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## I. BACKGROUND

¶ 4 In March 2010, the State filed a petition for adjudication of neglect as to H.E. (born June 4, 1998) and E.C. (born October 15, 2004) in the Champaign County circuit court. In support of the petition, the State claimed the minors' environment was injurious to their welfare when they resided with their mother, T.C., who is not a party to these appeals, in that they were exposed to a risk of sexual abuse and domestic violence. The allegations centered primarily on the conduct of the mother's boyfriend, R.S. The Illinois Department of Children and Family Services (DCFS) had received a hotline call reporting that H.E., who was 11 years old at the time, had received a video message from R.S. showing her mother performing oral sex on him. H.E. reported that R.S. had engaged in several incidents of inappropriate sexual conduct against her. Both minors were removed from their mother's care and initially placed with their godmother and then later moved to a traditional foster home in Gibson City, Illinois, on April 30, 2010.

¶ 5 In May 2010, the trial court entered an adjudicatory order, adjudicating the minors neglected. In June 2010, DCFS submitted a home and background report prepared by Lutheran Social Services of Illinois (LSS) in anticipation of the scheduled dispositional hearing. This report indicated that respondent father Jeffrey E. cooperated with the preparation of the report though, at the time, he was in prison serving a three-year sentence for his 2009 conviction of aggravated criminal sexual abuse charges and was not considered a custodial option. Although he denied committing the offense, Jeffrey had been convicted of sexually abusing H.E.'s eight-year-old friend. Jeffrey was expected to be released in February 2011. He did not participate in services or visitation while in prison. According to DCFS, upon his release, Jeffrey would be required to complete sex-

offender treatment and parenting classes. However, Jeffrey claimed that his sex-offender evaluation had indicated he was not at a risk to reoffend and there had been no treatment recommendation. As of the date of the report, the caseworker had not received a release from Jeffrey to verify his account.

¶ 6 The report further indicated that respondent father Eric G. refused to cooperate with the preparation of LSS's report. In fact, Eric had advised the caseworker that he did not wish to participate in services or visitation. He signed paperwork to that effect in April 2010 but was advised he could change his mind at any time. He thought it would be unfair to E.C. for her to live with him because he worked two jobs "just to survive."

¶ 7 According to the report, H.E. age 11, was doing well in her foster placement. She struggled with a weight issue, but she had lost 20 pounds between March and June 2010 by simply changing her eating habits and selecting nutritious meals and snacks. She had experienced some mental-, physical-, and emotional-health issues possibly related to a combination of her obesity and fear of R.S. She did not believe her father sexually molested her friend and believed her friend had lied about the incident. She denied her father ever acting in a sexually inappropriate manner with her. H.E. told her mother that her father "was her life" and her father did "no wrong in [her] eyes."

¶ 8 E.C., age 5, was also doing well in the same foster home. According to the foster mother, H.E. sometimes had a negative impact on E.C.'s attitude, but otherwise, E.C. got along well with the foster mother's young son. E.C. was a bit delayed in her speech but had no other health issues. She was described as "friendly and cooperative." Apparently, E.C. has a strong bond with her mother and was anxious to return to her care.

¶ 9 In July 2010, the trial court entered a dispositional order, finding it was in the minors' best interests that they be adjudicated neglected and made wards of the court. All parents were

found to be unfit, unable, and unwilling for reasons other than financial circumstances alone, to care for, protect, train, or discipline the minors. The court granted DCFS custody and guardianship of the minors.

¶ 10 In September 2010, in preparation for a permanency-review hearing, LSS prepared a status report, which indicated that Jeffrey remained in prison without visitation or the ability to participate in services, and Eric continued to refuse services and visitation. Jeffrey had completed a sex-offender evaluation in June 2009, which was attached to the report. The evaluation indicated that he was at a low risk to reoffend and that he had demonstrated a potentially positive response to treatment. The report indicated that in August 2010, the minors had been removed from their foster placement in Gibson City because it "proved to be unsatisfactory." They were placed in a different foster home in Hoopston, Illinois. H.E. advised the caseworker that she "loves this placement." She had lost a total of 50 pounds since coming into foster care. E.C. was doing well also.

