NOTICE
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2012 IL App (4th) 120389-U

Filed 8/24/12

NO. 4-12-0389

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: L.P., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Adams County
v.	)	No. 11JA9
CHRISTOPHER PRINCE,	)	
Respondent-Appellant.	)	Honorable
	)	John C. Wooleyhan,
	)	Judge Presiding.

PRESIDING JUSTICE TURNER delivered the judgment of the court.
Justices Appleton and Cook concurred in the judgment.

ORDER

¶ 1 *Held*: Where respondent was unfit and it was in the minor's best interest that his parental rights be terminated, the trial court's decision on termination was not against the manifest weight of the evidence.

¶ 2 In January 2011, the State filed a petition for adjudication of wardship with respect to L.P., the minor child of respondent, Christopher Prince. The trial court adjudicated the minor a ward of the court and placed custody and guardianship with the Illinois Department of Children and Family Services (DCFS). In August 2011, the State filed a motion to terminate respondent's parental rights. In February 2012, the trial court found respondent unfit. In March 2012, the court found it in the minor's best interest that respondent's parental rights be terminated.

¶ 3 On appeal, respondent argues the trial court erred in (1) finding him unfit and (2)

terminating his parental rights. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In January 2011, the State filed a petition for adjudication of wardship, alleging L.P., born in January 2011, was a neglected minor based on an injurious environment. The petition alleged L.P.'s mother, Amanda Myers, had two other children in foster care and admitted substance abuse while pregnant. Also, the petition alleged respondent had substance-abuse and mental-health issues along with concerns about domestic violence. The trial court found probable cause to believe the minor was neglected and an urgent and immediate necessity existed to place her in shelter care.

¶ 6 In April 2011, the trial court found the minor was neglected pursuant to section 2-3 of the Juvenile Court Act of 1987 (705 ILCS 405/2-3 (West 2010)). In its May 2011 dispositional order, the court found respondent unfit. The court also found it in the minor's best interest that she be made a ward of the court and placed in custody and guardianship with DCFS.

¶ 7 In August 2011, the State filed a motion for termination of respondent's parental rights. The State alleged respondent was unfit for failing to (1) maintain a reasonable degree of interest, concern, or responsibility as to the minor's welfare (750 ILCS 50/1(D)(b) (West 2010)); (2) make reasonable efforts to correct the conditions that were the basis for the minor's removal (750 ILCS 50/1(D)(m)(i) (West 2010)); and (3) make reasonable progress toward the minor's return within nine months after the adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2010)).

¶ 8 In February 2012, the trial court conducted a hearing on the motion to terminate parental rights. The court took judicial notice of respondent's December 2011 felony conviction

for methamphetamine manufacturing and the accompanying eight-year prison sentence. Lisa Brandon, a child-welfare specialist, testified respondent's December 2010 service plan required him to complete substance-abuse treatment, attend mental-health services, attend visits and L.P.'s medical appointments, and maintain a legal means of support with appropriate housing. Brandon rated respondent unsatisfactory on the substance-abuse task, stating he had not consistently attended services, had not completed treatment, and tested positive for marijuana. He rated unsatisfactory as to mental health because he failed to follow through with services. He failed to maintain his own housing and did not consistently attend visits. A parenting goal was also rated unsatisfactory.

¶ 9 Brandon testified the same goals were included in a June 2011 service plan. Respondent was rated unsatisfactory on those goals as well. He had pending criminal charges for methamphetamine manufacturing, failed to document involvement in mental-health services, resided in prison, did not maintain consistent visits, and had not maintained a level of interest in L.P.'s life.

¶ 10 Brandon testified she met with respondent and Myers at the hospital on January 26, 2011. When Brandon questioned Myers about her housing plans, she stated she was going to live with respondent, despite their history of domestic violence and substance-abuse issues. At an April 2011 meeting, Myers and respondent admitted a domestic-violence incident took place the previous month. At a May 2011 meeting, Myers and respondent admitted relapsing with marijuana. In June 2011, Myers called to say she could not attend the scheduled visitation because she was at the hospital due to injuries suffered when respondent "pushed her into a hideaway bed, folded it up and proceeded to jump on it." Also, Myers indicated they had both

relapsed with methamphetamine. Respondent denied the incident took place.

¶ 11 On cross-examination, Brandon testified respondent had completed his intake assessment for substance-abuse services. Respondent attended approximately 7 out of 20 visits between L.P.'s birth in January 2011 and June 2011. Respondent was taken into custody in August 2011.

¶ 12 Amanda Myers testified she was hospitalized after an incident of domestic violence with respondent. Respondent did not testify. Following closing arguments, the trial court found respondent unfit for failing to maintain a reasonable degree of interest, concern, or responsibility as to L.P.'s welfare. The court did not make a finding on the remaining allegations of unfitness.

¶ 13 In March 2012, the trial court conducted the best-interest hearing. Brandon testified L.P. had been in foster placement since January 2011. L.P. smiles at her foster parents, laughs with them, and "seeks them out for hugs and kisses." Her foster parents had a desire to adopt L.P. Respondent testified he loved his daughter and wanted to maintain a relationship with her. The court found it in L.P.'s best interest that respondent's parental rights be terminated. This appeal followed.

¶ 14 II. ANALYSIS

¶ 15 A. Unfitness Finding

¶ 16 In a proceeding to terminate a respondent's parental rights, the State must prove unfitness by clear and convincing evidence. *In re Donald A.G.*, 221 Ill. 2d 234, 244, 850 N.E.2d 172, 177 (2006). " 'A determination of parental unfitness involves factual findings and credibility assessments that the trial court is in the best position to make.' " *In re Richard H.*, 376 Ill.

