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2012 IL App (3d) 120320-U

Order filed September 14, 2012

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2012

<i>In re</i> J.G., and Z.G.,) Appeal from the Circuit Court
) of the 10th Judicial Circuit,
Minors,) Peoria County, Illinois,
)
(The People of the State of Illinois,)
) Appeal No. 3-12-0320
Petitioner-Appellee,) Circuit Nos. 10-JA-14, 10-JA-15
)
v.)
)
Abresha G.,) Honorable
) Chris L. Fredericksen,
Respondent-Appellant.)) Judge, Presiding.

JUSTICE HOLDRIDGE delivered the judgment of the court.
Justices O'Brien and Carter concurred in the judgment.

ORDER

- ¶ 1 *Held:* The trial court's decision to terminate the respondent's parental rights was not against the manifest weight of the evidence.
- ¶ 2 The respondent, Abresha G., appeals from an order terminating her parental rights to her two minor children, J.G. and Z.G., entered by the circuit court of Peoria County. Respondent's

sole claim is that the trial court's finding that it was in the best interest of the two minors to terminate her parental rights was against the manifest weight of the evidence. We affirm.

¶ 3

BACKGROUND

¶ 4 The State filed two petitions on January 20, 2010, alleging that each of the two minors was neglected due to an injurious environment. The petitions alleged that: (1) the respondent was hospitalized in October 2009 for depression and for making suicidal and homicidal threats toward herself and the two children (Z.G. was unborn at the time); (2) following her release from the hospital, the respondent failed to cooperate with her treatment and would not take her prescribed medication; (3) as of the date of the petition, the respondent was still in need of treatment and medication, but continued to refuse to cooperate; and (4) J.G. was diagnosed with untreated scabies, eczema, and an ear infection, and was found to have lice. After the adjudicatory hearing, the trial court found each of the minors to be neglected.

¶ 5 Following a hearing on April 27, 2010, the respondent was found unfit based upon her serious mental health issues and her noncompliance with treatment and medication protocols. The respondent was ordered to cooperate with the Department of Children and Family Services (DCFS), submit to all necessary diagnostic and treatment protocols, cooperate with all medical directives, including taking all prescribed medication, successfully complete counseling, parenting classes, and a life skills course, and cooperate with a supervised visitation schedule.

¶ 6 On November 3, 2011, the State filed petitions for termination of the respondent's parental rights, alleging that she was an unfit parent due to her failure to make reasonable progress during the nine-month time period from January 1, 2011, to October 1, 2011. The adjudication hearing on the State's petition was held on March 7, 2012.

¶ 7 Included in the evidence at the adjudication hearing were two permanency review orders issued during the nine-month period, one issued March 29, 2011, and another issued September 27, 2011, as well as certain medical treatment and counseling records generated during the nine-month time period. The records established several instances of alcohol abuse, lack of candor and cooperation with counseling and treating professionals, and an overall lack of progress in treating her depression. A record generated September 15, 2001, indicated the presence of cannabis in the respondent's system.

¶ 8 Mari Isenberg, the respondent's caseworker, testified that the respondent had completed some services prior to the start of the nine-month period, however, the respondent was generally uncooperative and lacking in candor. Two Peoria police officers testified that the respondent was arrested at approximately 3 a.m. on April 2, 2011, because the respondent was standing in the middle of an intersection, yelling incoherently at several people. The officers testified that the respondent was obviously under the influence of some substance and had to be transported to the hospital following her arrest. At the conclusion of the adjudication hearing, the trial court found that the allegations contained in the termination petition had been proven.

¶ 9 A hearing to determine the best interests of the minors was held on April 11, 2012. A best interest report, prepared by Catholic Social Services, was filed at the hearing. The report stated that J.G. was four years old and had been in a foster home since March 5, 2011. J.G. had been removed from a previous foster home due to allegations of abuse in that foster home. The current foster care providers were willing to provide permanency for J.G. through guardianship. The report indicated that J.G. had severe behavioral issues and delayed cognitive development. The foster parents, however, were working with specialists to address J.G.'s needs. Overall, the

report indicated that the foster parents were meeting J.G.'s basic and medical needs. J.G. was receiving speech therapy, occupational therapy, and physical therapy through the school district. The report noted the caseworker's opinion that the respondent was unable to provide permanency for J.G. and recommended that her parental rights be terminated as being in the best interest of J.G.

¶ 10 A report addressing the best interest of Z.G. indicated that the child was two years old and had been in the same foster home as J.G. since March 5, 2011. Z.G. was reported to be doing quite well and all her needs were being met. Z.G. had not bonded with the respondent but was reported to be very close with the foster parents, referring to the foster parents as "mom" and "dad," as well as their adult daughter who was reported as being "a tremendous source of support." The report noted the caseworker's opinion that the respondent was unable to provide Z.G. with even minimal parenting skills and recommended that the respondent's parental rights be terminated as being in the best interest of Z.G.

¶ 11 The State also presented certified records pertaining to the respondent's ongoing cannabis and alcohol abuse, along with statements by the respondent denying or diminishing her substance abuse issues.

