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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

<i>In re</i> DAVID R. and TAYE W., Minors)	Appeal from the Circuit Court
)	of Winnebago County.
)	
)	Nos. 09-JA-193
)	09-JA-194
)	
)	
(The People of the State of Illinois, Petitioner-Appellee v. Chastity W., Respondent-Appellant and Joseph W., Respondent.))	Honorable Mary Linn Green, Judge, Presiding.

JUSTICE ZENOFF delivered the judgment of the court.
Justices Hudson and Birkett concurred in the judgment.

ORDER

Held: The court affirmed the trial court’s order terminating respondent’s parental rights where the State proved depravity by clear and convincing evidence.

¶ 1 Respondent, Chastity W.¹, appeals from an order of the circuit court of Winnebago County terminating her parental rights to the minors, David R. III² and Taye W. We affirm.

¹When we refer to “respondent” in this order, we are referring to Chastity W.

²There are two David R’s. The minor at issue was named after David R., Jr., who was at one time married to Chastity W., the mother. For ease of reference the minor will be called David. R.

¶ 2 Respondent is the biological mother of David R. III, born August 30, 2001, and Taye W., born March 11, 1999. Respondent is also the biological mother of Tia W. and Devita W. David R., Jr. is the biological father of Devita W. For purposes of these proceedings, Tia W.'s biological father was unknown. Joseph W. is the biological father of David R. III and Taye W.

¶ 3 On May 13, 2009, the Illinois Department of Children and Family Services (DCFS) took the four minors into protective custody after receiving a hotline report that respondent allowed her former husband, William Reynolds, to sexually abuse Devita, Taye, and Tia. Respondent confirmed that the children told her of the abuse but stated that she did not believe them. On May 15, 2009, the court gave DCFS temporary custody, and the children were placed together in foster care. On June 4, 2009, Tia W. was removed from her foster home and placed elsewhere upon the revelation that Tia W. had sexually abused her siblings. On July 24, 2009, the court adjudicated David R. III and Taye W. neglected minors.

¶ 4 Respondent was criminally charged with permitting the sexual abuse of a child, a felony, and was confined in the Winnebago County jail. She pleaded guilty and was sentenced to eight years' imprisonment in the Illinois Department of Corrections. David R., Jr. was married and living in Florida during these proceedings. David R., Jr. and his wife consistently expressed their desire to take in all of the children. While he was married to respondent, David R., Jr. had parented all of the children. Eventually, all of the children except Tia W. were placed with David R., Jr. and his wife in Florida.

¶ 5 On September 7, 2012, the State filed petitions to terminate respondent's parental rights as to David R. III and Taye W. The petitions alleged that respondent failed to maintain a reasonable degree of interest, concern, or responsibility as to the children's welfare (count I); that she failed to

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protect the children from conditions within their environment injurious to the children's welfare (count II); that she failed to make reasonable progress toward the return of the children within nine months after they were adjudicated neglected (count III); that she failed to make reasonable progress toward the return of the children during any nine-month period after the end of the initial nine-month period following the adjudication of neglect (count IV); that she was depraved (count V) ; and that it was in the best interests of the minors that her parental rights be terminated.

¶ 6 On February 7, 2013, trial on unfitness was held. Because this is respondent's appeal, we will confine our recitation of the evidence to that presented with respect to respondent. The following evidence was presented at the trial.

¶ 7 The State introduced, without objection, certified copies of the criminal information charging respondent with one count of permitting the sexual abuse of a child, respondent's waiver of preliminary hearing, respondent's guilty plea to the charge of permitting the sexual abuse of a child, the order for a presentence investigation, and the commitment order to the Illinois Department of Corrections.

¶ 8 Samantha Becker

¶ 9 Becker was the DCFS caseworker assigned to David R. III and Taye W. When Becker became involved with the children in 2009, respondent was living in an apartment on Acorn Street in Rockford, Illinois. Approximately six months later, respondent was arrested and was confined in jail up to and through the termination proceedings. Becker testified that, even though respondent was in jail, there were services she needed to complete as part of her service plan. Those services included counseling, substance abuse assessment, and parenting classes. Becker testified that, because of respondent's incarceration, she was not able to complete the services. According to Becker, respondent attended various other programs offered by the jail.

¶ 10 According to Becker, respondent initially had supervised visitation, but DCFS received reports by the therapists attending the visits that the visits were not “therapeutic” between respondent and the children. Becker explained that the children were asking respondent why she had permitted the sexual abuse to happen and why she did not stop it. According to Becker, respondent did not respond “properly” to those questions. At that time, DCFS made a critical decision to suspend visits between respondent and the children. Since the suspension of visitation in November 2009, no visits had taken place. Becker testified that respondent asked about the children on the occasions Becker visited respondent in the county jail. After respondent was committed to the Illinois Department of Corrections, she sent only two letters to Becker to give to the children. Becker related an incident that occurred at a wrestling event in Rockford while respondent was having supervised visitation. Without DCFS’s consent, respondent invited Joseph W.³ to attend, which made the children fearful because they did not know who he was.

