

NOTICE

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2014 IL App (4th) 140461-U

NO. 4-14-0461

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

October 15, 2014

Carla Bender
4th District Appellate
Court, IL

In re: J.E., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	McLean County
v.)	No. 13JA45
JONATHAN EDGECOMB,)	
Respondent-Appellant.)	Honorable
)	Kevin P. Fitzgerald,
)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.

Justices Knecht and Harris concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed the trial court's judgment, which terminated the respondent's parental rights, concluding that (1) the court's best interest finding was not against the manifest weight of the evidence and (2) the respondent had forfeited his due-process argument by failing to raise it in the trial court.

¶ 2 In December 2013, the State filed a petition to terminate the parental rights of respondent, Jonathan Edgecomb, as to his son, J.E. (born May 13, 2013). Following a February 2014 fitness hearing, the trial court found respondent unfit. In May 2014, the court conducted a best-interest hearing and, thereafter, terminated respondent's parental rights.

¶ 3 Respondent appeals, arguing that the trial court's best interest finding was against the manifest weight of the evidence. As part of his best-interest argument, respondent also asserts that he was denied due-process of law in that DCFS failed to sufficiently document the details of his visitations with J.E., which deprived the court of evidence showing the bond that had

formed between him and J.E. We disagree and affirm.

¶ 4

I. BACKGROUND

¶ 5

A. The Events Prompting the State's Motion To Terminate Parental Rights

¶ 6

In May 2013, the State filed a petition for adjudication of wardship, alleging that J.E. was a neglected minor under section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(b) (West 2012)). Specifically, the State claimed that J.E.'s environment was injurious to his welfare due to respondent's prior juvenile court involvement wherein he surrendered his parental rights as to two of his other children without attaining a finding of parental fitness (Macon County case Nos. 11-JA-96 and 12-JA-24). The State explained that with regard to his two other children, respondent failed to correct issues concerning substance abuse, domestic violence, parenting, and housing.

¶ 7

At a July 2013 adjudicatory hearing, the trial court found that J.E. was a neglected minor based on respondent's stipulation to the State's factual basis.

¶ 8

In August 2013, Nathaniel Funte, a DCFS-contracted caseworker, filed a dispositional report. Within his report—under the heading, "client-service plan"—Funte documented that respondent was required to successfully complete the following assigned client-service-plan goals: (1) maintain safe and stable housing, (2) maintain employment, (3) participate in parenting classes, and (4) complete a substance-abuse assessment and comply with any treatment recommendations. With regard to the last two goals, Funte reported that respondent had secured appropriate referrals, commenting that respondent "appears ready to participate in services." (The record reveals that respondent was also required to complete a domestic-violence assessment and comply with any recommended treatment recommendations, which was omitted from Funte's August 2013 dispositional report.) Following the presentation of argument at a dispositional

hearing conducted shortly thereafter, the court (1) entered a written order, adjudicating J.E. a ward of the court and (2) maintained DCFS as his guardian.

¶ 9 In December 2013, the State filed a petition to terminate respondent's parental rights pursuant to the Adoption Act (750 ILCS 50/1 to 24 (West 2012)). Specifically, the State alleged that respondent was an unfit parent in that he failed to maintain a reasonable degree of interest, concern, or responsibility as to J.E.'s welfare (750 ILCS 50/1(D)(b) (West 2012)).

¶ 10 B. The Bifurcated Hearings on the State's Petition
To Terminate Parental Rights

¶ 11 1. *The February 2014 Fitness Hearing*

¶ 12 At a February 2014 fitness hearing, respondent admitted that he was unfit in that he failed to maintain a reasonable degree of interest, concern, or responsibility as to J.E.'s welfare as the State had alleged. The State's factual basis revealed that respondent had missed 44 of 57 visits with J.E. and "numerous" drug screens.

¶ 13 After confirming that respondent's admission was voluntary and knowing, the trial court adjudicated respondent an unfit parent.

¶ 14 2. *The May 2014 Best-Interest Hearing*

¶ 15 a. The State's Evidence

¶ 16 Funte, who had been respondent's caseworker since June 2013, testified that since respondent's February 2014 fitness hearing, he attended his three scheduled visits with J.E. However, according to respondent's counselor, he missed two domestic-violence-counseling sessions for unknown reasons. Despite those absences, respondent's domestic-violence counselor reported that respondent was "doing well" in his sessions. Funte had concerns about respondent's attendance at AA meetings, noting that some of his documentation alleged attendance on days (1) when meetings were not held; (2) that were in the future; or (3) that did not exist—for

example, February 31, 2014. Funte added that despite the attendance inconsistencies, he had not observed respondent in an intoxicated state.

¶ 17 Funte explained that J.E. resided with his (1) two biological siblings (ages two and three); (2) maternal grandmother, Shawna Lewis; and (3) 21-year old maternal aunt. In February 2014, J.E.'s maternal grandmother formally adopted J.E.'s two siblings. Funte reported that J.E. is comfortable, happy, and playful with his "foster family." Funte did not have any physical, emotional, or safety concerns regarding J.E.'s placement within the home, noting that J.E. is "cared for and loved." Funte recommended termination of respondent's parental rights to facilitate J.E.'s permanency with his family "in the only home he [has] known." Funte acknowledged that Lewis would not prevent respondent from being a part of J.E.'s life. Funte could not recommend the immediate return of J.E. to respondent's care.

