



former husband of Cintra P.

¶ 4 A.P. was born on May 11, 2001. On September 11, 2009, the State filed a petition for adjudication of wardship of A.P., and A.P. was placed in the temporary custody of the Illinois Department of Children and Family Services (DCFS). On April 28, 2010, A.P. was found to be abused based on the alleged excessive corporal punishment of D.P. Cintra P. stipulated to the State's allegations of abuse, and both A.P. and D.P. were placed under the guardianship of DCFS. Nonetheless, the court allowed A.P. to return home to Cintra P. while maintaining guardianship and right to placement with DCFS.

¶ 5 In July 2010, A.P. was again removed from Cintra P.'s home following a domestic dispute with her then-husband, Joshua P. A.P. was first placed with Renee and Gene K. in October 2009, and later, after returning to and then being removed from the home of Cintra P. after the domestic dispute, went back to Renee and Gene K. in July 2010. She has been in their home since that time.

¶ 6 On August 31, 2011, the State filed a petition to terminate parental rights and for appointment of a guardian with the power to consent to adoption. The State alleged that Cintra P. was an unfit person as defined by section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2010)) in that, *inter alia*, she had failed to make progress toward A.P.'s return within nine months of the adjudication of abuse. On August 24, 2012, Cintra P. stipulated to the State's allegation that she was unfit on the basis that she had failed to make reasonable progress toward the return of A.P. within nine months of the adjudication of abuse. On January 25, 2013, after the hearings conducted on December 19, 2012, and January 18, 2013, the court entered an order terminating the parental rights of Cintra P.<sup>2</sup>

¶ 7 During an *in camera* interview, A.P. was asked if she liked living with Renee and

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<sup>2</sup>The court initially stated its decision to terminate the parental rights of Cintra P. on the record at the January 18, 2013, hearing.

Gene. She advised, "Sort of, because I have a foster sister and we get into a lot of fights and sometimes it can be unfair." She was asked if she wanted to be adopted, and she advised, "If I do by someone else, because the [unfairness] here is—I just don't like it here." A.P. advised that she was not abused, but that the foster parents can be unfair. She advised that she rarely gets to watch scary movies, but her foster sister gets to watch what she wants. She also advised that her foster sister constantly uses and takes her things. A.P. further stated as follows:

"Yeah. But the unfairness sort of sounds like a kiddish thing. Mommy, my brother is being unfair, he won't share the cookie with me. The unfairness sounds like something childish. But it is pretty unfair to me."

¶ 8 A.P. testified that since visitation began, she has gotten along much better with D.P. She advised that her visits with Cintra P. went well. She said that when she lived with Cintra P. previously, Cintra P. would make her stand in the corner as discipline. On the other hand, she advised that Renee makes her write sentences to the point that her hand cramps. She said that Renee is a lot stricter than Cintra P. A.P. also said she is "really attached to" the 1½-year-old granddaughter of Renee and that "[s]he's like a little sister to me."

¶ 9 A.P. testified that she loves Cintra P. and that she feels "very" safe when she is with her. She advised that she would like to go home with Cintra P. However, she also advised as follows:

"But I don't want to be split up by my mom or by my brother. But I realize that if I go home with Renee I have my brother. It's a win and a lose and going to mom's is a win and a lose."

With regard to Cintra P.'s missed visits, A.P. testified that it makes her "[s]ort of sad, but yet I'm like it's all right, we still have other visits and probably she couldn't make it."

¶ 10 Julie Roedl, a therapist with Christian Social Services, testified that she has counseled

both A.P. and Cintra P. Roedl advised that A.P. "wants to go home, but \*\*\* also understands that her mom has not done everything that she needed to do as far as the service plan goals, not keeping the visits, that was a big issue." She further testified that "probably the majority of 2012 we've dealt with her feelings about mom not showing up for visits and how detrimental that was to her." Roedl advised that A.P. would make excuses for the missed visits. She said that "she gets her hopes up when she gets to see mom" and "[t]hen she's crushed when mom doesn't show for the visits."

