

NOTICE

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2014 IL App (4th) 130930-U
NOS. 4-13-0930, 4-13-0931 cons.

FILED
February 4, 2014
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

In re: T.H., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Champaign County
v. (No. 4-13-0930))	No. 12J6
TAWANA SELVY-HUNT,)	
Respondent-Appellant.)	
_____)	
)	
In re: T.H., a Minor,)	
THE PEOPLE OF THE STATE OF ILLINOIS,)	
Petitioner-Appellee,)	
v. (No. 4-13-0931))	
TIMOTHY HUNT,)	Honorable
Respondent-Appellant.)	Richard P. Klaus,
)	Judge Presiding.

JUSTICE TURNER delivered the judgment of the court.
Presiding Justice Appleton and Justice Pope concurred in the judgment.

ORDER

- ¶ 1 *Held:* The appellate court affirmed, finding the trial court's decision to terminate respondents' parental rights was not against the manifest weight of the evidence.
- ¶ 2 In July 2012, the State filed a petition for adjudication of wardship with respect to T.H., the minor child of respondents Tawana Selvy-Hunt and Timothy Hunt. 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 June 2013, the State filed a motion to terminate respondents' parental rights. In September 2013, the court found respondents unfit. In October 2013, the court found it in the minor's best interest that respondents' parental rights be

terminated.

¶ 3 On appeal, respondents argue the trial court's decision to terminate their parental rights was against the manifest weight of the evidence. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In July 2012, the State filed a petition for adjudication of dependency with respect to T.H., born in 2012, the minor child of respondents. The petition alleged T.H. was dependent pursuant to section 2-4(1)(c) of the Juvenile Court Act of 1987 (705 ILCS 405/2-4(1)(c) (West 2012)) in that he was without a parent or guardian who was able or willing to care for him. The shelter-care report indicated T.H. was born prematurely and has Lowe's syndrome, a condition that affects the eyes, brain, and kidneys. He also has a gastrostomy tube (G-tube), is profoundly mentally delayed, and will need cataract surgery. The report indicated respondents were "lower functioning" and were not able to comprehend the complexity of their son's medical needs. The trial court found probable cause to believe the minor was dependent and placed temporary custody with DCFS. The court ordered visitation between respondents and T.H. be supervised.

¶ 6 In August 2012, the trial court found the minor was dependent in that he was without necessary and proper medical or remedial care. In its September 2012 dispositional order, the court made the minor a ward of the court and found it in the minor's best interest that custody and guardianship be removed from respondents and placed with DCFS.

¶ 7 In June 2013, the State filed a motion to terminate respondents' parental rights. The State alleged respondents were unfit because they failed to (1) make reasonable efforts to correct the conditions that were the basis of the minor's removal from their care (750 ILCS 50/1(D)(m)(i) (West 2012)); (2) make reasonable progress toward the return of the minor within the initial nine months of the adjudication of dependency (750 ILCS 50/1(D)(m)(ii) (West

2012)); and (3) maintain a reasonable degree of interest, concern, or responsibility as to the minor's welfare (750 ILCS 50/1(D)(b) (West 2012)).

¶ 8 In September 2013, the trial court held a hearing on the State's motion. Bridget Inghilterra, a caseworker for Lutheran Child and Family Services (LCFS), testified T.H. has complex medical issues. She thought Tawana grasped T.H.'s medical issues because her brother had the same condition. She thought Timothy needed more guidance. Inghilterra stated Tawana was not employed but received government benefits. Timothy was looking for employment. Tawana and Timothy did not have reliable transportation.

¶ 9 Jessica Jenner, a foster care caseworker, testified she took over T.H.'s case in October 2012. At that time, Tawana and Timothy were residing together in Decatur. Both parents completed a course in first aid and cardiopulmonary resuscitation. As the parents still did not have reliable transportation, they attempted to use a cab company, with little success. Jenner attempted to give gas cards to respondents, but they said they would struggle to find the place they were going.

¶ 10 Jenner stated T.H. sees doctors in Champaign-Urbana, Effingham, Springfield, Peoria, and St. Louis. Jenner estimated T.H. had at least 70 to 80 appointments and respondents attended 7 or 8 of them. Jenner stated respondents were not attending counseling and said Tawana did not feel it was necessary. Jenner testified respondents interacted with T.H. at visits, but Jenner and others had to go through each step of how to feed him. Jenner had to remind Tawana about washing her hands before feeding T.H. Jenner felt respondents never understood the effect the Lowe's syndrome had on T.H. or the problems he was facing.

¶ 11 Kate Sargent, an LCFS case aide, testified she supervised approximately 14 visits between T.H. and respondents. Sargent stated T.H. could not eat food by mouth but must be fed

through the G-tube. During visits, respondents would "lay him on the floor and use their phone to make noises for him." Timothy would also walk him in the hallway "because he was frequently fussy." Sargent stated Tawana was able to feed T.H., but she did not see Timothy do it. Sargent stated respondents had to be reminded frequently to wash their hands before handling T.H., feeding him, and after changing his diaper. During a visit on T.H.'s first birthday, respondents brought a birthday cake even though they were told T.H. could not eat anything by mouth. Once the foster parent left, Tawana "had a big dollop of frosting" on her finger and was going to put it on T.H.'s face and take a picture. Sargent told her she could not do so because she was afraid he would get some of the frosting in his mouth.

¶ 12 Amy Niehaus, a registered nurse with LCFS, testified she met with respondents to assess their understanding of T.H.'s medical condition. Niehaus stated respondents knew about Lowe's syndrome but were not aware of T.H.'s more several medical problems. Niehaus did not think they understood the severity of T.H.'s medical condition.