¶ 11 In March 2011, in preparation for another permanency-review hearing, LSS filed an updated status report. In February 2011, the minors had been removed again from their foster home due to (1) a bedbug infestation in the home and (2) concerns that the foster mother was not following up on E.C.'s educational needs by not returning telephone calls from the school. The minors were placed in a different traditional home in Buckley, Illinois. Both seemed to like the new home and were doing well. H.E. had been participating in individual counseling since June 2010. Her progress had fluctuated due to the changes in foster homes and schools and Jeffrey's release from prison. Apparently, her new foster father had been intoxicated at home, which triggered feelings of anxiety.

¶ 12 This report indicated that H.E.'s mother had advised the caseworker that Jeffrey and

H.E. used to sleep naked together. H.E. adamantly denied that Jeffrey ever sexually abused her. The foster mother reported that H.E. was frequently masturbating and that she had found letters written by H.E. indicating her desire to have sex. Based on these facts, the caseworker made a sexual-abuse referral to ABC counseling for H.E. to participate in an evaluation. E.C. was attending counseling as well to help her adjust to recent changes in her life.

¶ 13 Jeffrey was residing with his parents in Metcalf, Illinois, and was unemployed. He was noncompliant with his sex-offender registration requirements and had recently been arrested for that reason. DCFS recommended that he participate in parenting classes, a substance-abuse assessment, and random drug screens, though he had not begun any services. The LSS caseworker contacted Jeffrey's parole officer on February 28, 2011, to discuss potential visitation with H.E. but, as of the date of the report (March 29, 2011), he had not contacted her. Jeffrey advised the caseworker that he was not allowed to have any contact with H.E. for the first six months after his release.

¶ 14 As of March 2011, Eric decided to participate in services and visitation. He advised that he had recently divorced his wife and had changed his position on wanting to be part of E.C.'s life. He was residing with his parents in Paxton, Illinois. He was employed at Wal-Mart and part-time as an umpire. DCFS recommended that Eric participate in a substance-abuse assessment, random drug screens, and parenting classes. By this time, he had participated in three visits with E.C., which went well, though he had cancelled the next two scheduled visits due to work conflicts.

¶ 15 On April 4, 2011, the State filed a petition to terminate all parents' parental rights to both children. The State alleged the parents were unfit for (1) failing to make reasonable efforts to correct the conditions that led to the removal of the minors (750 ILCS 50/1(D)(m)(i) (West 2010))

(count I); (2) failing to make reasonable progress toward the return of the minors within nine months immediately following adjudication (750 ILCS 50/1(D)(m)(ii) (West 2010)) (count II); and (3) failing to maintain a reasonable degree of interest, concern, or responsibility as to the children's welfare (750 ILCS 50/1(D)(b) (West 2010)) (count III).

¶ 16 On June 21, 2011, at a pretrial hearing, Eric admitted the allegations set forth in the State's petition to terminate in counts I and II in exchange for the State's agreement not to pursue count III. When presenting the factual basis, the prosecutor asked the trial court to take judicial notice of the prior orders entered in this case, the June 2010 home and background report, and the September 2010 and March 2011 permanency reports. Additionally, the prosecutor introduced a document dated April 2010 signed by Eric indicating that he had declined to participate in services and visitation with E.C. After consideration of the evidence presented, the court found Eric had knowingly, intelligently, and voluntarily stipulated to a finding of unfitness and entered an order accordingly.

¶ 17 On June 28, 2011, at the adjudicatory hearing on the State's petition to terminate, Jeffrey admitted the allegations in count II of the petition. When presenting the factual basis, the State asked the trial court to take judicial notice of the prior orders entered in this case, the admissions in the file resulting from a request to admit, the June 2010 home and background report, and the September 2010 and March 2011 permanency reports. After consideration of the evidence presented, the court found Jeffrey had knowingly, intelligently, and voluntarily stipulated to a finding of unfitness and entered an order to that effect.

