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2015 IL App (3d) 150536-U

Order filed December 22, 2015

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2015

<i>In re</i> C.H. and K.H.,)	Appeal from the Circuit Court
)	of the 10th Judicial Circuit,
Minors)	Tazewell County, Illinois,
)	
(The People of the State of Illinois,)	
)	
Petitioner-Appellee,)	Appeal Nos. 3-15-0536, 3-15-0537
)	Circuit Nos. 11-JA-103, 12-JA-58
v.)	
)	
Kyle H.,)	The Honorable
)	Richard D. McCoy,
Respondent-Appellant).)	Judge, presiding.

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

ORDER

¶ 1 *Held:* In an appeal in a termination of parental rights case, the appellate court held that the trial court's best interest determination was not against the manifest weight of the evidence. The appellate court, therefore, affirmed the trial court's judgment, terminating the biological father's parental rights to his minor children.

¶ 2 In the context of a juvenile-neglect proceeding, the State filed a petition to involuntarily terminate the parental rights of respondent father, Kyle H., to his minor children, C.H. and K.H.

After hearings on the matter, the trial court found that respondent was an unfit parent/person and that it was in the minors' best interest to terminate respondent's parental rights. Respondent appeals, challenging the best interest determination. We affirm the trial court's judgment.

¶ 3

FACTS

¶ 4

Respondent and Anton S. were the biological parents of the minor child, C.H., who was born in August 2011. Anton S. had previously been found to be an unfit parent in juvenile neglect cases related to her other children of which respondent was not the father. After C.H. was born, respondent was allowed to have custody of C.H., but a safety plan was implemented by the Department of Children and Family Services (DCFS), which prohibited Anton S. from having contact with C.H. without prior DCFS approval.

¶ 5

In September 2011, DCFS took protective custody of C.H. after it was found that respondent had allowed Anton S. to have contact with C.H. in violation of the safety plan. Shortly thereafter, the State filed a juvenile neglect petition. The petition alleged that C.H. was subjected to an injurious environment in that: (1) Anton S. was found unfit in two prior Tazewell County cases and there was no subsequent finding of fitness; (2) Anton S. could not provide minimum parenting; and (3) respondent had indicated to a DCFS investigator that he did not use drugs but tested positive for cannabis in August 2011. Anton S. and respondent were given court-appointed attorneys to represent them in the juvenile court proceedings.

¶ 6

On April 27, 2012, after an adjudicatory hearing in which respondent stipulated that the petition could be proven and Anton S. admitted a portion of the petition, C.H. was found to be neglected. A dispositional hearing was held the following month, at the conclusion of which, the trial court found that respondent and Anton S. were unfit parents. The finding of unfitness as to respondent was based upon his unresolved drug abuse. The trial court made C.H. a ward of the

court and named DCFS as C.H.'s guardian. At the time of disposition, respondent was given certain tasks to complete in order to correct the conditions that led to the adjudication and removal of C.H. Those tasks included, among other things, to: (1) cooperate fully and completely with DCFS; (2) obtain a drug and alcohol assessment and successfully complete the recommended treatment; (3) complete three random drug tests per month; (4) obtain and maintain stable housing; (5) inform the caseworker of the name, date of birth, and social security number of any individual with whom respondent had developed a relationship which would affect the children; and (6) attend scheduled visits with the children and demonstrate appropriate parenting conduct during those visits.

¶ 7 One month later, in June 2012, Anton S. gave birth to K.H. Respondent was K.H.'s father. DCFS took protective custody of K.H. after K.H. was released from the hospital, and a juvenile neglect petition was filed shortly thereafter. The petition alleged that respondent and Anton S. had both previously been found to be unfit parents, that there had not been a subsequent finding of fitness, and that they could not provide minimum parenting to K.H.

¶ 8 On September 13, 2012, after an adjudicatory hearing in which respondent admitted the petition and Anton S. stipulated that the petition could be proven, K.H. was found to be neglected. A dispositional hearing was held instantter, at the conclusion of which, the trial court found that respondent and Anton S. were unfit parents. The finding of unfitness as to respondent was based upon the prior finding of unfitness and his inability to maintain minimal parenting. The trial court made K.H. a ward of the court and named DCFS as K.H.'s guardian. As part of the disposition, respondent was again ordered to complete the tasks listed above.

