

2014 IL App (2d) 130983-U  
No. 2-13-0983  
Order filed January 8, 2014

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

---

IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

---

<i>In re</i> AKEIRA T., TAVIA T. and JAYLA T., Minors	)	Appeal from the Circuit Court of Winnebago County.
	)	
	)	Nos. 08-JA-376
	)	08-JA-377
	)	08-JA-378
	)	
(The People of the State of Illinois, Petitioner-Appellee, v. LaToya B., Respondent-Appellant).	)	Honorable Mary Linn Green, Judge, Presiding.

---

JUSTICE HUDSON delivered the judgment of the court.  
Justices Birkett and Spence concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* Pursuant to *Anders v. California*, 386 U.S. 738 (1967), appellate counsel's motion to withdraw would be allowed and the judgment of the circuit court would be affirmed where no issues of arguable merit were identified on appeal concerning the trial court's rulings that respondent was shown to be unfit by clear and convincing evidence and that it was in the best interests of the minors that respondent's parental rights be terminated.
- ¶ 2 In August 2013, the circuit court of Winnebago County found respondent, LaToya B., to be an unfit parent with respect to her minor children, Akeira T., Tavia T., and Jayla T. Subsequently, the court concluded that the termination of respondent's parental rights was in the minors' best

interests. Respondent filed a notice of appeal, and the trial court appointed appellate counsel to represent respondent.

¶ 3 Pursuant to the procedures established in *Anders v. California*, 386 U.S. 738 (1967), appellate counsel has filed a motion for leave to withdraw as counsel on appeal.<sup>1</sup> In his motion, appellate counsel represents that he has reviewed the record but has not discovered any issue that would warrant relief on appeal. Attached to his motion, counsel submitted a memorandum of law summarizing the proceedings in the trial court, potential issues for appeal, and an explanation why each issue lacks arguable merit. Counsel further represents that he mailed a copy of the motion to respondent. The clerk of this court also notified respondent of the motion and informed her that she would be afforded an opportunity to present, within 30 days, any additional matters to this court. This time has past, and respondent has not presented anything to this court.

¶ 4 Appellate counsel has identified the following two potential issues for review. First, whether the State proved by clear and convincing evidence at least one ground of unfitness. Second, whether the State proved by a preponderance of the evidence that it was in the minors' best interests to terminate respondent's parental rights. As noted above, appellate counsel concludes that these issues are without merit. For the reasons set forth below, we agree that it would be frivolous to argue that the trial court's findings on these issues were erroneous.

¶ 5 The Juvenile Court Act of 1987 provides a two-stage process for terminating parental rights involuntarily. 705 ILCS 405/2-29(2) (West 2012). Initially, the State must prove unfitness by clear and convincing evidence. *In re Adoption of Syck*, 138 Ill. 2d 255, 277 (1990); *In re Antwan L.*, 368

---

<sup>1</sup> The *Anders* procedure has been applied to proceedings to terminate parental rights. See *In re S.M.*, 314 Ill. App. 3d 682, 685 (2000).

Ill. App. 3d 1119, 1123 (2006). If a court finds a parent unfit, the State must then show that a termination of parental rights would serve the child's best interests. *In re Adoption of Syck*, 138 Ill. 2d at 277; *In re Antwan L.*, 368 Ill. App. 3d at 1123. Section 1(D) of the Adoption Act (Adoption Act) (750 ILCS 50/1(D) (West 2012)) lists various grounds under which a parent may be found unfit, any one of which standing alone may support such a finding. *In re Antwan L.*, 368 Ill. App. 3d at 1123. The State has the burden of proving parental unfitness by clear and convincing evidence, and a trial court's determination of a parent's fitness will not be reversed on appeal unless it is contrary to the manifest weight of the evidence. *In re Brianna B.*, 334 Ill. App. 3d 651, 655 (2002). A decision is against the manifest weight of the evidence "if a review of the record 'clearly demonstrates that the proper result is the one opposite that reached by the trial court.'" *In re Brianna B.*, 334 Ill. App. 3d at 656 (quoting *In re M.K.*, 271 Ill. App. 3d 820, 826 (1995)).

¶ 6 In this case, the trial court found respondent unfit on two of the grounds alleged in the State's motion to terminate parental rights. We have reviewed the record and find that the court's determination that respondent failed to maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare, as alleged in count I of the State's motion, is not contrary to the manifest weight of the evidence. 750 ILCS 50/1(D)(b) (West 2012) (providing that a parent may be found unfit for failing to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare). Because section 1(D)(b) of the Adoption Act is phrased in the disjunctive, the failure to maintain a reasonable degree of interest *or* concern *or* responsibility will support a finding of unfitness under this ground. *In re Jaron Z.*, 348 Ill. App. 3d 239, 259 (2004); *In re C.L.T.*, 302 Ill. App. 3d 770, 773 (1999). In examining an allegation of unfitness under section 1(D)(b), a trial court must focus on a parent's reasonable efforts, not her success, and consider any

circumstances that have hindered her ability to visit, communicate with, or otherwise show interest, concern, or responsibility for the child. *In re T.A.*, 359 Ill. App. 3d 953, 961 (2005). Nevertheless, it is not sufficient for a parent to merely show *some* interest or concern or responsibility relative to the minor. *In re T.A.*, 359 Ill. App. 3d at 961. Rather, any demonstrated interest, concern, or responsibility must be reasonable. *In re T.A.*, 359 Ill. App. 3d at 961. We are also mindful that the court may consider the failure to complete the tasks in the service plan as evidence of the failure to maintain a reasonable degree of interest, concern, or responsibility for the welfare of the child at issue. *In re L.M.*, 189 Ill. App. 3d 392, 400 (1989).