¶ 18 On August 16, 2011, the minors' mother entered a final and irrevocable surrender of her parental rights to each child. On August 24, 2011, the trial court conducted a best-interest

hearing. No testimony was presented at the hearing. The court noted that it had received and reviewed an August 17, 2011, letter from DCFS caseworker James Forrest with recommendations, a LSS best-interest report prepared by caseworker Anh Nguyen, and a court appointed special advocate (CASA) report prepared by Howard Schein.

¶ 19 Forrest recommended terminating both Jeffrey's and Eric's parental rights. Forrest opined that Jeffrey was unable to provide a safe environment for H.E. because he continued to deny he had sexually abused H.E.'s friend or H.E. As to Eric, Forrest noted that Eric had shown no interest in parenting E.C. until February 2011 after his divorce. The visits between Eric and E.C. demonstrated no bond or emotional interest between them. According to Forrest, neither father "presents a viable parent capable of providing the emotional support and parental environment that these children need and deserve."

¶ 20 Nguyen's best-interest report indicated that the minors had been removed from their most recent foster placement at the foster parents' request. Apparently, H.E. was defiant, disobedient, and argumentative. The parents expressed no problems with E.C., but separating the siblings was not a viable option. On August 4, 2011, the minors were placed with a maternal relative in Georgetown, Illinois. Both minors had expressed their pleasure with this home, since they knew the family, and the parents expressed their interest in providing permanency. H.E., who will begin eighth grade, had planned to consult with her individual counselor by telephone until she was able to establish a relationship with a new therapist. H.E. completed the sexual-abuse assessment in June 2011. According to this evaluation, H.E. had been a victim of sexual abuse by R.S. and by her stepsister when H.E. was six. The evaluator recommended that H.E. participate in sexual-abuse counseling and individual counseling. E.C., who will begin first grade, made fair

progress in counseling. She will be referred for individual counseling closer to her new home.

¶ 21 According to the report, Jeffrey was compliant with his sex-offender reporting requirements and was abiding by his conditions for mandatory supervised release. He was residing with his parents and was unemployed. He was not participating in services recommended by DCFS, but he reported he was participating in sex-offender treatment and individual counseling in Paris, Illinois, pursuant to release requirements. He had not participated in visits with H.E. until he had completed six months of treatment, which he began in May 2011. He had regular telephone contact with H.E.

¶ 22 Eric was residing with his parents and still employed at Wal-Mart and as an umpire. He completed a substance-abuse evaluation, in which no treatment was recommended. He consistently attended individual counseling and made positive progress toward his goal of resolving parenting issues related to his diagnosis of adjustment disorder. He had verbalized a commitment to parenting E.C. full time. He explained that when DCFS first became involved, he was struggling with marital and financial problems. He was visiting E.C. one hour weekly in a supervised setting. The visits went well; however, there was no apparent bond between them.

¶ 23 Nguyen recommended that Jeffrey's parental rights be terminated because he had not demonstrated any ability to provide H.E. with a safe, secure, and stable home or meet her physical and emotional needs. Although H.E. denied being sexually abused by Jeffrey, Nguyen believed it a possibility that H.E. was protecting Jeffrey and was in denial.

¶ 24 Nguyen also recommended that Eric's parental rights be terminated because he did not demonstrate an interest in parenting E.C. until February 2011. Although Eric was progressing with his individual counseling and visits with E.C., the two did not demonstrate a bond toward each

other.

¶ 25 According to CASA Howard Schein, the minors' placement with their maternal distant family member was a positive change for both minors. They were familiar with these family through their mother's lineage. Schein recommended that Jeffrey's parental rights be terminated and that Eric "be given a strict timeline and set of goals to make his case that he can be [E.C.]'s custodial parent." Based on Schein's interviews with friends and family, he concluded that Jeffrey "probably ha[d] inappropriately loose boundaries in terms of father-daughter sexual behavior."