¶ 11 With regard to staying at the home of Renee and Gene, Roedl advised that A.P. "likes it there" when "things are going well," but "[w]hen there is discipline," then "her behavior escalates" and "she feels like she's singled out." She testified that Renee was "very empathetic" toward A.P. Roedl told the court that if A.P. were to remain in the home of Renee and Gene that she would not have any concerns for her well-being.

¶ 12 Renee K. testified that she had cared for A.P. and D.P. for three years. She described the relationship between D.P. and A.P. as "very good, very loving" and that they were very bonded. She also testified that she felt that she and A.P. had bonded.

¶ 13 Renee K. advised that if A.P. went back to Cintra P., she would still adopt D.P. She also told the court that she would help facilitate visitation between D.P. and A.P., adding that, "I go out of my way for our other adopted child \*\*\* to make sure she sees her family."

¶ 14 Renee K. testified that A.P. was in sixth grade and that she was a "straight A student" who participated in a gifted program. She testified that A.P. had been and was involved in several extracurricular activities including cross-country, track, basketball, volleyball, scholar bowl, scrabble, Girl Scouts, and softball. She told the court that A.P. was "very independent" and that she woke up and prepared for school, cleaned up after herself, and finished her homework on her own initiative.

¶ 15 Renee K. further testified that she has a biological daughter who is the single mother

of two small children and that this daughter and her children are with Renee K. often. She advised that she and her husband also had 14-year-old twins living with them, one of which had been adopted by the couple and continues to reside with them and the other of which is being treated in a behavior home. She told the court that A.P. and the female twin living with them "interact like typical sisters."

¶ 16 Renee K. advised the court that the family lives in a five-bedroom home which allows each child to have his/her own bedroom. Renee testified that A.P. "has a lot of girlfriends" with "three or four main friends in the last three years." She also described A.P. as "a homebody."

¶ 17 When asked about her and her husband's intentions with regard to adopting A.P. and D.P., Renee advised the following: "That if they weren't able to go back home, that since we have had them for so long and the bonding, we feel like they are our own children and we would really like to adopt them and raise them and keep them." Gene K. also testified that he loved A.P. and wished to adopt her.

¶ 18 Renee K. testified that with regard to visitations with Cintra P., A.P. "looks forward to them and she's happy that she gets to have them." She advised that when Cintra P. misses visitation, A.P. becomes "very withdrawn and quiet that evening." She testified that following missed visitation, A.P. will have "a behavior where we want her to do something and she refuses to do it and we'll have to ground her or give her a sentence or something because of not complying or listening." Renee advised that in the four months leading up to the hearing, A.P. has not "seem[ed] as happy" and has been more withdrawn, along with "showing more resistance of like listening or obeying." Renee opined that this change in behavior was likely a result of missed visits and the uncertainty of the termination proceedings. With regard to discipline, Renee testified that when the children refuse to do as they are told after two warnings, she and her husband will sometimes take away gaming

systems, force the children to write sentences, force the children to spend time in their rooms, or eliminate weekend activities.

¶ 19 Renee K. advised that it was fair to say that A.P. is happy living in her home but that she is also happy around Cintra P. Renee was asked whether A.P. had expressed to her where she wanted to live, and she advised as follows:

"Well, of course, she would say with her mom. But she also will come up and say if you adopt me, can we do this or can I get this. She has it both in her head or her mind that it could go, you know, either way it could happen."

¶ 20 Renee K. testified that A.P.'s attitude and demeanor had changed in the last several months leading up to the hearing. She advised that during that time, she would have to tell A.P. to do her homework and that A.P. seemed more angry. She testified that she was aware of times when Cintra P. did not show up for visitation and that A.P. would make excuses for her such as vehicle problems or work.

¶ 21 Cintra P. admitted in her testimony that she had experienced difficulty in completing service plans and counseling. She advised that the primary reasons for her inability to attend counseling were "a financial issue with gas or problems with my memory." She testified that since the age of 19, she has had "a disability that causes memory loss." She also admitted that she remembered that for at least a year leading up to the hearing, her visitation appointments were always on Wednesday. She admitted that she was offered gas cards for visitation, but denied that they were ever provided. She testified that she was aware that she had to confirm that she would attend a visit and then go to the DCFS office in Belleville to pick up the gas card; however, she advised that when she went, they did not have a card available for her. She said that she was currently being counseled in Belleville.