¶ 9 The first permanency review hearing was held in November 2012. Respondent failed to appear in court for that hearing but his court appointed attorney was present. A report, which

had been prepared for the hearing by the caseworker, indicated that as for the positive aspects of respondent's performance during the period, respondent: (1) had attended 9 out of 12 visits; and (2) had done well during the visits he attended, had appeared to be very bonded to C.H., and had held, and tried to soothe, K.H. As for the negative aspects of respondent's performance during the period, the report indicated that respondent: (1) had not had any contact with the caseworker since August 2012; (2) had not completed an integrated assessment; (3) had not provided the caseworker with his current address, phone number, or employment information; (4) was suspected in a few thefts that had occurred; (5) had not completed his alcohol and drug assessment or any of the required drug tests (13 in total for the period); and (6) had ended up being in jail in September 2012. Based upon respondent's failure to cooperate and lack of progress, the caseworker recommended that respondent be found to still be unfit and that DCFS remain guardian of the children. After considering the caseworker's report, the trial court found that respondent had not made reasonable efforts toward achieving the service plan/permanency goal. The specific reasons for that decision were listed in the court order. The trial court set the permanency goal for C.H. as return home pending status and for K.H. as return home in 12 months. Custody and guardianship of the children were kept in DCFS.

¶ 10 The next permanency review hearing was held in May 2013. Respondent was present in court for the hearing and was represented by his attorney. A report, which had been prepared for the hearing by the caseworker, indicated that as for the positive aspects of respondent's performance during the period, respondent: (1) had begun to engage in his court-ordered services; (2) completed the integrated assessment in November 2013; (3) completed in-patient drug treatment in March 2013; (4) was attending outpatient drug counseling; (5) was residing with his mother; (6) was seeking employment; (7) had completed four of the random drug tests

and no drugs were detected; (8) had attended 15 of the 24 scheduled weekly visits with the minors (5 visits were missed while respondent was in treatment); and (9) had interacted appropriately with the children at the visits he attended, had played with the children, and had appeared to be bonded with both of the children. As for the negative aspects of respondent's performance during the period, the report indicated that respondent: (1) had missed four of his weekly visits with the children because he had failed to confirm the visits for those days as was required; (2) had missed several of his randomly-scheduled drug tests prior to going into the in-patient drug treatment program; and (3) had failed to inform DCFS of a significant relationship in which he was involved. The caseworker recommended in the report that respondent be found to still be an unfit parent and that DCFS remain guardian of the children. After considering the caseworker's report, the trial court found that the permanency goal of return home within 12 months was no longer appropriate for K.H. and changed the permanency goal to return home pending status for both children. The trial court also found that respondent had made mixed efforts to achieve the service plan/permanency goal in that respondent had failed to complete a number of the drug tests but had attended a drug treatment program. The trial court ordered that DCFS was to retain custody and guardianship of the minors and a new permanency review hearing date was scheduled.

¶ 11 A third permanency review hearing was held in August 2013. Respondent failed to appear in court for the hearing but his attorney was present. The permanency review report, which the caseworker had prepared for the hearing, indicated that as to the positive aspects of respondent's performance during the period, respondent: (1) was still residing with his mother, but that housing situation was coming to an end; (2) was helping a friend with various roofing jobs but had not yet provided the caseworker with proof of employment; (3) had obtained the

