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2013 IL App (3d) 130125-U

Order filed May 23, 2013

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2013

<i>In re</i> S. F-S. and J. F-S.,)	Appeal from the Circuit Court
)	of the 10th Judicial Circuit,
Minors)	Peoria County, Illinois,
)	
(The People of the State of Illinois,)	
)	
Petitioner-Appellee,)	Appeal No. 3-13-0125
)	Circuit Nos. 05-JA-230 and 05-JA-231
v.)	
)	
Susan F.,)	Honorable
)	Mark E. Gilles,
Respondent-Appellant).)	Judge, Presiding.

JUSTICE CARTER delivered the judgment of the court.
Justices Lytton and Schmidt concurred in the judgment.

ORDER

- ¶ 1 *Held:* In a case in which a mother's parental rights to two minors were terminated, the mother argued on appeal that the circuit court erred when it found it was in the minors' best interest to terminate her parental rights. The appellate court affirmed, holding that the circuit court's ruling was not against the manifest weight of the evidence.
- ¶ 2 The circuit court entered orders finding the respondent, Susan F., to be an unfit parent and

terminating her parental rights to the minors, S. F-S. and J. F-S. On appeal, the respondent argues that the circuit court erred when it found that it was in the minors' best interest to terminate her parental rights. We affirm.

¶ 3

FACTS

¶ 4 On October 12, 2005, juvenile petitions were filed that alleged the minors were neglected by reason of an injurious environment. Among other things, the petition alleged that the respondent and the minors' father had a history of domestic violence and the respondent had an alcohol abuse problem. The petition also alleged that the minors' father had a 1993 indicated report by the Department of Children and Family Services (DCFS) for sexual exploitation, sexual molestation, and risk of harm. DCFS was given temporary custody of the minors, and they were placed in a foster home. After a hearing on the petition, the circuit court found on January 4, 2006, that the minors were neglected. The court held a dispositional hearing on February 1, 2006, at which the respondent was found to be an unfit parent, the minors were made wards of the court, and DCFS was named guardian with the right to place.

¶ 5 Over the next approximately 6½ years, numerous permanency review hearings were conducted involving the respondent and the minors' father. In January 2007, the respondent was found fit. At a hearing in January 2008, the respondent was found unfit, as she had allowed contact between the minors and the minors' father, and she had become unstable. At a hearing in October 2008, she was found fit. In April 2009, a permanency review hearing was continued because the respondent showed up intoxicated. Later that month, she was again found unfit based on her alcohol problems and because she gave inconsistent reasons for bruising on her legs. At a hearing in June 2011, the respondent was found fit. At a hearing in January 2012, she

was found unfit due to problems with alcohol, including an arrest for driving under the influence (DUI) on December 22, 2011.

¶ 6 The permanency review hearing reports filed over this approximately 6½-year span detailed, among other things, the issues that the minors had been having. Some of the information included in these reports was as follows. In August 2010, the respondent told the caseworker that the minors had told her that the father touched them inappropriately, which led to the minors being placed back into foster care. The minors reported to the caseworker that the father had touched them inappropriately on many occasions. While the father denied the allegations, he was convicted of two crimes in connection with the inappropriate touching and received an 18-year prison sentence. The reports stated that the minors exhibited "numerous trauma induced behaviors," including inappropriate touching between the minors. The minors had to be constantly supervised due to these sexualized behaviors. The frequency of these behaviors apparently lessened over time.

¶ 7 On August 9, 2012, the State filed a petition to terminate the parental rights of the respondent and the minors' father. With respect to the respondent, the petition alleged that she failed to make reasonable progress toward the return of the minor between October 2011 and June 2012. A supplemental petition was later filed to include an allegation that the respondent was unfit for failing to maintain a reasonable degree of interest, concern, or responsibility toward the minors' welfare. On January 2, 2013, after a hearing on the petition, the circuit court found the petition's allegations proven and entered an order finding the respondent to be unfit.

¶ 8 On February 6, 2013, the circuit court held a best-interest hearing. Caseworker Adrian Mann compiled a best-interest hearing report for the court, which contained the following

information. J. F-S. was nine years old and S. F-S. was eight years old, and both were in excellent health. Their basic needs were being met by their foster parent, who was committed to long-term permanency for them, including adoption. They had been placed in this foster home the first time in January 2010, and were placed there again in August 2010 after two failed attempts at returning the minors home to the respondent and the father. In total, that made nine foster home placements for the minors since they came into care in 2005. The caseworker recommended that the parents' rights be terminated at the hearing, as neither had been able to provide any stability or permanency for the minors in the past seven years. At the hearing, the caseworker stated that the foster parent was committed to adoption.