¶ 22 A letter from Julia Diaz, Cintra P.'s counselor, indicated that Cintra P. had attended sessions on November 19, November 26, December 3, and December 10 of 2012. Cintra P.

also testified that she attended another session since the last date listed in the letter and was waiting on a call to schedule another appointment. She testified that she had not missed any. When asked about any perceived benefits, she stated the following: "I've benefitted a lot from it. It's been a relief to have someone to talk to about what's going on." On cross-examination, she testified that as a result of counseling, she "feel[s] more confident about [her] ability to be able to take care of [A.P.], about [her] ability to be able to parent [her] children."

¶ 23 Cintra P. testified that her fiancé Chris has assisted her financially with the two children in her custody and has given her gas money to make the visitations at times but that she "do[es]n't like asking him for money." She advised that Chris pays child support for his three children. She testified that she does not work outside the home. She said that she lives in a three-bedroom home with "a small back yard" and "a big patio in the back."

¶ 24 Cintra P. testified that her three-year-old son who lives with her "misses [A.P.] a great deal" and that "[h]e always had a very good relationship with his sister." She advised that if A.P. were returned to her, she would have a bedroom "to herself pretty much the whole week except for on the weekends whenever Chris's children are present."

¶ 25 When asked what grade A.P. was in, Cintra P. advised, "Sixth grade I believe." When asked if A.P. was 12 she replied, "Yes, that seems about right." However, she later testified that A.P.'s birthday was November 11, 2001, and that A.P. was 11. After being corrected on the ages of both A.P. and D.P., Cintra P. advised, "[Y]ou've touched on one of the more embarrassing points of my memory, thank you."

¶ 26 Cintra P. testified that there have never been any allegations with regard to her conduct toward A.P. She testified that she loves A.P. She advised that Chris has had no interaction with A.P. due to DCFS.

¶ 27 Caseworker Beth Ochs testified that the visitation schedule in 2012 included visits on

the first and third Wednesday of each month. Ochs advised that she notified Cintra P. of this visitation schedule by writing her letters "and things like that." She advised that Cintra P. was aware of the visitation schedule "since we set those visits up prior to last year." Ochs also testified that she spoke to Cintra P. at least monthly by telephone about the visits.

¶ 28 Ochs testified that Cintra P. had missed 14 visits out of a total of 22 visits during 2012. With regard to 10 of these missed visits, Ochs did not recall receiving any notification of cancellation on the part of Cintra P. Based on the dates of the missed visits, Ochs concluded that Cintra P. went from February to June and mid-August to mid-November of 2012 without seeing A.P.

¶ 29 Ochs testified that as long as Cintra P. called the Belleville office by Monday to confirm her visit that week, she would be provided with a gas card. She further advised, "We later changed that in, I think June or July, and the residential facility would have reimbursed her for mileage to go to the visit in Effingham."

¶ 30 Ochs advised that Cintra P. was 30 minutes late to the last visit with A.P., but that "[w]hen she got there she interacted appropriately with [A.P.]" She advised that she had been rated unsatisfactory with regard to her service plan for 2012, primarily for not attending counseling sessions.

¶ 31 With regard to issues between A.P. and her foster sister, Ochs advised that she had no concerns "outside of ordinary concerns that an 11-year-old and a 13-year-old have."

¶ 32 ANALYSIS

¶ 33 In a proceeding to terminate parental rights, the State must first show by clear and convincing evidence that the parent is unfit. *In re Brandon A.*, 395 Ill. App. 3d 224, 238 (2009) (quoting *In re Richard H.*, 376 Ill. App. 3d 162, 164-65 (2007)). After a parent is found unfit, the State must show that termination of parental rights is in the child's best interests. *Id.* at 239 (quoting *In re M.M.*, 156 Ill. 2d 53, 61 (1993)). The State must make

such showing by a preponderance of the evidence. *In re D.T.*, 212 Ill. 2d 347, 366 (2004). In determining whether termination is in the best interests of the child, "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).

