finding was not against the manifest weight of the evidence. The trial court considered the minor's young age, but found that factor weighed in favor of termination. The trial court also found that the minor's sense of attachment and continuity weighed in favor of her remaining with her foster placement, where she had been much of her young life. The trial court noted that whatever risks were associated with substitute care were only potential risks, as opposed to the identifiable risk of the respondent, with her significant drug problem, caring for the minor. As for the minor's need for permanence, the trial court determined that, in light of the other factors weighing heavily in favor of terminating the respondent's paternal rights, it was time to start solidifying a permanent situation for the minor. Clearly, the trial court considered the evidence presented with respect to the factors applicable to the minor, and it determined that the State had proven that termination was in the minor's best interest. We find that it was not against the manifest weight of the evidence for the trial court to terminate the respondent's parental rights.

¶ 12 . CONCLUSION

¶ 13 The judgment of the circuit court of Peoria County is affirmed.

¶ 14 Affirmed.