

NOTICE
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2013 IL App (4th) 130541-U

NO. 4-13-0541

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

October 30, 2013
Carla Bender
4th District Appellate
Court, IL

In re: C.L., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Champaign County
v.)	No. 10JA56
PAYTON McNUTT,)	
Respondent-Appellant.)	Honorable
)	Richard P. Klaus,
)	Judge Presiding.

JUSTICE APPLETON delivered the judgment of the court.
Justices Turner and Holder White concurred in the judgment.

ORDER

¶ 1 *Held:* Where it was in the minor's best interest to terminate respondent's parental rights, the trial court's decision on termination was not against the manifest weight of the evidence.

¶ 2 In August 2010, the State filed a petition for adjudication of neglect with respect to C.L., the minor child of respondent, Payton McNutt. In September 2010, 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 November 2012, the State filed a motion to terminate respondent's parental rights. In March 2013, respondent stipulated to one count of unfitness. In June 2013, the court found it in the minor's best interest that respondent's parental rights be terminated. In this appeal, respondent argues the court erred in terminating her parental rights. We affirm.

¶ 3 I. BACKGROUND

¶ 4 In August 2010, the State filed a petition for adjudication of neglect on behalf of C.L. The petition alleged C.L., born on March 3, 2010, was a neglected minor pursuant to section 2–3(1)(b) of the Juvenile Court Act of 1987 (705 ILCS 405/2-3(1)(b) (West Supp. 2009)) because her environment was injurious to her welfare when she resided with her mother based on her exposure to domestic violence, substance abuse, and a risk of physical harm. The trial court entered a temporary custody order, finding probable cause to believe the minor was neglected and an immediate and urgent necessity existed to place the minor in shelter care.

¶ 5 In September 2010, the trial court found the minor neglected based on an injurious environment due to exposure to domestic violence and substance abuse after respondent stipulated to such allegations. In its November 2010 dispositional order, the court found it in the minor's best interest that she be made a ward of the court and placed custody and guardianship with DCFS.

¶ 6 In November 2012, the State filed a motion to terminate respondent's parental rights. The motion alleged respondent was unfit because she (1) failed to make reasonable efforts to correct the conditions that were the basis for the removal of C.L. (750 ILCS 50/1(D)(m)(i) (West 2010)); (2) failed to make reasonable progress toward the return of the minor within the initial nine months following adjudication (750 ILCS 50/1(D)(m)(ii) (West 2010)); (3) failed to maintain a reasonable degree of interest, concern, or responsibility as to C.L.'s welfare (750 ILCS 50/1(D)(b) (West 2010)); and (4) failed to make reasonable progress toward the return of the minor during any nine-month period after the end of the initial nine-month period following adjudication, namely from July 4, 2011, through April 4, 2012 (750 ILCS 50/1(D)(m)(iii) (West 2010)).

¶ 7 In March 2013, the trial court conducted a hearing on the motion to terminate parental rights. Respondent stipulated she was unfit based on her failure to make reasonable progress toward the return of the minor within the initial nine-month period following adjudication. The State agreed to withdraw the remaining three counts. The court entered an order finding respondent unfit.

¶ 8 In June 2013, the trial court conducted the best-interest hearing. The best-interest report indicated C.L. was placed in the home of her maternal great grandfather, James L. McNutt, Sr. The report stated C.L. was a "happy and overall healthy three[-]year[] old." She continued to "do very well in the home and has maintained a normal routine." She "is a bright, playful, and energetic little girl." According to the report, McNutt described C.L. as "his best friend and a joy to have around." The report further indicated respondent had negative drug screens since January 2013. She was involved in alcohol and drug counseling; however, she had missed several sessions in April and May 2013. The report indicated the agency's "concern is [respondent] has not maintained sustainable change throughout the history of this JA case when it comes to her substance[-]abuse treatment." Thus, the agency recommended termination of respondent's parental rights. The State presented no other evidence.

¶ 9 McNutt testified on respondent's behalf, stating that respondent had obtained a job at Dairy Queen and had been in the same apartment for six months. She participated in visits with C.L. McNutt described the mother-daughter relationship as "very good." He said they "love each other" and C.L. was "so happy to be with her mom." Respondent sometimes gave C.L. a bath and put her to bed. McNutt said he believed respondent's judgment had improved since being employed. She stopped using alcohol and drugs approximately one year ago, so he

had no further concerns about her parenting skills. In his opinion, based upon his recent observations, McNutt believed respondent could provide an appropriate environment for C.L.

¶ 10 Following closing arguments, the trial court found it in the minor's best interest that respondent's parental rights be terminated. This appeal followed.

¶ 11 II. ANALYSIS

¶ 12 Respondent argues the trial court erred in terminating her parental rights. We disagree.

¶ 13 Courts will not lightly terminate parental rights because of the fundamental importance inherent in those rights. *In re M.H.*, 196 Ill. 2d 356, 363 (2001). Once the trial court finds the parent unfit, "[t]he parent's rights must yield to the best interest of the child." *In re Veronica J.*, 371 Ill. App. 3d 822, 831 (2007). 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 longterm 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." *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1072 (2006). 705 ILCS 405/1-3 (4.05) (a) through (4.05) (j) (West 2010).

¶ 14 The 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 (2010). A decision will be found to be against the manifest weight of the evidence "if the facts clearly demonstrate that the court should have reached the opposite conclusion." *Daphnie E.*, 368 Ill. App. 3d at 1072.

¶ 15 The best-interest report indicated C.L. was doing well in the home of her maternal great grandfather. She had resided with him since August 2010. She was developmentally on target and, in fact, excelling at learning. The report stated she was happy, healthy, and thriving in her current placement. The report also indicated a concern about respondent's historical progress and eventual digression. Respondent's recent sporadic attendance at counseling supported this concern and may be an indication of respondent's continued inability to maintain a certain level of progress.

¶ 16 In this case, the evidence indicated respondent has improved in some areas of her life, but she has not demonstrated she was able to *maintain* the improvements or that she is capable of parenting her daughter. C.L., on the other hand, is a three-year old girl in need of stability in her life that her current placement has provided. While it appears respondent cares for her daughter, her history of substance abuse indicates she is unable, at this time, to provide the stability C.L. needs for the foreseeable future. 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.

¶ 17

III. CONCLUSION

¶ 18

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

¶ 19

Affirmed.