¶ 13 Laura Hickenbottom, a registered nurse, testified she has been T.H.'s foster parent since July 2012. Hickenbottom stated she provided respondents with summaries of upcoming appointments and the results of past therapies and feedings. In January 2013, respondents attended an appointment regarding an endoscopy for T.H. During the procedure, Timothy made the comment that they should just let him go and withdraw support. Seeking clarification, Hickenbottom asked if Timothy meant "just let him go and die?" Timothy responded yes, because T.H. was in a lot of pain. Hickenbottom stated T.H. was not in a lot of pain and was "not a critically ill baby where support could be withdrawn."

¶ 14 On cross-examination, Hickenbottom testified she disconnects T.H.'s feeding pump in the morning. She then gives him medications for his kidneys, constipation, and reflux.

She feeds him through the G-tube and then dresses him for the day. During the day, she tries to work on therapy-related exercises. In the evening, medications go through the G-tube and he is fed. At night, Hickenbottom reconnects the feeding pump that runs all night long. She stated T.H. has had five surgeries on his eyes and his eyes have to be "constantly" monitored. T.H. receives vision therapy, speech therapy, developmental therapy, and physical therapy.

¶ 15 Tawana testified she was aware her son had serious medical issues. She stated she has learned how to feed him and clean the G-tube. Her brother had Lowe's syndrome and she helped care for him by making sure he took his medication. She stated she could monitor T.H.'s eyes and would take him to the doctor if she saw a bluish or grayish color. She had three children, ages 15, 13, and 6, in her home, and she believed she could meet T.H.'s medical needs.

¶ 16 Timothy testified he felt prepared to care for T.H. As to getting T.H. to doctor visits, Timothy stated they can call a cab or get directions so they can drive him.

¶ 17 The trial court found respondents unfit, stating that "[w]ell over a year into this case, they simply are not in a position today to care for [T.H.] in any way, shape, or form, and despite being provided the opportunity to do just that."

¶ 18 In October 2013, the trial court conducted the best-interest hearing. The best-interest report indicated T.H. continued to reside in a specialized foster home and appeared "completely adjusted." Hickenbottom is able to arrange her schedule around all of T.H.'s appointments. The report indicated Hickenbottom and her husband have bonded with T.H. and "are advocates for his care and doing everything possible to ensure that he reach[es] his full potential." The report indicated T.H. is primarily fed through his G-tube, has had eye surgery to correct his cataracts, and wears a custom helmet to correct the shape of his head. He still receives different types of therapy.

¶ 19 The trial court found it in the minor's best interest that respondents' parental rights be terminated. This appeal followed.

¶ 20 II. ANALYSIS

¶ 21 In the case *sub judice*, respondents do not argue the trial court erred in finding them unfit. Instead, they argue the court's ultimate decision to terminate their parental rights was against the manifest weight of the evidence. We disagree.

¶ 22 "Courts will not lightly terminate parental rights because of the fundamental importance inherent in those rights." *In re Veronica J.*, 371 Ill. App. 3d 822, 831, 867 N.E.2d 1134, 1142 (2007) (citing *In re M.H.*, 196 Ill. 2d 356, 362-63, 751 N.E.2d 1134, 1140 (2001)). Once the trial court finds the parent unfit, "all considerations must yield to the best interest of the child." *In re I.B.*, 397 Ill. App. 3d 335, 340, 921 N.E.2d 797, 801 (2009). 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 2012). 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 long-term 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, 859 N.E.2d 123, 141 (2006).

See also 705 ILCS 405/1-3(4.05)(a) to (4.05)(j) (West 2012).

¶ 23 A 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, 932 N.E.2d 1192, 1199 (2010). A decision will be found to be against the manifest weight of the evidence in cases "where the opposite conclusion is clearly evident or where the findings are unreasonable, arbitrary, and not based upon any of the evidence." *In re Tasha L.-I.*, 383 Ill. App. 3d 45, 52, 890 N.E.2d 573, 579 (2008).

¶ 24 In this case, the evidence indicates T.H.'s foster parents are meeting his complex medical needs—needs which require diligent monitoring and attention by specialists. They take him to his appointments, make sure he gets his medicine, and work with him on therapy-related exercises. T.H.'s daycare facility allows his team of therapists to visit and aid in his needs. Hickenbottom is able to arrange her schedule around T.H.'s appointments for developmental therapy, physical therapy, speech therapy, and vision therapy. The best-interest report indicated the foster parents have bonded with T.H., meet all of his needs, and are very responsive to his everyday care. The report also indicated T.H. was in "a stable, nurturing environment that is healthy for his emotional, social, and physical growth" and his foster parents were committed to adopting him.

¶ 25 In contrast, the evidence indicated respondents were unable to take care of T.H.'s medical needs. Respondents seldom made it to T.H.'s medical appointments and were constantly reminded during visits how to feed and care for T.H. Niehaus did not think respondents

understood the severity of their son's medical condition. Respondents also have issues with transportation, which will make it difficult when T.H. needs to see specialists in Effingham, Springfield, Peoria, and St. Louis. Respondents made unsatisfactory progress on their service-plan goals, utilized minimal services offered by DCFS, and were resistant to requests to engage in services. While no one doubts respondents' love for their son, the evidence indicates they are unable to adequately care for him given his medical issues. In fact, the trial court believed respondents lacked the ability to care for him and he "would not survive" if left in their care. Considering the evidence and the best interest of T.H., most importantly his physical safety and welfare, we find the court's order terminating respondents' parental rights was not against the manifest weight of the evidence.

¶ 26

III. CONCLUSION

¶ 27

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

¶ 28

Affirmed.