

NOTICE
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2012 IL App (4th) 120489-U

Filed 9/11/12

NO. 4-12-0489

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: O.M., K.M., X.M., and E.A., Minors,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	McLean County
v.)	No. 09JA16
CHRISTIANA MOHEAD,)	
Respondent-Appellant.)	Honorable
)	Kevin P. Fitzgerald,
)	Judge Presiding.

JUSTICE COOK delivered the judgment of the court.
Justices Steigmann and Appleton concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court did not err in finding that termination of respondent mother's parental rights was in three of her children's best interests.

¶ 2 In April 2012, the trial court terminated respondent mother Christiana Mohead's parental rights with respect to three of her minor children, K.M. (born May 29, 2006), X.M. (born January 8, 2009), and E.A. (born February 7, 2010). The court found the continuation of guardianship was in the best interest of respondent's daughter, O.M. (born December 17, 1998). Respondent appeals, arguing the court erred in finding that termination of her parental rights was in K.M., X.M., and E.A.'s best interests. We disagree.

¶ 3 I. BACKGROUND

¶ 4 In March 2009, after respondent mother admitted smoking marijuana while pregnant with X.M. and tested positive for tetrahydrocannabinol (THC) after giving birth, the

State filed its petition for adjudication of wardship with respect to O.M., K.M., and X.M. After a shelter-care hearing, the Department of Children and Family Services (DCFS) took O.M., K.M., and X.M. into shelter care.

¶ 5 In June 2009, the trial court held an adjudicatory hearing. Respondent mother freely and voluntarily admitted, as the State alleged, the minors were neglected in that they lived in an environment injurious to their welfare due to respondent's "unresolved issues of alcohol and/or substance abuse," which created a risk of harm. See 705 ILCS 405/2-3(1)(b) (West 2010).

¶ 6 At an August 2009 dispositional hearing, the trial court found respondent mother unfit to care for O.M., K.M., and X.M. The court adjudicated the children wards of the court and placed guardianship with DCFS. In its dispositional order, the court prescribed a service plan for respondent and set a permanency goal of the children's return home in 12 months.

¶ 7 In proceedings not reported, but referred to, in the record on appeal, DCFS took newborn E.A. into protective custody and placed her in a foster home with K.M. and X.M. upon her discharge from the hospital. In March 2010, the trial court adjudicated E.A. neglected. In May 2010, the court held a dispositional hearing with respect to E.A. that is included in the record on appeal because it coincided with a permanency hearing concerning O.M., K.M., and X.M. The court found respondent mother unfit to care for E.A. It made E.A. a ward of the court and placed guardianship with DCFS. The court consolidated E.A.'s case with her siblings'.

¶ 8 The trial court held periodic permanency hearings in January, May, August, and December 2010 and February and May 2011. In March 2011, after respondent mother tested positive for cocaine, the State filed its petition for termination of respondent's parental rights with respect to E.A. In relevant part, the State alleged that respondent was unfit in that she failed to

make reasonable progress toward E.A.'s return home in the nine months after E.A.'s adjudication of neglect or abuse, from March 30, 2010, through December 30, 2010. See 705 ILCS 50/1(D)(m)(ii) (West 2010). At the May 2011 permanency hearing, the court found respondent mother fit and set permanency goals of O.M.'s return home in 5 months and K.M., X.M., and E.A.'s return home in 12 months.

¶ 9 In June 2011, less than two weeks after being found fit, respondent mother again tested positive for cocaine. That month, the State filed its first supplemental petition to terminate her parental rights with respect to O.M., K.M., and X.M. In relevant part, the State alleged respondent was unfit in that she failed to make reasonable progress toward O.M., K.M., and X.M.'s return home during the nine-month period from September 2, 2010, through June 2, 2011. See 705 ILCS 50/1(D)(m)(iii) (West 2010). At a hearing later that month, at which respondent did not appear, the trial court found respondent unfit. The court changed the permanency goal to substitute care pending termination proceedings.

¶ 10 In September 2011, the trial court held an evidentiary hearing on respondent mother's fitness. Respondent admitted the allegations set forth in the State's petition and first supplemental petition. Specifically, she admitted she had failed to make reasonable progress toward the children's return home during the respective nine-month periods identified in the petitions. The court found a factual basis for respondent's admission and entered an order finding her unfit.

¶ 11 In April 2012, the trial court held a best-interests hearing. Evidence included a best-interests report and testimony by respondent and caseworkers involved with her service plan. The court found termination of respondent's parental rights concerning K.M., X.M., and

E.A. was in the children's best interests. It found continued guardianship, rather than termination, was in O.M.'s best interest.

¶ 12 This appeal followed.

