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2015 IL App (3d) 150367-U
Consolidated with 3-15-0368 and 3-15-0369

Order filed October 19, 2015

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2015

<i>In re</i> C.N., O.N., and D.N.,	)	Appeal from the Circuit Court
	)	of the 10th Judicial Circuit,
Minors	)	Peoria County, Illinois.
)	
(The People of the State of Illinois,)	
	)	Appeal Nos. 3-15-0367, 3-15-0368, and
Petitioner-Appellee,	)	3-15-0369
	)	Circuit Nos. 10-JA-226, 10-JA-227, and
v.	)	10-JA-228
)	
DANIEL N.,	)	Honorable
	)	Mark E. Gilles,
Respondent-Appellant).	)	Judge, presiding.
)	

JUSTICE CARTER delivered the judgment of the court.
Justices Lytton and Schmidt concurred in the judgment.

ORDER

- ¶ 1 *Held:* The trial court's findings that it was in the minors' best interest to terminate the respondent's parental rights was not against the manifest weight of the evidence.
- ¶ 2 The respondent, Daniel N., appeals from the circuit court's order terminating his parental rights to his three minor children, C.N., O.N., and D.N. On appeal, the respondent argues that

the State failed to prove by a preponderance of the evidence that it was in the minors' best interest to terminate his parental rights, and the circuit court's finding that it was in the minors' best interest to do so was against the manifest weight of the evidence. We affirm.

¶ 3

FACTS

¶ 4

On August 19, 2010, the State filed petitions for adjudication of wardship, alleging that the minors were neglected. On October 28, 2010, the circuit court found the minors' mother of the minors dispositionally unfit based on her drug and alcohol problem. The circuit court found that the minors' father, the respondent in this case, was fit. The circuit court named the respondent as the minors' sole guardian. The respondent was ordered to execute releases, cooperate with the Department of Children and Family Services (DCFS), perform random drug testing, maintain stable housing, provide a change in address or phone number or change of members of household, and provides the identity of any person DCFS had reason to believe a relationship existed that would affect the minors.

¶ 5

On November 10, 2011, at a permanency review hearings, the circuit court had a significant anger management problem and was prone to violence. The circuit court ordered DCFS to investigate two police reports involving the respondent and ordered the respondent to have no contact with a woman named Kim Whittles. The circuit court indicated that respondent's fitness would be reviewed at the next hearing. At a permanency review hearing on January 12, 2012, the circuit court found that both the mother of the minors and the respondent remained dispositionally unfit. The court indicated that respondent made no progress, continued to engage in violent activities, and had been so dishonest that it was a concern to the court. The circuit court ordered respondent to address in counseling how his lack of truthfulness and behavior impacted his ability to reunite with the minors. On July 12, 2012, the respondent was

found to have not made reasonable efforts because he was kicked out of domestic violence classes, had several arrests or police contacts, was drinking, and had new pending criminal and traffic charges. On January 3, 2013, the circuit court found that respondent had not made reasonable efforts because he missed drug drops, his domestic violence classes were terminated, and he engaged in inappropriate behavior.

¶ 6 On June 27, 2013, the circuit court changed the permanency goal for the minors to substitute care pending the court's decision on whether to terminate parental rights. The circuit court found that the respondent failed to make reasonable efforts toward the return home of the minors because he made no drug drops, was unsuccessfully discharged from counseling and domestic violence classes, had no visits with the minors for two months, and continued an unhealthy relationship with Whittles.

¶ 7 On July 29, 2013, the State filed petitions for the termination of the respondent's parental rights and amended the petitions on August 1, 2013. In the amended petitions, the State alleged that respondent was unfit in that he failed to make reasonable progress toward the return of the minors during any nine-month period after the end of the initial nine-month period, following the adjudication of neglect, being October 24, 2012, to July 24, 2013. See 750 ILCS 50/1(D)(m)(iii) (West 2012).

¶ 8 On June 26, 2014, the trial court ordered a bonding assessment for respondent and the minors. On July 17, 2014, respondent stipulated that the State could prove the allegations of the termination petition, and the circuit court found that the termination petition had been proven by clear and convincing evidence. On September 22, 2014, a best interest report was filed, with addendums thereto filed on December 18, 2014, and March 4, 2015. On March 4, 2015, a best interest hearing took place.

¶ 9 At the best interest hearing, State entered into evidence respondent's convictions of February 18, 2015, for: (1) driving while license suspended; (2) aggravated assault; and (3) resisting a public officer. The State also entered into evidence copies of two orders of protection that were entered against respondent as the result of an incident on October 30, 2014, during which he allegedly blocked the vehicle occupied by his ex-girlfriend and her friend, and pointed a gun at his ex-girlfriend. The circuit court acknowledged its possession and review of, among other things, the transcripts from previous hearings, the best interest report, and prior orders in the case.

