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2014 IL App (3d) 130727-U

Order filed February 4, 2014

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT
A.D., 2014

In re A.T.,) Appeal from the Circuit Court
a Minor) of the 10th Judicial Circuit,
) Peoria County, Illinois,
)
(The People of the State of Illinois,)
)
Petitioner-Appellee,) Appeal No. 3-13-0727
) Circuit No. 09-JA-228
v.)
)
Andre T.,)
)
Respondent-Appellant).) Honorable
) Chris Frederickson,
) Judge, Presiding.
)

JUSTICE O'BRIEN delivered the judgment of the court.
Justices Holdridge and Wright concurred in the judgment.

ORDER

¶ 1 *Held:* The termination of a father's parental rights was affirmed because the trial court's finding that the State proved by a preponderance of the evidence that termination was in the minor's best interest was not against the manifest weight of the evidence where the father was in prison, had no bond with the minor, and the

minor's identity was being developed by his foster parent, who was willing to adopt him.

¶ 2 The trial court adjudged the minor, A.T., to be neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (the Act). 705 ILCS 405/2-3(1)(b) (West 2012). At the dispositional hearing, the trial court found the respondent father, Andre T., to be unfit because he failed to make reasonable progress toward the return of the minor during a nine-month period following the adjudication of neglect. After a best interest hearing, the trial court found it was in the best interest of the minor to terminate the respondent's parental rights. The respondent appealed the termination. We affirm.

¶ 3 **FACTS**

¶ 4 The State filed a juvenile petition on September 10, 2009, alleging that the minor, A.T., and his sisters, were neglected due to an environment injurious to their welfare. The minor was adjudicated neglected, based upon the respondent's sexual abuse of the minor's sisters. As part of the order finding the respondent dispositionally unfit, entered January 8, 2010, visits between the respondent and all the minors were suspended until further order.

¶ 5 On March 21, 2013, the State filed a petition for the termination of both the mother and the respondent's parental rights as to the minor. With respect to the respondent, the petition alleged that he was unfit because he failed to make reasonable progress toward the return of the minor during a nine-month period following adjudication, specifically, April 15, 2012, to January 15, 2013. After an adjudicatory hearing, the respondent was found unfit.

¶ 6 A best interest hearing was held on September 25, 2013. At the hearing, a best interest report was submitted and reviewed by the trial court. The report indicated that the respondent, who had been in jail since the outset of the case, was still incarcerated, with a parole date in 2019. According to the report, the respondent never contacted the child welfare worker and

never provided any proof of completion of any services. The minor was residing in the same relative foster home that he was placed in on September 11, 2009, when he was only eight months old, and that placement was willing and able to adopt him. The minor had strong ties to his foster mother, and his sisters, who continued to reside in the same home. The minor had not had any contact with the respondent since he was 8 months old. The only other evidence submitted at the hearing were some certificates relevant to fitness, submitted by the respondent: (1) certificates of participation in the AA/NA group at Shawnee Correctional Center, January, June and July, 2013; (2) a certificate of participation in the Fatherhood Initiative Group at the Shawnee Correctional Center, January 2013; and, (3) a certificate of baptism on September 8, 2013.

¶ 7 The trial court found that, even considering the two January 2013 certificates, the only ones that were applicable to the relevant nine-month period, the State had still proved by clear and convincing evidence that the respondent was unfit. The trial court then went on to consider the best interest factors, and determined that it was in the best interest of the minor that the parental rights of the respondent be terminated. The trial court found that the minor was doing well, in the same foster placement for four years, along with his sisters. The minor's identity was being developed by his foster parent, and he was very bonded to the foster parent and his sisters. He had no bond with the respondent. The trial court expressed "significant concern" if the minor would be placed with the respondent, due to his conviction for criminal sexual assault. The trial court noted that the foster parent was willing to provide permanence through adoption. The respondent appealed the termination.

¶ 8

ANALYSIS

¶ 9 Proceeding on a petition for termination of parental rights involves a two-step, bifurcated, approach where the trial court first holds a fitness hearing (705 ILCS 405/2-29 (West 2012); 750 ILCS 50/1(D) (West 2012)) and, if the parent is found unfit, proceeds to a best interest hearing (705 ILCS 405/2-29(2) (West 2012)). *In re S.D.*, 2011 IL App (3d) 110184. In this case, the respondent does not challenge the trial court's finding of unfitness. Instead, the respondent argues that the State failed to prove by a preponderance of the evidence that it was in the best interest of the minor to terminate the respondent's parental rights and that the decision was against the manifest weight of the evidence.

¶ 10 At the best interest hearing, the parent's interest in maintaining a 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 trial court focuses on the child's welfare and whether termination would improve the child's future, including his financial, social, and emotional well-being. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1072 (2006).

¶ 11 In determining whether termination of a parent's rights is in a minor's best interest, the trial court considers the following factors: (1) the minor's physical safety and welfare; (2) development of his identity; (3) his background and ties, including familial, cultural, and religious; (4) the minor's sense of attachments; (5) the minor's wishes; (6) the minor's ties to his community; (7) the minor'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) risks related to substitute care; and (10); the preferences of individuals available to care for the minor. 705 ILCS 405/1-3(4.05)(a) through (j) (West 2012). The State must prove by a preponderance of the evidence that termination is in the child's best interest. *In re D.T.*, 212 Ill.

2d at 366. We will not reverse a trial court's finding regarding termination unless it is against the manifest weight of the evidence. *In re Deandre D.*, 405 Ill. App. 3d 945, 953 (2010).

¶ 12 The respondent argues that the trial court did not adequately address several of the best interest factors, specifically, the development of the minor's identity, the minor's background and ties, and the uniqueness of every family and child. The respondent argues that it was not in the minor's best interest to terminate his parental rights as to that child, when the minor's sisters still resided in the same foster home and the respondent still had parental rights to those children. The State argues that the circumstances were different for the minor's sisters, and the trial court's decision to terminate the respondent's parental rights as to the minor was not against the manifest weight of the evidence.

¶ 13 While a trial court must consider the statutory factors, it is not required to specifically mention each factor. *In re Jaron Z.*, 348 Ill. App. 3d 239, 262-63 (2004). In this case, the trial court clearly considered the best interest factors. It found that the minor had been in the same foster placement for four years, along with his sisters, and his foster parent was willing to provide permanence through adoption. The minor's identity was being developed by his foster parent, and he was very bonded to the foster parent and his sisters. He had no bond with the respondent. It was clear that the facts and circumstances with regard to the minor were different from those of his sisters, and the trial court appropriately considered the uniqueness of the minor. See *In re G.L.*, 329 Ill. App. 3d 18, 26 (2002) (in parental termination cases, identical dispositions among siblings are not required, since each child's best interest is to be considered in light of that child's unique needs).

¶ 14 The trial court found that the State had established, by a preponderance of the evidence, that it was in the best interest of the minor to terminate the respondent's parental rights. After a

careful review of the record, in light of the factors to be considered during a best interest hearing, we conclude that the trial court's finding regarding the minor's best interest was not against the manifest weight of the evidence.

¶ 15

CONCLUSION

¶ 16 The judgment of the circuit court of Peoria County is affirmed.

¶ 17 Affirmed.