

NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2012 IL App (4th) 120061-U

Filed 5/8/12

NO. 4-12-0061

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: O.R., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Logan County
v.)	No. 10JA1
KAYLA L. GILES,)	
Respondent-Appellant.)	Honorable
)	Charles M. Feeney,
)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.
Justices Appleton and Knecht concurred in the judgment.

ORDER

- ¶ 1 *Held:* The appellate court affirmed the termination of respondent's parental rights, concluding that the trial court's best-interest findings were not against the manifest weight of the evidence.
- ¶ 2 In April 2011, the State filed a petition to terminate the parental rights of respondent, Kayla L. Giles, as to her daughter, O.R. (born May 24, 2009), which it later supplemented. Following respondent's admission at an October 2011 fitness hearing, the trial court found respondent unfit. The court later terminated respondent's parental rights, finding that doing so was in O.R.'s best interest.
- ¶ 3 Respondent appeals, arguing only that the trial court's best-interest finding was against the manifest weight of the evidence. We disagree and affirm.

¶ 4

I. BACKGROUND

¶ 5

A. The Circumstances Surrounding the State's Motion To Terminate Respondent's Parental Rights

¶ 6

On January 21, 2010, the State filed a petition for adjudication of wardship, alleging that O.R. was a neglected minor under section 2-3(1) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1) (West 2010)). At a shelter-care hearing conducted that same day, the trial court found that an immediate and urgent necessity required O.R.'s placement in shelter care. Specifically, the court found that respondent permitted O.R.'s father, Adam Reed, to reside in her home—despite his history of substance abuse and domestic violence—which was contrary to the recommendations of the Department of Children and Family Services (DCFS). Thereafter, the court appointed DCFS as O.R.'s temporary guardian.

¶ 7

In February 2010, the State filed a supplemental petition for adjudication of wardship, again alleging that O.R. was a neglected minor. At a March 2010, pretrial hearing, the trial court accepted respondent's admission that O.R.'s environment was injurious to her welfare in that she permitted Reed to have contact with O.R. Following an April 1, 2010, adjudicatory hearing, the court entered an order adjudicating O.R. a neglected minor based on respondent's previous admission. Specifically, the court found that respondent "allowed unsupervised contact w[ith Reed] despite knowing the risks, and [respondent] participated in domestic violence w[ith O.R.] present." Following a dispositional hearing held three weeks later, the court adjudicated O.R. a ward of the court and maintained DCFS as her guardian. The court based its dispositional order on respondent's (1) failure to protect O.R. and (2) substance-abuse issues.

¶ 8

In April 2011, the State filed a petition to terminate respondent's parental rights as

2011 bonding assessment was attached to the report, which assessed the following interactions between O.R. and her paternal grandparents: (1) appropriate conversation, (2) nature of touching, (3) capacity of adults to engage with child, and (4) facial expression and eye contact. The assessment provided the following recommendations:

"[O.R.] seems very at ease and content in her surroundings.

[O.R.] was happy and smiling during the visit. It is apparent that a strong bond has developed between [O.R.] and the [paternal grandparents]. The [paternal grandparents] are really the only parent[s] that [O.R.] has known. They are providing a loving and stable home for [O.R.]. Adoption of [O.R.] to the [paternal grandparents] would be a positive occurrence for [O.R.]."

¶ 14 Catholic Charities recommended that (1) respondent's parental rights be terminated and (2) DCFS retain guardianship of O.R. pending adoption.

¶ 15 *2. The Respondent's Evidence*

¶ 16 Respondent's maternal aunt, Angela Holliger, characterized her relationship with respondent as close but that respondent became "distant" after DCFS' involvement in January 2010. Holliger observed that after losing custody of O.R., respondent was defeated, lost, and ashamed. In August 2011, respondent moved in with Holliger, her husband, and the couple's 11-year-old son. Immediately thereafter, Holliger noticed a change in respondent's attitude in that she found employment and began cooperating with DCFS to regain custody of O.R. Holliger opined that because O.R. was not "in harm's way," she felt that it would be in O.R.'s best interest to be returned to respondent's care. Holliger and her family intended to support respondent and

O.R. until respondent no longer required their assistance, noting that respondent was making a "concerted effort" to regain her independence.

¶ 17 Holliger acknowledged that O.R. was living with her paternal grandparents and that they had been providing for O.R. in an appropriate environment. Holliger noted that (1) O.R. had bonded with her paternal grandparents; (2) O.R.'s paternal grandparents would provide O.R. a stable, permanent home; and (3) she did not have any concerns with O.R.'s current placement. Holliger admitted that she had not provided respondent much assistance from January 2010 through July 2011. Holliger also admitted that respondent had been using cannabis "throughout most of this case," which inhibited her ability to take care of O.R.