¶ 10 The bonding assessment indicated that the minors had been placed together in foster care since February 9, 2012, in the home of family friends. The respondent had visited with the minors once per month for the past six months. C.N. (age 7) indicated that it was difficult to be away from her foster mother and she was happy living with her foster parents. C.N. felt closer to her foster parents and did not want to live with respondent. D.N. (age 4) indicated that he liked living with his foster parents and loved to swim in the backyard swimming pool. D.N. indicated that he would rather live with his foster parents than with the respondent. O.N. (age 6) initially would not state a preference for living with either respondent or her foster parents, and indicated that she felt closest to "everybody." She also indicated that she liked to visit respondent but wanted to live in her foster home.

¶ 11 The bonding assessment indicated respondent had issues with alcohol, cocaine, domestic violence, and criminal involvement. The minors were exposed to domestic violence, criminal behavior, and substance abuse by respondent and their mother.

¶ 12 The State argued that the minors had been in foster placement for three years and were bonded with their foster parents, who were willing to adopt. The State noted that the

respondent's parenting behavior had appeared inappropriate at the bonding assessment and inappropriate as described in various police reports. The State further indicated that as a result of respondent's recent convictions, he would be in jail for 60 days beginning in April of 2015. The respondent argued that he was seeking help and that it was too early in the proceedings to terminate his parental rights. The guardian *ad litem* indicated that the bonding assessment had not gone well for either parent, despite the assessment being conducted at their insistence.

¶ 13 The circuit court noted that it had considered all the materials before it, including its recollections of the matters that had previously been before the court and the parties' arguments. The circuit court found that it was in the minors' best interest to terminate the respondent's parental rights, noting that the minors' need for permanence and stability and for continuity of relationships with parent figures and other relatives especially weighed heavily in favor of termination. The respondent appealed.

¶ 14 ANALYSIS

¶ 15 On appeal, the respondent argues that the trial court's finding that it was in the minors' best interest to terminate his parental rights was against the manifest weight of the evidence. Respondent specifically claims that the circuit court failed to sufficiently consider the best interest factors in making its best interest determination. Respondent also claims that although a bonding assessment was ordered, it was never conducted.

¶ 16 Once a trial court has found that a parent is unfit, all considerations yield to the best interest of the minor and the minor's interest in a stable, loving and safe home environment. *In re D.T.*, 212 Ill. 2d 347, 364 (2004). At the best interest stage, the State must prove by a preponderance of the evidence that termination of parental rights is in the minors' best interest. *Id.* at 366.

¶ 17 In considering a minor's best interest, the trial court must consider certain statutory factors in light of the minors' ages and their developmental needs, which are: (1) the physical safety and welfare of the minor, including food, shelter, health, and clothing; (2) the development of the minor's identity; (3) the minor's background and ties, including familial, cultural, and religious; (4) the minor's sense of attachments, including: (i) where the minor actually feels love, attachment, and a sense of being valued; (ii) the minor's sense of security; (iii) the minor's sense of familiarity; (iv) continuity of affection for the minor; and (v) the least disruptive placement; (5) the wishes of the minor; (6) the minor's community ties, including church, school, and friends; (7) the minor's need for permanence, which includes the need for stability and continuity of relationships with parental figures, siblings, and other relatives; (8) the uniqueness of every family and child; (9) the risks related to substitute care; and (10) the preferences of the persons available to care for the minor. 705 ILCS 405/1-3(4.05) (West 2014). A trial court's best interest determination will not be disturbed unless against the manifest weight of the evidence. *In re Austin W.*, 214 Ill. 2d 31, 51 (2005).

¶ 18 Initially, we note that the respondent's assertion that a bonding assessment was ordered by the court but was not actually done is contradicted by the record. A bonding assessment of the respondent and the minors, which was entitled "parenting capacity assessment," was completed on September 26, 2014, and is attached to the best interest report contained in the record. We also note that the bonding assessment was referenced several times at the best interest hearing, with no objection from the respondent. The assessment indicated that respondent did not appear to understand how to manage the children and that he needed to become more aware of how his behavior affected the children.

¶ 19 In this case, the State proved by a preponderance of the evidence that it was in the minors' best interest to terminate the respondent's parental rights. The minors have been placed together in their current foster home for three years. They all preferred to continue to live in their current environment. The minors are bonded to their foster parents, who are willing to adopt them. The record supports the trial court's finding that the minors' need for permanence, which includes their need for the continuity of their relationships with their foster parents, who the minors view as their parental figures, heavily supports a finding that it is in their best interest to terminate the respondent's parental rights. Respondent's desire to continue to be a part of the minors' lives, at the best interest stage of the proceedings, must give way to minors' interest in having a stable, loving and safe home environment. See *In re D.T.*, 212 Ill. 2d at 364. Thus, trial court's finding that it was in the minors' best interests to terminate the respondent's parental rights was not against the manifest weight of the evidence.

¶ 20 CONCLUSION

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

¶ 22 Affirmed.