App. 3d 162, 165, 875 N.E.2d 1198, 1201 (2007) (quoting *In re Tiffany M.*, 353 Ill. App. 3d 883, 889-90, 819 N.E.2d 813, 819 (2004)). A reviewing court accords great deference to a trial court's finding of parental unfitness, and such a finding will not be disturbed on appeal unless it is against the manifest weight of the evidence. *In re Veronica J.*, 371 Ill. App. 3d 822, 828, 867 N.E.2d 1134, 1139 (2007).

¶ 17 In the case *sub judice*, the trial court found respondent unfit for failing to maintain a reasonable degree of interest, concern, or responsibility as to L.P.'s welfare. Before finding a parent unfit on this ground, the court must "examine the parent's conduct concerning the child in the context of the circumstances in which that conduct occurred." *In re Adoption of Syck*, 138 Ill. 2d 255, 278, 562 N.E.2d 174, 185 (1990). Circumstances to consider may include the parent's difficulty in obtaining transportation to the child's residence, the parent's poverty, the actions or statements of others hindering or discouraging visitation, "and whether the parent's failure to visit the child was motivated by a need to cope with other aspects of his or her life or by true indifference to, and lack of concern for, the child." *Syck*, 138 Ill. 2d at 279, 562 N.E.2d at 185. "Completion of service plan objectives can also be considered evidence of a parent's concern, interest, and responsibility." *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1065, 859 N.E.2d 123, 135 (2006). The parent may be found unfit for failing to maintain either interest, or concern, or responsibility; proof of all three is not required. *In re Jaron Z.*, 348 Ill. App. 3d 239, 259, 810 N.E.2d 108, 124-25 (2004).

¶ 18 The evidence indicated respondent failed to satisfactorily address his service-plan goals related to substance abuse, mental health, visitation, parenting, and housing. During L.P.'s case, respondent engaged in acts of domestic violence and tested positive for drug use. He only

attended 7 out of 20 visits. He also became a resident of the Illinois Department of Corrections.

¶ 19 Respondent argues he completed a drug-screen assessment, visited with L.P. at the outset of the case, and only failed to follow through with the service plan because he was incarcerated. However, "a parent is not fit merely because [he] has demonstrated some interest or affection toward [his] child; rather, [his] interest, concern[,] and responsibility must be reasonable." *Jaron Z.*, 348 Ill. App. 3d at 259, 810 N.E.2d at 125 (citing *In re E.O.*, 311 Ill. App. 3d 720, 727, 724 N.E.2d 1053, 1058 (2000)). In failing to address his service-plan goals, along with his continued use of drugs and acts of domestic violence, respondent has shown a lack of interest, concern, and responsibility as to the minor's welfare. Based on the evidence in the record, we conclude the trial court's finding of unfitness on this ground was not against the manifest weight of the evidence.

¶ 20 B. Best-Interest Finding

¶ 21 Respondent argues the trial court erred in finding it in L.P.'s best interest that his parental rights be terminated. We disagree.

¶ 22 "Courts will not lightly terminate parental rights because of the fundamental importance inherent in those rights." *Veronica J.*, 371 Ill. App. 3d at 831, 867 N.E.2d at 1142 (citing *In re M.H.*, 196 Ill. 2d 356, 362-63, 751 N.E.2d 1134, 1140 (2001)). Once the trial court finds the parent unfit, "all considerations must yield to the best interest of the child." *In re I.B.*, 397 Ill. App. 3d 335, 340, 921 N.E.2d 797, 801 (2009). When considering whether termination of parental rights is in a child's best interest, the trial court must consider a number of factors within "the context of the child's age and developmental needs." 705 ILCS 405/1-3(4.05) (West 2010). These include the following:

> "(1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's familial, cultural[,] and religious background and ties; (4) the child's sense of attachments, including love, security, familiarity, continuity of affection, and the least[-]disruptive placement alternative; (5) the child's wishes and long-term goals; (6) the child's community ties; (7) the child's need for permanence, including the need for stability and continuity of relationships with parent figures and siblings; (8) the uniqueness of every family and child; (9) the risks related to substitute care; and (10) the preferences of the person available to care for the child." *Daphnie E.*, 368 Ill. App. 3d at 1071-72, 859 N.E.2d at 141.

See also 705 ILCS 405/1-3(4.05)(a) to (4.05)(j) (West 2010).

¶ 23 A trial court's finding that termination of parental rights is in a child's best interest will not be reversed on appeal unless it is against the manifest weight of the evidence. *In re Anaya J.G.*, 403 Ill. App. 3d 875, 883, 932 N.E.2d 1192, 1199 (2010). A decision will be found to be against the manifest weight of the evidence in cases "where the opposite conclusion is clearly evident or where the findings are unreasonable, arbitrary, and not based upon any of the evidence." *In re Tasha L.-I.*, 383 Ill. App. 3d 45, 52, 890 N.E.2d 573, 579 (2008).

¶ 24 Here, the evidence indicated L.P. had been in her foster placement since she was three days old. She was acting appropriately, and her foster parents were willing to adopt her. Respondent, on the other hand, remains in prison and is set to remain there for the foreseeable future. Given his current residence, along with his inability to achieve the goals set out in his

service plan, the evidence clearly demonstrated respondent would be unable to provide the stability and permanence L.P. deserves in her formative years. Based on the evidence presented, we find the trial court's order terminating respondent's parental rights was not against the manifest weight of the evidence.

¶ 25 III. CONCLUSION

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

¶ 27 Affirmed.