"Other important considerations include the nature and length of the child's relationship with

his present caretakers and the effect that a change of placement would have upon the emotional and psychological well-being of the child." *In re Brandon A.*, 395 Ill. App. 3d at 240 (citing *In re Austin W.*, 214 Ill. 2d 31, 50 (2005)).

¶ 34 We will not reverse the circuit court's best-interest determination " 'unless it is against the manifest weight of the evidence.' " *Id.* (quoting *In re Veronica J.*, 371 Ill. App. 3d 822, 831-32 (2007)). A decision " 'is against the manifest weight of the evidence only if the opposite conclusion is clearly evident.' " *In re Joshua K.*, 947 N.E.2d 280, 292 (2010) (quoting *In re Arthur H.*, 212 Ill. 2d 441, 464 (2004)). "[T]he trial court need not articulate any specific rationale for its decision," and we "may affirm the trial court's decision without relying on any basis used by the trial court." *In re Tiffany M.*, 353 Ill. App. 3d 883, 893 (2004) (citing *In re Jaron Z.*, 348 Ill. App. 3d 239, 263 (2004)).

¶ 35 The respondent argues that, based on the application of the statutory factors, the trial court's decision that termination of her parental rights was in A.P.'s best interests was against the manifest weight of the evidence. The respondent argues that "her new home in St. Louis is \*\*\* appropriate and plenty spacious," and that she has sources of income to support A.P. However, given that her primary support comes from Chris and she did not like asking him for money to make visitations with A.P., the circuit court may have found it difficult to fathom that she would be able to obtain the necessary support, at least from Chris, to adequately provide for A.P.

¶ 36 With regard to the "identity" factor, the respondent argues that the record reveals "A.P.'s desire to go home" and that "her concerns for her mother clearly establish that A.P. primarily identifies with Cintra P. as being her mother and her family." However, the record also reveals a close and loving relationship between A.P. and D.P., who also lives with Gene and Renee K. and who will not be returned to Cintra P. as she has voluntarily surrendered her parental rights to him. Additionally, as the State points out, A.P. has lived with Gene and

Renee K. for the majority of the last three years. The circuit court may have reasonably found that this factor more heavily weighs in favor of termination.

¶ 37 The respondent argues that the "background and ties" factor weighs in her favor, arguing that "[d]uring the last three years, A.P. has consistently expressed that her sense of familial bond is strongest between her and Cintra P., her mother for whom she expresses love, affection, and the desire to return home." However, while A.P. has certainly expressed love for her mother, the record reveals no ties with St. Louis or with Cintra P.'s fiancé Chris, whom she does not know. On the other hand, it is quite clear that A.P. has a special affinity for D.P. who already lives with Renee and Gene.

¶ 38 The respondent takes special issue with the circuit court's analysis of the "child's sense of attachments" factor, and specifically with the subfactor of "where the child actually feels love," asserting that the court erroneously focused on "whether it believes that Cintra P. truly loves A.P." rather than focusing on whether A.P. feels loved by Cintra P. The respondent points out the parenthetical in subsection (d)(i), which states as follows: "as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued." Cintra P. argues that the court's analysis in considering where the child *should* feel loved "is clearly not permitted by the statute" based on the aforementioned parenthetical. We disagree.

¶ 39 First, we note that the court *did* consider the fact that A.P. loves her mother as it specifically noted that "she loves her mother, no doubt about it." While the court is required to consider the child's sense of attachment, this requirement does not preclude the consideration of whether a parent sincerely loves her child. In fact, such an inquiry may be relevant under other factors listed. In any event, the statute does not limit the court's inquiry to the factors enumerated, but rather it simply requires that the court, during its inquiry, consider the enumerated factors.