¶ 9 Also at the hearing, the respondent testified that she had recently moved into the Southside Mission on December 31, 2012, where she had "recommitted [her] life to the Lord." She stated that other women live there with their kids, and that eventually she wanted to find her own place to live.

¶ 10 The respondent acknowledged her struggles with alcoholism, but said her last drink was in early December 2012 and that she was enrolled in an outpatient drug and alcohol addiction program as of January 18, 2013. She stated that she did not finish the alcohol treatment program she was ordered to complete after receiving a DUI, as she was unable to continue paying for it because she had lost her job. She switched to a free program instead. In addition, she admitted that around December 7 or 9, 2012, a gas station in Metamora refused to sell her alcohol because she was intoxicated.

¶ 11 The respondent also stated that her last visit with the minors was in September 2012. She did not visit with them in October because "it was a bad time" for her emotionally. She said she

tried to set up a visit in November by calling Mann twice, but Mann never called her back. She did not try to set up visits in December or January. She believed that she still had a strong bond with the minors because at the September 2012 visit, the minors were happy to see her, affectionate with her at the visit, and sad to see her leave at the end of the visit.

¶ 12 At the close of the hearing, the circuit court stated that it had considered all of the evidence, including the best interest hearing report, as well as all of the applicable statutory factors, and found that it was in the minors' best interest to terminate the respondent's parental rights. The respondent appealed.

¶ 13 ANALYSIS

¶ 14 The respondent's sole argument on appeal is that the circuit court erred when it found that it was in the minors' best interest to terminate her parental rights.

¶ 15 After a parent has been found unfit pursuant to a termination of parental rights petition (705 ILCS 405/2-29 (West 2010); 750 ILCS 50/1(D) (West 2010)), the next matter to be addressed is whether termination of parental rights is in the best interest of the children (705 ILCS 405/2-29(2) (West 2010)). Under section 1-3(4.05) of the Juvenile Court Act of 1987:

"Whenever a 'best interest' determination is required, the following factors shall be considered in the context of the child's age and developmental needs:

- (a) the physical safety and welfare of the child, including food, shelter, health, and clothing;
- (b) the development of the child's identity;
- (c) the child's background and ties, including familial, cultural, and religious;

- (d) the child's sense of attachments, including:
 - (i) where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);
 - (ii) the child's sense of security;
 - (iii) the child's sense of familiarity;
 - (iv) continuity of affection for the child;
 - (v) the least disruptive placement alternative for the child;
- (e) the child's wishes and long-term goals;
- (f) the child's community ties, including church, school, and friends;
- (g) the child's need for permanence which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives;
- (h) the uniqueness of every family and child;
- (i) the risks attendant to entering and being in substitute care; and
- (j) the preferences of the persons available to care for the child." 705 ILCS 405/1-3(4.05) (West 2010).

¶ 16 "[A]t 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 life." *In re D.T.*, 212 Ill. 2d 347, 364 (2004). A circuit court's best-interest ruling will not be overturned on review unless it was against the manifest weight of the evidence. *In re S.D.*, 2011 IL App (3d) 110184, ¶ 33.

¶ 17 Our review of the record reveals that the circuit court's best-interest ruling in this case

was not erroneous. The minors in this case had been subjected to significant instability over the life of this case. They had nine foster placements over a seven-year span, although the last two were with the current foster parent, while the respondent failed numerous times at addressing the issues that kept her children from her. The minors' behavioral issues have lessened over time and the evidence showed that the minors were thriving in their foster home, as their needs were being met by the foster parent. The foster parent was committed to long-term permanency for the minors, including adoption. Under these circumstances, we hold that the circuit court's ruling was not against the manifest weight of the evidence. Accordingly, we hold that the court did not err when it found that it was in the minors' best interest to terminate the respondent's parental rights.

¶ 18

CONCLUSION

¶ 19 For the foregoing reasons, we affirm the judgment of the circuit court of Peoria County.

¶ 20 Affirmed.