required psychological evaluation; (4) had attended 9 out of 10 scheduled weekly visits with the children; and (5) had interacted appropriately with the children at the visits he attended, had played with the children, and had appeared to be bonded with the children. As for the negative aspects of respondent's performance during the period, the report indicated that respondent: (1) had failed to complete any of the required randomly-scheduled drug tests (seven tests in total); (2) had tested positive in July 2013 in a drug test he had completed for his probation officer; (3) had started missing outpatient counseling sessions at the end of April 2013, had developed a pattern of dishonesty, and had started blaming others for his problems; (4) had been unsuccessfully discharged from outpatient counseling in June 2013; (5) had admitted to the caseworker in July 2013 that he had been "using" again and that he wanted to go back into in-patient drug treatment; (6) had not been honest with treatment providers about his situation and was trying to use the in-patient treatment program as a means of housing; (7) had been unsuccessfully discharged from a parenting class in July 2013 due to absences; and (8) had missed one of his scheduled weekly visits with the children because he had failed to confirm his visit for the day. At the conclusion of the report, the caseworker recommended that the service plan/permanency goal be changed to termination of respondent's parental rights, that respondent be found to still be an unfit parent, and that DCFS remain guardian of the children. After considering the caseworker's report, the trial court found that the current service plan/permanency goal of return home pending status was appropriate, that respondent had not made reasonable efforts to achieve the service plan/permanency goal, that reunification services were to cease as to respondent pending the State's filing of a petition to terminate respondent's parental rights, and that custody and guardianship of the children were to remain with DCFS.

The reasons for the trial court's finding of a lack of reasonable efforts on respondent's part were specifically listed in the order as his failure to engage in services and his drug use.

¶ 12 Later that same month (August 2013), the State filed a petition to terminate respondent's parental rights to both C.H. and K.H (separate petitions were filed for each child). The termination petition alleged that respondent was an unfit person as defined in section 1(D)(m)(ii) of the Adoption Act (750 ILCS 50/1(D)(m)(ii) (West 2012)) in that he had failed to make reasonable progress toward the return home of the minors within the initial nine-month period after the adjudication of neglect.¹ The nine-month period specified in the petition was from April 27, 2012, through January 27, 2013, as to C.H. and from September 13, 2012, through June 13, 2013, as to K.H. After initially denying the petition, respondent filed an amended answer and stipulated that the State could prove the allegation that he was an unfit person/parent but challenged the allegation that it was in the minors' best interest to terminate his parental rights.

¶ 13 A hearing was held on the parental-unfitness portion of the termination petition in November 2013. Based upon respondent's admission, the trial court found that it had been proven by clear and convincing evidence that respondent was an unfit person/parent as alleged in the termination petition. The case was scheduled for a hearing on the best-interest portion of the petition to take place in February 2014.

¶ 14 A fourth permanency review hearing was held in December 2013. Respondent was present in court for the hearing and was represented by his attorney. The permanency review report, which the caseworker had prepared for the hearing, indicated that as to the positive

¹ A separate petition for termination of parental rights was later filed as to Anton S. Anton S. subsequently surrendered her parental rights. As a result of that surrender, Anton S.'s parental rights were terminated.

aspects of respondent's performance during the period, respondent: (1) had been residing with his maternal grandparents in their home, which the caseworker had found to be neat, clean, appropriate, and free from all visible safety concerns; (2) had been cooperating with his caseworker since the middle of October 2013, although he had been uncooperative initially; (3) had been attending services through the drug court program; (4) had been doing well in the drug court program; (5) had been attending outpatient drug treatment; (6) had been completing at least two randomly-scheduled drug tests a week through the drug court program and had tested negative for the presence of drugs on all of his drug tests; (7) had obtained two jobs in November 2013; (8) had attended two scheduled monthly visits with the children in September and October 2013 (visits had been reduced to once a month); and (9) had interacted appropriately with the children at the visits he attended, had played with the children, and had appeared to be bonded with the children. The caseworker noted in her report that C.H. appeared to be especially attached to respondent and was happy to see respondent. As for the negative aspects of respondent's performance during the period, the report indicated that respondent: (1) had only minimal contacts with the caseworker during the reporting period; (2) had been arrested for burglary and theft in August 2013; (3) had been uncooperative with DCFS during the beginning of the reporting period and had contacted his caseworker for the first time during the period in the middle of September 2013; and (4) had been caught in November 2013 playing in his band at a bar in violation of the rules of the drug court program and had been required to serve a weekend in jail as a consequence thereof. At the conclusion of the report, the caseworker recommended that the service plan/permanency goal be changed to substitute care pending a court determination of parental rights, that respondent be found to still be an unfit parent, and that DCFS remain guardian of the children. After considering the caseworker's report, the trial

court found, over the State and GAL's objection, that the current service plan/permanency goal of return home pending status was appropriate, that respondent had made mixed efforts to achieve the service plan/permanency goal during the reporting period, and that custody and guardianship of the children were to remain with DCFS.

