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2012 IL App (3d) 120143-U

Order filed June 27, 2012

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2012

In re B.D.,	)	Appeal from the Circuit Court
	)	of the 10th Judicial Circuit
a Minor	)	Peoria County, Illinois
	)	
(The People of the State of Illinois,	)	
	)	
Petitioner-Appellee,	)	Appeal No. 3-12-0143
	)	Circuit No. 08-JA-231
v.	)	
	)	
Jeremy D.,	)	Honorable
	)	Chris L. Fredericksen,
Respondent-Appellant).	)	Judge, Presiding.

JUSTICE LYTTON delivered the judgment of the court.
Presiding Justice Schmidt and Justice Carter concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court's finding that it was in minor's best interest to terminate father's parental rights was not against the manifest weight of the evidence where father had limited involvement with minor, minor resided with foster parents since a very young age, and foster parents were willing to adopt.

¶ 2 Jeremy D. is the father of B.D. The trial court found Jeremy D. to be an unfit parent and determined that it was in the best interest of B.D. to terminate Jeremy D.'s parental rights. On

appeal, Jeremy D. argues that the trial court erred in finding that it was in B.D.'s best interest to terminate his parental rights. We affirm.

¶ 3 FACTS

¶ 4 On November 18, 2008, the State filed a juvenile petition, alleging that B.D. was neglected because her environment was injurious to her welfare. Specifically, the petition alleged, in part, that B.D. was neglected because (1) her mother and father were involved in two domestic violence incidents, (2) her father was on juvenile probation for domestic battery, (3) her parents failed to attend domestic violence counseling, and (4) her parents refused to sign a safety plan on her behalf.

¶ 5 Jeremy D. stipulated that the State could prove the allegations against him. Following an adjudicatory hearing, the court found B.D. neglected. In February 2009, a dispositional hearing was held. The court found Jeremy D. unfit based on the allegations in the petition and further found that Jeremy D. was a "recurrent perpetrator of domestic violence." B.D. was made a ward of the court, and DCFS was granted guardianship.

¶ 6 Jeremy D. was ordered to perform certain services, including participating in and successfully completing counseling, participating in and successfully completing a domestic violence course, obtaining and maintaining stable housing, notifying DCFS of any changes in his address within three days, and visiting B.D. regularly. The permanency goal was for B.D. to return home within 12 months. In May 2009, Jeremy D. was ordered to complete two random drug drops per month.

¶ 7 A permanency review hearing was held in July 2009. At the hearing, the trial court found that Jeremy D. failed to make reasonable efforts to achieve the permanency because he had been arrested seven times for various offenses, including domestic violence, violating an order of protection and possessing drugs. The court stated that it would consider changing the permanency

goal if Jeremy D. and B.D.'s mother did not make significant changes before the next hearing.

¶ 8 At a permanency review hearing in December 2009, the trial court found that Jeremy D. had not made reasonable efforts to achieve the permanency goal because he had two incidents with police involving cannabis, was convicted for possession with intent to deliver and failed to participate in drug and alcohol treatment. The trial court changed the permanency goal from B.D. returning home within 12 months to B.D. returning home pending status because both parents had been arrested since the previous court hearing and demonstrated a lack of progress despite the court's warning at the prior hearing.

¶ 9 In June 2010, the trial court changed B.D.'s permanency goal from returning home pending status to substitute care pending termination of parental rights. The court selected the new goal, in part, because Jeremy D. failed to complete his drug drops.

¶ 10 In November 2010, the State filed a petition for termination of Jeremy D.'s parental rights. The petition alleged that Jeremy D. was unfit because he failed to make reasonable progress toward the return of B.D. from January 13, 2010 to October 13, 2010. Jeremy D. filed an answer, denying the allegations against him. Following a hearing, the court found that the State had proven the allegations against Jeremy D. by clear and convincing evidence.

¶ 11 On December 6, 2011, D.B.'s caseworker, Alissa Trost, prepared a best interest hearing report. According to the report, B.D. is a healthy and happy three-year-old. She is outgoing and has strong verbal skills. She attends daycare and enjoys interacting with other children. According to Trost, B.D. "is thriving socially and seems to be in a very safe environment."

¶ 12 B.D. has been living in the same foster home since she was seven months old. She refers to her foster parents as "Mom" and "Dad." According to Trost, B.D. has "a very strong bond" with both

her foster mother and foster father. Most of her memories involve her foster family since she has lived with them the majority of her life. B.D.'s foster parents are willing and able to adopt her.

¶ 13 Trost noted that Jeremy D.'s visitation with B.D. has never been consistent. He visited her only once in the last six months. While B.D. recognizes Jeremy D., she does not appear to have a strong relationship with him. Trost opined that it was in B.D.'s best interest to terminate Jeremy D.'s rights. She explained that B.D. has comfort, security, stability and reliability with her foster family. Trost stated: "[B.D.] needs to have permanency as it has been 3 years and neither of her parents have made reasonable efforts or substantial progress in services."