¶ 18 Lewis testified consistent with Funte's account of J.E.'s home environment, adding that at some point in the future, she will inform J.E. that respondent is his biological father. Lewis stated that she would allow respondent contact with J.E. provided respondent did not attempt to override her authority. Lewis confirmed her intention to adopt J.E. if the trial court terminated respondent's parental rights.

¶ 19 Respondent did not present evidence.

¶ 20 b. The Trial Court's Ruling

¶ 21 Following argument, the trial court determined by a preponderance of the evidence that it was in J.E.'s best interests to terminate respondent's parental rights.

¶ 22 This appeal followed.

¶ 23

II. ANALYSIS

¶ 24

A. The Trial Court's Best-Interest Determination

¶ 25

1. *The Standard of Review*

¶ 26

At the best-interest stage of parental-termination proceedings, the State bears the burden of proving by a preponderance of the evidence that termination of parental rights is in the child's best interest. *In re Jay. H.*, 395 Ill. App. 3d 1063, 1071, 918 N.E.2d 284, 290-91 (2009). Consequently, at the best-interest stage of termination proceedings, " 'the parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life.' [Citation.]" *In re T.A.*, 359 Ill. App. 3d 953, 959, 835 N.E.2d 908, 912 (2005). "We will not reverse the trial court's best-interest determination unless it was against the manifest weight of the evidence." *Jay. H.*, 395 Ill. App. 3d at 1071, 918 N.E.2d at 291. A best-interest determination is against the manifest weight of the evidence only if the facts clearly demonstrates that the court should have reached the opposite result. *Id.*

¶ 27

2. *Respondent's Best-Interest Claim*

¶ 28

Respondent argues that the trial court's best-interest finding was against the manifest weight of the evidence. We disagree.

¶ 29

The evidence presented at the best-interest hearing showed that respondent had only recently begun to show marginal signs of progress by (1) following up on referrals, such as domestic violence counseling and (2) attending all three scheduled visitations with J.E. since his February 2014 fitness hearing. Although respondent asserted that he needed more time because he was "not far" from achieving a favorable fitness finding, his long history of failed attempts with regard to his other two children suggests that this assurance should be given little weight. In addition, the trial court noted that while respondent had a little less than a year to achieve fit-

ness in this case, respondent was aware—given his history—that failure to make meaningful progress would result in termination of his parental rights. Despite respondent's claims to the contrary, nothing in the record suggests that respondent could successfully parent J.E. in the foreseeable future.

¶ 30 In contrast, J.E. had been residing in the only home he had known since birth with a caring, loving foster family that consisted of his biological siblings, maternal grandmother, and maternal aunt. As described by Funte, J.E.'s environment provided him comfort and happiness. Lewis, who proved capable of caring for J.E. and meeting his immediate needs, stated her intent to provide J.E. permanency by adopting him as she had done for J.E.'s two other siblings.

¶ 31 In this case, the facts clearly demonstrate that the trial court reached the appropriate result. Accordingly, we conclude that the court's best-interest determination was not against the manifest weight of the evidence.

¶ 32 B. Respondent's Due-Process Argument

¶ 33 Although not a separate argument in his brief to this court, respondent also claims that he was denied due-process of law in that DCFS failed to sufficiently document the details of his visitations with J.E., which deprived the trial court of evidence showing the bond that had formed between him and J.E. We conclude that respondent has forfeited his argument.

¶ 34 Respondent did not raise the due-process arguments he now makes to this court at any time prior to his May 2014 best-interest hearing. Indeed, not only did respondent fail to provide the trial court an opportunity to adequately address his concerns, respondent affirmatively acted in contradiction to the claims he now raises by knowingly and voluntarily entering an admission at the February 2014 fitness hearing that he was an unfit parent in that he failed to maintain a reasonable degree of interest, concern, or responsibility as to J.E.'s welfare as the State al-

leged. Moreover, as the aforementioned record in this case shows, respondent's due-process claims are unconvincing, at best.

¶ 35 As the State correctly notes in its brief, respondent forfeited his argument by failing to raise it in the trial court. See *In re M.W.*, 232 Ill. 2d 408, 430, 905 N.E.2d 757, 772-73 (2009) (applying the forfeiture doctrine to proceedings governed by the Juvenile Court Act unless the respondent can demonstrate plain error). Because respondent has opted not to address the State's forfeiture argument in his reply brief to demonstrate why this court should nonetheless address his claims under the plain-error doctrine, we decline to do so *sua sponte*.

¶ 36 Accordingly, we conclude that the trial court's best-interest determination was not against the manifest weight of the evidence.

¶ 37 **III. CONCLUSION**

¶ 38 For the reasons stated, we affirm the trial court's fitness and best-interest determinations.

¶ 39 Affirmed.