¶ 15 A fifth permanency review hearing was held in February 2014. Respondent failed to appear in court for the hearing but his attorney was present in court. The permanency review report, which the caseworker had prepared for the hearing, indicated that as to the positive aspects of respondent's performance during the period, respondent: (1) had been residing with his maternal grandparents in their home, which had been determined by the caseworker to be a stable, safe, and appropriate residence; (2) had been working and had provided the caseworker with proof of his employment; (3) had been doing really well in the drug court program; (4) had completed all of the randomly-scheduled drug tests as required by the drug court program and had tested negative for the presence of drugs in all of his tests; (5) had attended drug counseling sessions as required; (6) had maintained frequent contact with his caseworker and had improved upon his level of cooperation; (7) had attended his scheduled visits with the children; and (8) had interacted appropriately with the children at the visits he attended, had played with the children, and had appeared to be bonded with the children. The caseworker commented in her report that it was difficult for C.H. when the visit for a particular day would come to an end and C.H. would cry and cling to respondent. The caseworker did not list any significant negative aspects of respondent's performance for the period in her report and noted that respondent was continuing to make significant progress as evidenced by his sobriety, employment, performance in the drug court program, and cooperation with the caseworker. At the conclusion of the report, the caseworker recommended that the service plan/permanency goal be changed to return home

within one year, that respondent be found to still be an unfit parent, and that DCFS remain guardian of the children. After considering the caseworker's report, the trial court found that the current service plan/permanency goal of return home pending status was appropriate, that respondent had made reasonable efforts to achieve the service plan/permanency goal for the period, and that custody and guardianship of the children were to remain with DCFS.

¶ 16 In another report that was prepared by the caseworker for the best interest hearing that was also supposed to take place at that time in February 2014, the caseworker noted that there was a special and unique bond between respondent and both of the children and that it was her opinion that respondent's parental rights should not be terminated, despite the fact that the foster parents were willing and able to adopt both of the children. In court, based upon the progress respondent had made on his court ordered services, the pending hearing on the best interest portion of the termination petition was continued until June 2014.

¶ 17 In June 2014, the best interest hearing was continued again until August 2014 due to the unavailability of certain witnesses. In August 2014, the best interest hearing was continued until September 2014. Prior to the September 2014 court date, respondent filed a petition for restoration of his fitness as a parent.

¶ 18 At the September 2014 court date, the trial court held a best interest hearing, a permanency review hearing, and a hearing on respondent's petition to restore fitness. Respondent was present in court for the hearings and was represented by his attorney. At the time of the best interest hearing, the trial court had reviewed several reports that had been prepared by the caseworker regarding the best interest of the children. At the conclusion of the hearing, the trial court found that it was not in the children's best interest to terminate respondent's parental rights and denied the State's request for termination. The written order for

the hearing listed the trial court's specific findings as to whether each of the statutory best interest factors (see 705 ILCS 405/1-3(4.05) (West 2012)) favored, disfavored, or was neutral with regard to termination of respondent's parental rights. In addition to the statutory factors, the trial court noted that the uniqueness of respondent and the children disfavored termination because: (1) the children's bond to respondent and his extended family was stronger than the bond to the foster parents and their immediate and extended families; (2) despite respondent's delay in addressing his underlying problems, he had addressed them for the past 6-7 months, and his efforts and progress had been highly praised by various professionals working with him; and (3) while DCFS made an institutional recommendation of termination, the caseworker opined that it was not in the children's best interest to terminate respondent's parental rights.