¶ 11 Chastity W.

¶ 12 Respondent testified that the children were removed from her in May 2009 and that her last interaction with them was Halloween 2009. DCFS did not allow visitation after that date. Respondent testified that, despite her guilty plea, she did not know her children were being sexually abused. She testified that she would never have allowed that to happen. She asked the trial court to find her to be a fit parent. Following closing arguments, the court found that the State had proved by clear and convincing evidence counts I, II, III, IV, and V of the petitions against respondent and moved immediately to a best interests hearing.

¶ 13 Becker testified that David R. III and Taye W. were both living in Florida with Devita W. Taye W. had been placed in foster care in Florida for two years, and David R. III was placed in

³Respondent married Joseph W. after the children were taken into foster care.

March 2013. They were living with David R., Jr., the man they both had known as their “father” their entire lives. Becker testified that she spoke on the phone the day before with Taye W., who reported that she wanted to continue to live in Florida and be adopted by Mr. and Mrs. David R., Jr., the foster parents. Becker testified that she also spoke with David R. III, who reported that he would like to continue living in Florida with his siblings and be adopted by David R., Jr. and his wife. Becker testified that the foster mother, Mrs. R., informed her that she and her husband were committed to adopting the children. Becker explained that the foster parents and the children were in counseling and that there were no safety or space concerns about the home. Becker testified that respondent was unable at the present, or in the near future, to provide permanency and safety for the children because of her incarceration.

¶ 14 Respondent testified that she was earning additional good time while incarcerated for attending an addiction program. She testified that she was on a waiting list for numerous classes dealing with parenting and child endangerment, as well as Bible classes. According to respondent, she was willing to do whatever DCFS mandated her to do in order to be part of her children’s lives, but DCFS had cut her off completely. Respondent testified that no one was willing to help her.

¶ 15 Following arguments of counsel, the trial court found that the goal of adoption was in the minors’ best interests. Respondent filed a timely appeal.

¶ 16 The Juvenile Court Act provides a bifurcated system in which parental rights can be terminated. 750 ILCS 405/2-29(2) (West 2012). There first must be a showing of parental unfitness based on clear and convincing evidence, and then a showing that the best interests of the child are served by severing parental rights. *In re Konstantinos H.*, 387 Ill. App. 3d 192, 203 (2008). A finding of unfitness will stand if supported by any one of the statutory grounds set forth in section 1(D) of the Adoption Act. *In re Jacorey S.*, 2012 IL App (1st) 113427, ¶ 19. The trial court’s

decision to terminate parental rights involves factual findings and credibility assessments that the trial court is in the best position to make. *Jacorey S.*, 2012 IL App (1st) 113427, ¶ 19. Thus, the trial court's finding of unfitness will not be disturbed unless it is contrary to the manifest weight of the evidence and the record clearly shows that the opposite result was proper. *Jacorey S.*, 2012 IL App (1st) 113427, ¶ 19. A finding is against the manifest weight of the evidence where the opposite conclusion is clearly evident. *In re C.N.*, 196 Ill. 2d 181, 208 (2001). Because each case concerning parental unfitness is *sui generis*, requiring a close analysis of its individual facts, factual comparisons to other cases by reviewing courts are of little value. *Konstantinos H.*, 387 Ill. App. 3d at 203.

¶ 17 In the present case, respondent argues that the trial court's findings of unfitness with respect to each count of the petitions were against the manifest weight of the evidence. We need not address each count separately, because a finding of unfitness will stand if supported by any one statutory ground (*Jacorey S.*, 2012 IL App (1st) 113427, ¶ 19), and we believe that the finding is supported by the proof of depravity.

¶ 18 Section 1(D) of the Adoption Act provides several grounds for unfitness, including a parent's depravity. 750 ILCS 50/1(D)(i) (West 2012); *In re Addison R.*, 2013 IL App (2d) 121318, ¶ 23. Although the legislature did not define "depravity," our supreme court has defined "depravity" as "an inherent deficiency of moral sense and rectitude." *In re Abdullah*, 85 Ill. 2d 300, 305 (1981). Here, respondent contends that the mere fact of her conviction of permitting the sexual abuse of a child is insufficient to prove depravity. In *Abdullah*, our supreme court noted that the appellate court had held that a single criminal conviction, without more, will not support a finding of unfitness based on depravity. *Abdullah*, 85 Ill. 2d at 306. Effective June 30, 1998, the legislature amended the statute to provide that if a parent has three felony convictions, including one within five years of the filing of a petition to terminate parental rights, a rebuttable presumption of parental unfitness arises.