¶ 7 Here, the record establishes that the minors were adjudicated dependent on November 14, 2008, on the basis that they were under the age of 18 and without proper care because of respondent's physical or mental disability. See 705 ILCS 405/2-4(b) (West 2012). Following the adjudication of dependency, respondent initially made reasonable efforts toward the return of her children. She regularly visited the children and acted appropriately during visitation. In addition, she participated in recommended services, including a mental health assessment and a substance abuse assessment. However, following the initial permanency-review hearing, respondent's visits with the children became increasingly sporadic. Moreover, the caseworker noted that during the visits that respondent did attend, she was often inappropriate. The caseworker recalled an instance where respondent smoked in front of the children even though at least two of the minors suffer from asthma. In addition, respondent would use inappropriate language in front of the children, ask the oldest child questions about the foster home, talk on her cell phone, fail to engage the children, and tell the children that she was "done with them." The record also establishes that respondent consistently tested positive for marijuana. Further, respondent was diagnosed with a psychotic

disorder requiring occasional psychiatric hospitalizations, but her compliance with her medicine regimen was inconsistent and she frequently missed doctor's appointments. In addition, in March 2012, respondent was arrested on a federal bank robbery charge. Respondent was later convicted on that charge and sentenced to 30-month term of imprisonment. Following her arrest, respondent sent only one letter to her children. The caseworker testified that when she visited respondent in jail, respondent did not inquire about the children at all, asking only about her paramour. Given the foregoing evidence, a conclusion opposite that of the trial court is not clearly apparent. As such, we find no arguable merit to any claim that it was unreasonable for the court to conclude that respondent was unfit for failing to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare.

¶ 8 The other issue identified by appellate counsel concerns the best interests of the minors. Appellate counsel asserts that respondent cannot establish that the trial court erred in determining that it is in the minors' best interests that her parental rights be terminated. As noted above, once the trial court finds a parent unfit, it must determine whether termination of parental rights is in the minor's best interests. *In re Adoption of Syck*, 138 Ill. 2d at 277; *In re Antwan L.*, 368 Ill. App. 3d at 1123. The supreme court has emphasized that at the best-interests phase, "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). The State bears the burden of proving by a preponderance of the evidence that termination is in the best interests of the minor. *In re D.T.*, 212 Ill. 2d at 366; *In re Deandre D.*, 405 Ill. App. 3d 945, 953 (2010). A trial court's best-interests finding will not be disturbed on appeal unless it is against the manifest weight of the evidence. *In re Deandre D.*, 405 Ill. App. 3d at 953. As noted above, a decision is against the manifest weight

of the evidence only if an opposite conclusion is clearly apparent. *In re Brianna B.*, 334 Ill. App. 3d at 656 (quoting *In re M.K.*, 271 Ill. App. 3d at 826).

¶ 9 Again, we agree with appellate counsel that respondent cannot establish that the trial court's best-interests finding is against the manifest weight of the evidence. Here, the evidence shows that respondent is incarcerated for a federal felony and will have to stay in a halfway house for three to five years following her anticipated release from prison in 2014. The caseworker testified that respondent had not seen the children for more than three years and that respondent told her that she had no interest in getting the children back. The caseworker noted that Tavia and Jayla reside in the same foster home, that their foster parents have committed to adopt the two girls, and that Tavia and Jayla indicated that they want to be adopted by their foster parents. Akeira recently transitioned into a new home where she now resides with a fourth sibling, Cierra T. The caseworker noted that Akeira's foster parents had a preexisting relationship with Akeira and that they are willing to adopt her, but that Akeira must reside with the family for at least six months before adoption proceedings can commence. The caseworker also noted that Akeira has indicated that she wants to be adopted by her current foster family. Although the children reside in separate homes, the children participate in monthly siblings' visits. The caseworker opined that it was in the best interests of the children that respondent's parental rights be terminated. Moreover, Jayla, one of the minors, appeared in court and expressed her impatience with the permanency process. In light of this evidence, we cannot say that a conclusion opposite that reached by the trial court is against the manifest weight of the evidence. As such, we find no arguable merit to any claim that it was unreasonable for the court to conclude that it was in the minors' best interests that respondent's parental rights be terminated.

¶ 10 In short, after examining the record, the motion to withdraw, and the memorandum of law, we agree with counsel that the present appeal presents no issues of arguable merit. Thus, we grant counsel's motion to withdraw and affirm the judgment of the circuit court of Winnebago County.

¶ 11 Affirmed.