¶ 13 II. ANALYSIS

¶ 14 Respondent mother argues the trial court erred in terminating her parental rights with respect to K.M., X.M., and E.A. Specifically, she claims the court's best-interests findings were contrary to the manifest weight of the evidence. We disagree.

¶ 15 Ordinarily, the State must prove that a parent is unfit by clear and convincing evidence before his or her parental rights can be terminated. *In re T.D.*, 268 Ill. App. 3d 239, 245, 643 N.E.2d 1315, 1319 (1994). Here, respondent mother's free and voluntary admission relieved the State of its burden of presenting clear and convincing evidence of her unfitness, and she does not challenge the unfitness finding on appeal.

¶ 16 Following a finding of unfitness, termination of parental rights is appropriate where the preponderance of the evidence—not, as respondent mother supposes, clear and convincing evidence—supports a finding that termination is in the child's best interest. *In re D.T.*, 212 Ill. 2d 347, 366, 818 N.E.2d 1214, 1228 (2004); see also *id.* at 364, 818 N.E.2d at 1227 ("[T]he issue [becomes] whether, in light of the child's needs, parental rights should be terminated. Accordingly, at a best-interests hearing, the parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home." (Emphasis omitted.)). If the sufficiency of the evidence supporting such a finding is at issue on appeal, the trial court's best-interest determination should be affirmed unless contrary to the manifest weight of the evidence. *In re D.M.*, 336 Ill. App. 3d 766, 773, 784 N.E.2d 304, 310 (2002). "A decision

is against the manifest weight of the evidence *** if the facts clearly demonstrate that the court should have reached the opposite result." *Id.*

¶ 17 In determining whether termination is in a child's best interest, the trial court is directed to consider, "in the context of the child's age and developmental needs," the factors identified in section 1-3(4.05) of the Juvenile Court Act of 1987. Those factors are (1) the physical safety and welfare of the child; (2) the development of the child's identity; (3) the child's background and familial, cultural, and religious ties; (4) the child's sense of attachments, including love, security, familiarity, and continuity of affection, and the least disruptive placement alternative; (5) the child's wishes; (6) the child's community ties, including church, school, and friends; (7) the child's need for permanence and stability in relationships with parental figures, siblings, and other relatives; (8) the uniqueness of every family and child; (9) the risks attendant to substitute care; and (10) the preferences of the persons available to care for the child. 705 ILCS 405/1-3(4.05) (West 2010). "Additionally, a court may consider the nature and length of the child's relationship with his present caretaker and the effect that a change in placement would have upon his emotional and psychological well-being." *In re Jaron Z.*, 348 Ill. App. 3d 239, 262, 810 N.E.2d 108, 127 (2004). The court "need not articulate any specific rationale for its decision [regarding the child's best interest], and a reviewing court need not rely on any basis used by a trial court below in affirming its decision." *Id.* at 263, 810 N.E.2d at 127.

¶ 18 Here, the trial court's best-interests findings were not against the manifest weight of the evidence. At the time of the hearing, K.M. (age five), X.M. (age three), and E.A. (age two) had spent significant portions of their lives in foster care while their mother struggled to demonstrate control over her substance abuse, mental health, finances, and parenting skills. They

had been placed for about five months with respondent's, as well as their own, godmother, Jane Donovan, whom respondent identified as a suitable caretaker. The children had already developed strong bonds with Donovan. The children attended church, and K.M. and X.M. attended school. They showed affection to Donovan and appeared comfortable and safe in her care. They maintained contact with O.M., who lived only about two miles away. Donovan had signed a "permanency commitment form" manifesting her intent to adopt K.M., X.M., and E.A.

¶ 19 In contrast, respondent mother had tested positive for THC in February 2012, between the hearing on the State's initial and first supplemental petitions to terminate her parental rights and the best-interests hearing. She had not obtained a job and lacked a stable income. In the best-interests report, the family's caseworker expressed concerns about respondent's failure to make significant progress on her service-plan objectives. The trial court found respondent's continued drug use created an unsafe environment for the children. The court indicated it would be disinclined to find respondent fit until she had demonstrated an additional 1 or 1 1/2 years of sobriety and stability.

¶ 20 In these circumstances, the trial court did not err in finding that termination of respondent mother's parental rights with respect to K.M., X.M., and E.A. was in their best interests. At the time of the best-interests hearing, the older children had been in substitute care for more than three years and E.A. had been in substitute care practically her entire life. The children's need for finality would not have been served by drawing the case out for another year or more, especially when Donovan's offer of adoption presented an opportunity for safe, stable, and loving care for these children.

III. CONCLUSION

¶ 21

¶ 22

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

¶ 23

Affirmed.