¶ 18 Respondent stated that despite feeling as if she failed her family when she lost custody of O.R. in January 2010, she asked for Holliger's support in August 2011 because she was "tired of her life" and realized that she needed help. Since then, respondent successfully completed parenting skills training, and began working 30 hours per week at a nursing home. Since September 2011, respondent had been attending biweekly counseling sessions, which had recently changed to monthly sessions. Respondent believed that with Holliger's temporary assistance, she could provide for O.R.'s welfare despite her past errors but acknowledged that if Holliger's support ceased, her life would become "unstable." Respondent noted that O.R. recognizes her, refers to her as "mommy," and gets excited when she visits, which last occurred Halloween night. Respondent opined that it was in O.R.'s best interest to be returned to her care because O.R. deserved to "have a chance to live a life being raised by her mother."

¶ 19 Respondent admitted that (1) she last consumed cannabis in July 2011, (2) she began complying with her client-service plan goals in August 2011 despite O.R.'s removal from

her custody in January 2010, (3) she had no concerns regarding O.R.'s placement with her paternal grandparents, and (4) O.R. had bonded with her paternal grandparents.

¶ 20

3. The Trial Court's Best-Interest Finding

¶ 21

After considering the evidence and counsel's arguments, the trial court found, as follows:

"The evidence is overwhelming that the best interest of the child *** favors having a permanent home, a caring parent who today is ready, willing, and able to provide for this child for the rest of its childhood without any further services, without any speculation as to whether this would be consistent, whether the foster parents will remain absent from drugs ***. Just this past summer [respondent] continued to choose to use drugs. That is always a choice.

*** [E]very time you chose to use those drugs you chose to distance yourself from [O.R.]. And while you were making that choice[,] the foster parents were there loving [O.R.], providing a home for [O.R.], and taking care of [O.R.]. That is permanency. That is what is required of a responsible adult to provide for a child.

So the Court is granting the petition to terminate parental rights of [respondent]."

(Reed had earlier voluntarily relinquished his parental rights as to O.R.; he is not a party to this

appeal.)

¶ 22 This appeal followed.

¶ 23 II. THE TRIAL COURT'S BEST-INTEREST FINDING

¶ 24 A. The Standard of Review

¶ 25 At the best-interest stage of parental termination proceedings, the State bears the burden of proving by a preponderance of the evidence that termination of parental rights is in the child's best interest. *In re Jay H.*, 395 Ill. App. 3d 1063, 1071, 918 N.E.2d 284, 290-91 (2009). Consequently, at the best-interest stage of termination proceedings, " 'the parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life.' [Citation.]" *In re T.A.*, 359 Ill. App. 3d 953, 959, 835 N.E.2d 908, 912 (2005). "We will not reverse the trial court's best-interest determination unless it was against the manifest weight of the evidence." *Jay H.*, 395 Ill. App. 3d at 1071, 918 N.E.2d at 291. A best-interest determination is against the manifest weight of the evidence only if the facts clearly demonstrate that the court should have reached the opposite result. *Jay H.*, 395 Ill. App. 3d at 1071, 918 N.E.2d at 291.

¶ 26 B. Respondent's Claim That the Trial Court's Best-Interest Finding Was Against the Manifest Weight of the Evidence

¶ 27 Respondent argues that the trial court's best-interest finding was against the manifest weight of the evidence. Specifically, respondent contends that the State failed to show—by a preponderance of the evidence—that O.R.'s physical safety and welfare would be at risk if she were to maintain her parental rights. We disagree.

¶ 28 In this case, the trial court based its decision to terminate respondent's parental

rights primarily—and correctly—on O.R.'s need for permanence and how that requirement was being met solely by her paternal grandparents since May 2010 without any concerns. Conversely, the evidence presented at the best-interest hearing showed that respondent was merely four months into her attempt to reconstruct a stable life for herself nearly two years after O.R.'s removal from her care. Although we commend respondent for her efforts, we agree with the court that at the time of the December 2011 best-interest hearing, respondent was not able to provide O.R. permanency. More important, the court was under no obligation to delay further O.R.'s entitlement to that permanency given that (1) respondent's efforts were, at best, uncertain, and (2) O.R.'s paternal grandparents had been providing her stability for 19 months and had pledged their intent to do so permanently.

¶ 29

III. CONCLUSION

¶ 30

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

¶ 31

Affirmed.