¶ 40 Also, with regard to A.P.'s desire to be returned to Cintra P., the State points out that "her articulated reasons for choosing respondent over her foster parents were (understandably) immature and superficial." The State further asserts, "She was frustrated by a perception that her step-mother [*sic*] treated her [foster sister] better, and she did not like getting disciplined, \*\*\* whereas conversely she felt happy with respondent and safe with her presumably because respondent did not subject A.P. to the type of discipline that Renee administered." We believe that, given A.P.'s testimony, the circuit court could have justifiably adopted the State's interpretation of what A.P. said.

¶ 41 The respondent points out that A.P. feels very secure with Cintra P. and that A.P. is more familiar with Cintra P. than with her foster family, even after three years in its care. The respondent also asserts that she is familiar with her two younger siblings. However, there was no testimony to indicate that A.P. is familiar with St. Louis. Also, there was testimony indicating that A.P. was not familiar with Chris, having met him only on one occasion. While the respondent asserts that it "is simply appalling" that the State prevented a relationship between A.P. and Chris and then turned around and used this as a factor against returning A.P. to Cintra P., we find the State's position in preventing the introduction of a new paramour to A.P. understandable, given all the uncertainty and adjustment she has already endured. Additionally, there is no indication that Cintra P. was forced to cohabit with Chris, further complicating, potentially, the possibility of a return of A.P.

¶ 42 The respondent argues that if A.P. were returned to Cintra P., A.P. "could have the best of both worlds" in that she would have the affection of her mother along with a continued relationship with D.P., given the foster parents' willingness to facilitate the relationship. The circuit court may have determined, however, that given Cintra P.'s inability or unwillingness to show up for visitations with D.P. and A.P., a continued relationship between A.P. and D.P. would be dubious at best, and that unless Renee and Gene were

willing to take *full* responsibility for the visitation, *i.e.*, driving to St. Louis on a frequent basis, the relationship might grow quite distant.

¶ 43 The respondent admits that A.P.'s community ties "probably gravitate towards her current placement simply because she has never lived in St. Louis." Nonetheless, the respondent argues that this factor cannot overcome the "mountain of evidence" in favor of returning A.P. to Cintra P. Specifically, the respondent points out that A.P. advised that if adopted, she wished to be placed with a different family than the foster family with which she currently resides. In this regard, A.P. primarily expressed concerns over fairness and, specifically, her foster sister being able to choose what they watched on television and taking or using her things. The court could have well inferred that this testimony related to typical sibling squabbles, which was also the opinion of Beth Ochs, the caseworker, rather than any serious issues.

¶ 44 The respondent argues that the "risks attendant to substitute care" factor weighs in factor of a return to Cintra P., asserting that "A.P. has displayed emotional harm simply based on the thought that she will have her ties with her mother severed." While A.P. has suffered emotional harm by this process, the circuit court may have found that she would be harmed to a greater extent if returned to Cintra P., who was unable to consistently visit A.P., even after being offered assistance.

¶ 45 Finally, the respondent argues that Gene and Renee K. "seemed to recognize in their own testimony that the best option for the child is to return home, for Renee K. testified with regards to her and Gene's intentions, '*[I]f they weren't able to go back home \*\*\* we would really like to adopt them.*'" (Emphasis in original.) We disagree with counsel's interpretation of this statement. In reaching this conclusion, counsel did not consider this statement in its complete context. Renee's full answer to the question is as follows:

"That if they weren't able to go back home, that since we have had them for so long

and the bonding, we feel like they are our own children and we would really like to adopt them and raise them and keep them."

Upon consideration of this statement in its entirety, the court could have reached the opposite conclusion, finding that the length of time with the foster parents and the bonding that occurred favored keeping A.P. with Renee and Gene.

¶ 46 From the trial court's perspective, this case came down to the excessive number of missed visitations during 2012, which the court found to be "compelling" and alone sufficient to show that termination of Cintra P.'s parental rights was in the best interests of A.P. by a preponderance of the evidence. We cannot say that the court's decision was against the manifest weight of the evidence.

¶ 47 CONCLUSION

¶ 48 The judgment of the circuit court is affirmed.

¶ 49 Affirmed.