



of Children and Family Services (DCFS) was granted temporary custody of J.H. S.R. and T.F., J.H.'s biological mother, subsequently stipulated to the allegations of the petition and, following a February 16, 2010, dispositional hearing, J.H. was made a ward of the court with DCFS being appointed as her guardian.

¶ 4 A permanency review hearing was held on August 10, 2010. S.R. did not attend because he was in custody in the Kankakee County jail, having been charged with first-degree murder. The circuit court suspended S.R.'s visitation with J.H. until further order of the court.

¶ 5 On February 14, 2012, the State filed a petition to terminate S.R.'s parental rights. The petition alleged that S.R. was an unfit person in that (1) he had abandoned J.H. (750 ILCS 50/1(D)(a) (West 2010)), (2) he had failed to maintain a reasonable degree of interest, concern, or responsibility as to J.H.'s welfare (750 ILCS 50/1(D)(b) (West 2010)), (3) he had deserted J.H. for more than three months next preceding the commencement of proceedings on the petition to terminate his parental rights (750 ILCS 50/1(D)(c) (West 2010)), and (4) he was depraved in that he had been convicted of at least three felonies and at least one of those had occurred within the past five years (750 ILCS 50/1(D)(i) (West 2010)). Specifically, the State alleged that S.R. had been convicted of multiple felonies, the most recent of which—a conviction for first-degree murder—occurred in 2011.

¶ 6 At the March 27, 2012, hearing on the petition, S.R. testified as follows. He was currently incarcerated in the Stateville Correctional Center serving a 28-year sentence for first-degree murder, having been convicted of that offense following a June 28, 2011, bench trial. Since J.H.'s birth on August 16, 2005, he has been incarcerated periodically for a total of four years. S.R. last visited with J.H. in March 2010. He was arrested for murder in June 2010. While incarcerated, S.R. has written letters to J.H. and he receives letters from her on a monthly basis in which she refers to him as "daddy." S.R. sends J.H. cards and presents on

her birthday and at Christmas. S.R. stated that he loves his daughter and wants to remain in contact with her.

¶ 7 Beth Ochs testified that she was a foster care case manager for Christian Social Services and that she was in charge of J.H.'s case. Since her involvement with the case, Ochs had taken J.H. three times to visit S.R. while he was incarcerated. While S.R. was free for three months he had three visits. These three months are the only time that S.R. has not been in custody since Ochs has had the case. Ochs did not take J.H. for any more visits once S.R. was jailed on the murder charge, and she requested that the court suspend his visitations, which the court did. Ochs verified that S.R. sent letters to J.H. and that he sends her birthday and Christmas gifts.

¶ 8 T.F., J.H.'s mother, testified that S.R. sent J.H. letters at least once per month and when not in custody he called J.H. every day. T.F. also testified that S.R. would always send birthday and Christmas presents to J.H.

¶ 9 The State introduced certified copies of the following felonies: a 1992 conviction for theft and unlawful possession of a stolen license plate; a 1994 conviction for theft; a 1994 conviction for criminal sexual assault; a 1999 conviction for unlawful use of a credit card; a 2003 conviction for unlawful failure to register as a sex offender; a 2005 conviction for unlawful failure to register as a sex offender; a 2005 conviction for unlawful use of a debit card; a 2008 conviction for theft; and a 2011 conviction for first-degree murder.

¶ 10 After the close of all the evidence and following closing arguments by counsel, the circuit court found that the State had proved by clear and convincing evidence all four grounds of unfitness alleged in the petition. Following a best-interests hearing on May 8, 2012, the circuit court terminated S.R.'s parental rights to J.H. S.R. appeals.

¶ 11 On appeal, S.R. argues that the circuit court's determination that he was an unfit person is contrary to the manifest weight of the evidence. The State agrees that the evidence

does not support the circuit court's finding that S.R. was unfit based on abandonment, but argues that the evidence does support the circuit court's determination that S.R. was unfit based upon desertion, failure to maintain a reasonable degree of interest, concern, or responsibility, and depravity.