¶ 26 As to Eric, Schein noted that Eric was making progress in counseling toward his stated goal of obtaining custody of E.C. Schein noted too that there was no apparent bond between Eric and E.C. However, he could not "rule out Eric's ability to prove a safe environment for [E.C.], but [he did] not have total confidence, yet, of this ability." Eric had not yet exhibited "the kind of loving care for his daughter" that Schein had wanted to see from him, and Schein thought maybe his effort was based on a desire to "do the right thing," rather than on his love and emotional attachment to his daughter.

¶ 27 After considering these documents and recommendations from the respective parties and counsel, the trial court stated as follows:

"I would note that this case was adjudicated on May 3, 2010.

It is of paramount importance for the best interests of the minor and for the court to comply with the statute that it seeks an expeditious route to permanency in this case.

Much of the arguments by the guardian *ad litem* and the—counsel for the respondent fathers turn on ifs and possibilities

which have not presented them to the court through this proceeding, and I have deep concerns about not proceeding to permanency based upon those ifs and possibilities.

The court finds that by both a preponderance of the evidence and by clear and convincing evidence that it is in the best interest of the respondent minors and of the public that Jeffrey Elliott, Eric Gerdes[,] and any unknown father have all residual natural parental rights and responsibilities terminated as to the respondent minors, [H.E.] and [E.C.], and that the respondent minors, [H.E.] and [E.C.], be relieved of all obligations of obedience and maintenance with respect to Jeffrey [E.], Eric [G.], and any unknown father."

These consolidated appeals followed.

¶ 28

## II. ANALYSIS

¶ 29 The only findings at issue in this appeal are the trial court's best-interest findings as to each minor and each respective respondent father. Each father admitted he was unfit as alleged in the State's petition. As to the best-interest determinations, we note that courts will not lightly terminate parental rights because of the fundamental importance inherent in those rights. *In re M.H.*, 196 Ill. 2d 356, 363 (2001). After the court finds a parent unfit, that parent's rights are no longer of concern. The parent's rights must yield to the best interest of the child. *In re Tashika F.*, 333 Ill. App. 3d 165, 170 (2002). A best-interest finding will not be reversed unless it is against the manifest weight of the evidence. *In re H.D.*, 343 Ill. App. 3d 483, 494 (2003).

¶ 30

In this case, the trial court's termination of Jeffrey's parental rights to H.E. and Eric's

parental rights to E.C. were not against the manifest weight of the evidence. H.E. was 11 and E.C. was 5 when they were taken into protective custody from their mother's care. H.E. had resided with Jeffrey during her childhood and had a reportedly strong bond to him. However, Jeffrey's sexual-abuse conviction for abusing H.E.'s friend and his apparent sexually inappropriate behavior with H.E. indicate that it would be against H.E.'s best interests to be placed in Jeffrey's custody. She had been doing fairly well in foster placement despite some setbacks due to her frequent changes in placement and transfers to and from different schools. She was in desperate need of stability and permanency so that she could continue in her efforts toward her weight-loss goals and in becoming a more secure individual. H.E. had struggled with a variety of emotional issues based primarily on her experiences as a victim of prior sexual abuse. She deserves a home where she can feel comfortable, secure, confident, and loved. She has her best chance for those things by remaining in her current foster placement and having Jeffrey's parental rights terminated. Though she apparently thought highly of her father and wanted to return to his care, we find the manifest weight of the evidence supported the court's finding that it was not in her best interests to do so. For these reasons, we affirm the court's judgment.

¶ 31 As to E.C., we make the same determination. E.C. likewise deserves the prospect of remaining in a stable, permanent, and loving environment. The fact that she was residing in family placement and was familiar with her foster family added to the positive effects of her being able to remain with H.E. Though Eric had stated a recent desire to gain custody of E.C., he waited seven years too long. By the time he agreed to come forward for E.C., she had already been in limbo for a year and a half and had been without her father for her entire life. She did not have a bond with him because she did not know him. As of the date of the hearing, Eric was unable to provide her

with the stable home that she desperately deserved and now had within her reach. Based on these considerations, we find it was in E.C.'s best interests that Eric's parental rights be terminated.

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### III. CONCLUSION

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For the foregoing reasons, we affirm the trial court's judgment.

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Affirmed.