¶ 12 Shannon Doubet testified at the best interest hearing, stating that she had been the respondent's caseworker since September 2011. Doubet testified that the respondent told her that she had been participating in out-patient treatment at White Oaks Treatment Center in Peoria. Doubet testified that she never received any treatment records from White Oaks to verify the respondent's participation in a treatment program. The respondent testified that she was in alcohol and substance abuse counseling.

¶ 14 Before beginning our analysis, we note that the respondent does not challenge the finding that she is an unfit parent or that the children's environment was injurious when they lived in her custody and control. The sole issue on appeal is whether the trial court erred when terminating the respondent's parental rights.

¶ 15 The Juvenile Court Act of 1987 (the Act) (705 ILCS 405/1-1 *et seq.* (West 2010)) provides a two-step process for the involuntary termination of parental rights. *In re C.W.*, 199 Ill. 2d 198, 210 (2002). First, the State must prove that the parent is unfit as defined in section 1(D) of the Adoption Act. 750 ILCS 50/1(D) (West 2010); *C.W.*, 199 Ill. 2d at 210. As the termination of parental rights constitutes a complete severance of the parent-child relationship, proof of parental unfitness must be clear and convincing. *In re C.N.*, 196 Ill. 2d 181, 208 (2001). Only if the court makes a finding of unfitness will the court go on to the second stage and consider whether it is in the best interest of a child to terminate parental rights. 705 ILCS 405/2-29(2) (West 2010); *C.W.*, 199 Ill. 2d at 210. Once a trial court finds a parent to be unfit, the next step in an involuntary termination proceeding requires the court to consider whether it is in the best interest of the child to terminate parental rights pursuant to section 1-3(4.05) of the Act. 705 ILCS 405/1-3(4.05) (West 2010).

¶ 16 The factors that a trial court should consider in making a best-interest determination include: (1) the physical safety and welfare of the child, including food, shelter, clothing, and health; (2) the development of the child's identity; (3) the child's background and ties, including familial, cultural, and religious; (4) the child's sense of attachments; (5) the child's wishes and long-term goals; (6) the child's community ties, including church, school, and friends; (7) the

child's need for permanence; (8) the uniqueness of every family and child; (9) the risks attendant to entering and being in substitute care; and (10) the preference of the persons available to care for the child. 705 ILCS 405/1-3(4.05) (West 2010); *In re A.F.*, 2012 IL App (2d) 111079, ¶ 45.

¶ 17 A trial court's decision to terminate parental rights will not be reversed unless it is against the manifest weight of the evidence. *In re Deandre D.*, 405 Ill. App. 3d 945, 953 (2010). A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly apparent. *Id.*

¶ 18 Here, the record established that the respondent had a substantial ongoing substance abuse problem and that she attempted to either deny or diminish her problem. The respondent was observed to be intoxicated on several occasions and also admitted to some alcohol abuse. Although she denied any substance abuse, she tested positive for cocaine and cannabis. The record also established that both of the children were functioning reasonably well in their foster home. J.G. was receiving medical and developmental services that the respondent was unable to adequately provide due to her substance abuse and mental health issues. In addition, the record established that Z.G. had bonded very strongly with the foster family. Also, the record established that the respondent was unable to provide a stable home for the children, while the foster home was meeting those needs.

¶ 19 The respondent contends that the trial court's determination was in error, pointing out the difficulty with J.G.'s first placement and the fact that she had to be removed from that home due to abuse. While the trial court recognized that the initial placement had been inappropriate and unfortunate, the court noted that the current foster home was meeting all the children's needs for a safe and stable environment. The court also noted that the foster parents were doing everything

possible to meet J.G.'s special medical needs and behavior issues, including working closely with the school district and therapist. Moreover, the record supports the trial court's finding that the respondent was unable, due to her substance abuse and mental health issues, to provide the necessary level of cooperation to insure that J.G. would be able to receive those necessary services.

¶ 20 The respondent also points to her considerable efforts at rehabilitation. While there was some evidence in the record to support an argument that the respondent had undertaken some recent efforts toward rehabilitation, at a best interest hearing, the needs of the children are always paramount and take precedence over a respondent's belated efforts to rehabilitate. *In re D.T.*, 212 Ill. 2d 347, 364 (2004). The trial court weighed the evidence of the respondent's recent rehabilitative efforts and found them to be inadequate to the best interest of the minors.

¶ 21 Here, the trial court found that the minors' best interests were served by terminating the respondent's parental rights. The court noted the needs of the children, particularly the need of J.G., for extensive professional services and the respondent's inability to provide a secure, stable environment to provide for those needs due to her failure to address her own mental health and substance abuse issues. Also to be noted was the children's bonding with the foster family. Given the record evidence which showed that the physical safety and welfare of the children, their emotional development, and their need for permanence were all better served by terminating the respondent's parental rights, we cannot say that the trial court's determination was against the manifest weight of the evidence. As such, we affirm the trial court's order terminating the respondent's parental rights.

¶ 22

CONCLUSION

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

¶ 24 Affirmed.