750 ILCS 50/1(D)(i) (West 1998); *In re T.T.*, 322 Ill. App. 3d 462, 463 (2001). As respondent had one felony conviction, no presumption of depravity arises, and the State had the burden of proving depravity based on more than the mere conviction. We conclude from the record that the trial court's determination of unfitness based on depravity was not against the manifest weight of the evidence.

¶ 19 The record demonstrates the following. On May 12, 2009, respondent's ex-husband, William Reynolds, who was homeless, came to respondent's home wanting coffee. Respondent left Reynolds alone in the apartment with her minor daughter, Tia W., sleeping upstairs. Respondent placed Reynolds in charge while she and the younger siblings left. Reynolds then went upstairs and raped Tia W. There was blood on the bed sheets following the rape. This incident, giving Reynolds access to Tia W., occurred after respondent knew that Reynolds had sexually abused her children. Taye W. reported that she was nine years old when respondent was married to Reynolds. Taye W. observed Reynolds sexually molest Tia W. After sexually abusing Tia W., Reynolds went into Taye W.'s bed and sexually molested Taye W. Taye W. related that on one occasion respondent was "dead asleep" on the edge of a bed when Reynolds sexually molested Devita W. Taye W., Tia W., and Devita W., told respondent at least three times at family meetings about the abuse. According to Taye W., respondent said nothing and did not talk to Reynolds about it. Devita W. reported that Reynolds offered her \$2 if she would allow him to kiss her "tutu." On one occasion when Devita W. and Reynolds were in the living room in their apartment on Green Street, Reynolds got on top of her, disrobed her, and kissed her "outside" of her "tutu." Devita W. told respondent about the abuse. Respondent admitted to DCFS that the girls (Taye W., Tia W., and Devita W.) told her of the sexual abuse perpetrated by Reynolds, but she said that she did not want to believe it.

¶ 20 In *Abdullah*, three separate factors showed the defendant's depravity: (1) his conviction of murder; (2) the murder victim was the mother of his child; and (3) the extended term of

imprisonment showed that the murder was accompanied by exceptionally brutal and heinous behavior. *Abdullah*, 85 Ill. 2d at 306-07. In *Addison R.*, we held that the conduct underlying the respondent's felony convictions properly formed the basis for a finding of depravity. *Addison R.*, 2013 IL App (2d) 121318, ¶¶ 27, 28. In the present case, the record shows, apart from the mere fact of the conviction, that respondent knew of the abuse, and was even present when some of it occurred, and that she allowed it to continue. The record reflects that the abuse happened repeatedly and over an extended period of time. Thus, we cannot say that the trial court's finding of depravity was against the manifest weight of the evidence.

¶ 21 Nevertheless, respondent contends that we must reverse the trial court's determination that respondent was depraved. Respondent contends that the trial court was required specifically to find that respondent "suffered from an inherent deficiency of moral sense and rectitude" and that it failed to make such a finding. Respondent relies on *In re Marriage of T.H.*, 255 Ill. App. 3d 247 (1993). In *T.H.*, the court said that "[i]n order to find a person unfit on the ground of depravity, the court must find that the person suffers from an inherent deficiency of moral sense and rectitude." *T.H.*, 255 Ill. App. 3d at 255. The court in *T.H.* cited *In re Buttram*, 56 Ill. App. 3d 950, 953-54 (1978), for that proposition. *T.H.*, 255 Ill. App. 3d at 255. However, *Buttram* does not support respondent's too-literal reading of that one sentence in *T.H.* The court in *Buttram* said that depravity is one of the statutory grounds of a finding of parental unfitness and was defined by our supreme court as " ' an inherent deficiency of moral sense and rectitude.' " *Buttram*, 56 Ill. App. 3d at 953-54. The court in *Buttram* then went on to hold that "[d]epravity may be established by a series of acts or a course of conduct indicating a deficiency in a moral sense and showing either an inability or an unwillingness to conform to accepted morality." *Buttram*, 56 Ill. App. 3d at 954. In *Buttram*, the court found that "the present record presented enough instances of serious misconduct[] to allow the

trial court, who had the opportunity to weigh the credibility of the witnesses, to find [the respondent] unfit by reason of depravity.” *Buttram*, 56 Ill. App. 3d at 954. Here, the record established that, in knowingly allowing Reynolds to continue the sexual abuse, and in leaving Tia W. prey to Reynolds’ wickedness on May 12, 2009, respondent showed either an inability or an unwillingness to conform to accepted morality.

¶ 22 Because we affirm the trial court’s finding of unfitness on the ground of depravity, we need not address respondent’s other contentions regarding the other bases of unfitness. Further, because respondent does not contest the trial court’s best interests finding, we hold that the court’s order terminating respondent’s parental rights was appropriate. Accordingly, the judgment of the circuit court of Winnebago County is affirmed.

¶ 23 Affirmed.