¶ 12 The Juvenile Court Act of 1987 establishes a two-step process for terminating parental rights involuntarily. 705 ILCS 405/2-29(2) (West 2008). The State must first prove by clear and convincing evidence that the parent is an unfit person as defined by section 1(D) of the Adoption Act (Act) (750 ILCS 50/1(D) (West 2008)). *In re Tiffany M.*, 353 Ill. App. 3d 883, 889, 819 N.E.2d 813, 819 (2004). Section 1(D) of the Act sets forth numerous grounds under which a parent can be found unfit, any one of which standing alone will support a finding of unfitness. *Id.* A circuit court's determination that there is clear and convincing evidence of parental unfitness will not be disturbed on review unless it is contrary to the manifest weight of the evidence.

¶ 13 If the trial court finds the parent to be unfit, the court must then determine whether it is in the child's best interest that parental rights be terminated. 705 ILCS 405/2-29(2) (West 2008). At this stage, the focus of the court's scrutiny shifts from the rights of the parent to the best interest of the child. *In re B.B.*, 386 Ill. App. 3d 686, 697, 899 N.E.2d 469, 479 (2008). To terminate parental rights, the State bears the burden of proving by a preponderance of the evidence that termination is in the minor's best interest. *In re D.T.*, 212 Ill. 2d 347, 366, 818 N.E.2d 1214, 1228 (2004). A trial court's determination that termination of parental rights is in the child's best interest will not be disturbed on review unless it is contrary to the manifest weight of the evidence. *In re R.L.*, 352 Ill. App. 3d 985, 1001, 817 N.E.2d 954, 968 (2004).

¶ 14 We address first the circuit court's finding that S.R. was an unfit person based on depravity. "Depravity," for purposes of determining whether a parent is unfit, is an inherent

deficiency of moral sense and rectitude (*In re S.W.*, 315 Ill. App. 3d 1153, 1158, 735 N.E.2d 706, 709 (2000)) and is demonstrated by a series of acts or a course of conduct that indicates a moral deficiency and an inability or unwillingness to conform with accepted morality. *In re A.M.*, 358 Ill. App. 3d 247, 253, 831 N.E.2d 648, 654 (2005); *In re Shanna W.*, 343 Ill. App. 3d 1155, 1166, 799 N.E.2d 843, 850 (2003). Section 1(D)(i) creates a rebuttable presumption of depravity where the parent has been criminally convicted of first- or second-degree murder within 10 years of the filing of the petition to terminate parental rights, or has been criminally convicted of at least three felonies and at least one of those felonies occurred within five years of the filing of the petition to terminate parental rights. 750 ILCS 50/1(D)(i) (West 2008). Once the respondent introduces evidence rebutting the presumption, it ceases to operate, and the State must demonstrate by clear and convincing evidence that the respondent is depraved. *In re A.M.*, 358 Ill. App. 3d at 253-54, 831 N.E.2d at 654 (citing *In re J.A.*, 316 Ill. App. 3d 553, 562-63, 736 N.E.2d 678, 686 (2000)).

¶ 15 In the present case, the State introduced evidence that S.R. had been convicted of at least three felonies, including a 2011 conviction for first-degree murder. Even assuming S.R. introduced sufficient evidence to rebut the resulting statutory presumption of depravity, S.R.'s lengthy history of multiple felony convictions, a pattern of criminality which did not change with the birth of his daughter and which culminated in a 2011 conviction for first-degree murder, clearly indicates a moral deficiency and an inability or unwillingness to conform with accepted morality. The circuit court's determination that there is clear and convincing evidence of S.R.'s depravity and that, as a consequence, he is an unfit person as defined by the Act is not contrary to the manifest weight of the evidence.

¶ 16 Having determined that the circuit court's determination that there was clear and convincing evidence of depravity and that S.R. was therefore an unfit person as defined by section 1(D)(i) of the Act was not contrary to the manifest weight of the evidence, we need

not consider whether the circuit court's determination that S.R. was unfit based on desertion and failure to maintain a reasonable degree of interest, concern, or responsibility was contrary to the manifest weight of the evidence.

¶ 17 For the foregoing reasons, the judgment of the circuit court of Washington County is affirmed.

¶ 18 Affirmed.