¶ 14 On March 20, 2012, a best interest hearing was held. At the hearing, the State admitted into evidence a police report of an incident involving Jeremy D. that occurred on May 4, 2011. According to the report, Jeremy D. was arrested and charged with possession of drugs.

¶ 15 Jeremy D. testified that he did not believe terminating his parental rights would be in B.D.'s best interest because he has changed and is "living a stable life." He testified that he is working full time as a welder. He has family support and is no longer with B.D.'s mother. He testified that he only visited B.D. twice in the last year but explained that he has been busy working. He stated that the charges brought against him from the May 4, 2011, incident have been dismissed. He admitted that his friend was smoking drugs in his car on that date but denied possessing any drugs himself. He testified that he moved in with his mother six months ago but did not report his change of address to B.D.'s caseworker until two or three weeks before the hearing.

¶ 16 The State argued that it would be in B.D.'s best interest to terminate Jeremy D.'s parental rights because B.D. has been in foster care for over three years and "certainly deserves permanency." The State argued that Jeremy D. is not close to being fit and has not changed his lifestyle. Jeremy

D.'s attorney responded that Jeremy D.'s rights should not be terminated because he "has done a lot to turn his life around." The guardian *ad litem* agreed with the State that it was in B.D.'s best interest to terminate Jeremy D.'s parental rights because he failed to engage in required services, has had only limited contact with B.D., and B.D. has developed a strong bond and is thriving with her foster parents.

¶ 17 After considering the evidence and arguments, the trial court found that it was in B.D.'s best interest to terminate Jeremy D.'s parental rights. The court explained that while Jeremy D. has "made some efforts to straighten out his life by obtaining a good job and by having stable housing," he is still not fully cooperating, as shown by his failure to notify DCFS of his change of address and his lack of visitation with B.D. The court explained that B.D. is in a very safe and secure environment, where she has been most of her life and should remain.

¶ 18 ANALYSIS

¶ 19 On appeal, Jeremy D. argues that the trial court erred in finding that it was in the best interest of B.D. to terminate his parental rights.

¶ 20 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, 51-52 (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, 697-98 (2008).

¶ 21 At a best interest hearing, all parental rights must yield to the best interests of the child. *In re A.H., T.E.H. & A.H.*, 215 Ill. App. 3d 522, 531 (1991). The parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life. *In re D.T.*, 212 Ill. 2d 347, 364 (2004). Courts must not allow a child to live indefinitely with a lack of

permanence inherent in a foster home. *In re A.H.*, 215 Ill. App. 3d at 530. When a child is more bonded with her foster parents than her natural parents, and the foster parents want to adopt the child, it is not against the manifest weight of the evidence to terminate a parent's rights so that the child can move on with her life. See *In re J.L.*, 236 Ill. 2d 329, 344 (2010).

¶ 22 It is the State's burden to prove by a preponderance of the evidence that terminating parental rights is in the minor's best interest. *In re D.T.*, 212 Ill. 2d at 367. The trial court must consider several statutory factors, including: (1) the minor's physical safety and welfare; (2) the development of the minor's identity; (3) the minor's familial, cultural, and religious background and ties; (4) the minor's sense of attachment and continuity of relationships with parental figures; (5) the minor's wishes; (6) the minor's community ties; (7) the minor's 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 2010). A court may also consider the nature and length of the child's relationship with her present caretaker and the effect that a change in placement would have upon her emotional and psychological well-being. *Austin W.*, 214 Ill.2d at 50.

¶ 23 Our review of the record indicates that the State proved by a preponderance of the evidence that it was in B.D.'s best interest to terminate Jeremy D.'s parental rights. B.D. was only seven months old when she was placed into foster care with her current foster parents. B.D. is happy, safe and secure in her foster home. B.D. refers to her foster parents as "Mom" and "Dad" and has a strong bond with both of them. B.D.'s foster parents are willing and able to adopt B.D.

¶ 24 Jeremy D. has had very limited involvement with B.D., visiting her only only two times in the year prior to the best interest hearing. According to B.D.'s caseworker, B.D. recognizes Jeremy

D. but does not have a strong relationship with him.

¶ 25 Despite this evidence, Jeremy D. argues that it was not in B.D.'s best interest to terminate his parental rights because he "has straightened out his life." However, his position is not supported by the record. While he has obtained employment and housing, he has failed to fulfill any of the other requirements imposed by the court and DCFS, including completing counseling and a domestic violence class, performing semi-monthly drug drops and regularly visiting B.D. In light of the evidence presented, the trial court's decision that termination of Jeremy D.'s parental rights was in B.D.'s best interest was not against the manifest weight of the evidence.

¶ 26 CONCLUSION

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

¶ 28 Affirmed.