¶ 19

After the best interest hearing was concluded, the trial court held a permanency review hearing. As noted above, respondent was present for the hearing and was represented by his attorney. The permanency review report, which the caseworker had prepared for the hearing, indicated that as to the positive aspects of respondent's performance during the period, respondent: (1) had been residing with his maternal grandparents in their home; (2) had been doing well in the drug court program since his relapse in February 2014 and was back on track with all of his services through the program; (3) had completed all of his randomly-scheduled drug tests that were required during the period for the drug court program and had tested negative on all of those tests (no drugs present) after his relapse in February 2014, although one test came back as diluted; (4) had been attending drug counseling; (5) had been slowly earning his probation officer's trust back after his relapse in February 2014 and had been slowly making progress; (6) had been doing roofing work for a friend of his father; (7) had completed a parenting class as required by his caseworker; and (8) had interacted appropriately with the

children at the visits he attended, although there were some problems as indicated below. As for the negative aspects of respondent's performance during the period, the report indicated that respondent: (1) had a "slight" relapse in his drug treatment in February 2014 in which he had appeared to be under the influence of a substance at a group counseling session, had tested positive for opiates, and had admitted that he had taken prescription medication for a headache and a backache; (2) had been required to serve 30 days in jail as a sanction for his violation of the rules of the drug court program (his relapse) from about the middle of February to about the middle of March 2014; (3) had missed five of his scheduled weekly visits with the children while he was in jail, did not see the children for an approximately two-month period (from about the middle of February to about the middle of April 2014), and had to be reintroduced into the children's lives; (4) had been very deceiving and manipulative with his probation officer during his relapse; (5) had been only minimally cooperative with his caseworker and had not provided his caseworker with proof of employment or with updates as to changes in his employment or residence; (6) had his visits with the children reduced to twice-a-month in March 2014 due to his lack of progress and the need to be reintroduced to the children; (7) had violated visitation protocol by having his girlfriend come to one of his visits with the children in April 2014; and (8) had his visits with the children further reduced to once a month in April 2014 due to his violation of visitation protocol and lack of progress. At the conclusion of the report, the caseworker recommended that the service plan/permanency goal be changed to substitute care pending a court determination of parental rights, that respondent be found to still be an unfit parent, and that DCFS remain guardian of the children. The caseworker noted that although respondent had made progress, he had still not demonstrated the consistency, stability, and sobriety that was necessary for him to regain his fitness as a parent. After considering the

caseworker's report, the trial court found that the current service plan/permanency goal of return home pending status was inappropriate and changed the service plan/permanency goal to return home within 12 months. The trial court also found that respondent had made reasonable efforts to achieve the service plan/permanency goal during the reporting period and that custody and guardianship of the children were to remain with DCFS. The trial court denied respondent's petition for restoration of fitness but noted that it would review respondent's fitness status at the next permanency review hearing.

¶ 20 A seventh permanency review hearing was held in March 2015. Respondent was present in court for the hearing and was represented by his attorney. The permanency review report, which the caseworker had prepared for the hearing, indicated that as to the positive aspects of respondent's performance during the period, respondent: (1) had been residing with his maternal grandparents in their home; (2) had done well in the drug court program and with his counseling and drug tests up until the end of October 2014; (3) had his visits with the children increased to once-a-week in September 2014; (4) had been employed for at least a portion of the period; (5) had interacted appropriately with the children at the visits he attended; (6) had been accepted into an in-patient drug treatment program in January 2015; (7) had been allowed to stay in the drug court program despite his most recent relapse; (8) had completed an in-patient drug treatment program in early February 2015; (9) had been fully engaged in, and doing well in, his services through the drug court program since his release from in-patient drug treatment; and (10) had tested negative on all of his randomly-scheduled drug tests since his release from in-patient treatment. As for the negative aspects of respondent's performance during the period, the report indicated that respondent: (1) had no longer been doing well in the drug court program as of the end of October 2014; (2) had started missing counseling sessions and his randomly-scheduled

drug tests for the drug court program in late October 2014; (3) had been arrested in late November 2014 on a warrant that was issued through the drug court program and spent some time in jail; (4) had tested positive on a drug test in late November 2014 and had admitted that he had taken Vicodin and Xanax because of anxiety; (5) had been only minimally cooperative with his caseworker; (6) had failed to provide his caseworker with employment verification and with information about his girlfriend so that a background check could be run; (7) had missed his weekly scheduled visits with the children on October 21 and October 24, 2014; (8) had been away from the children at an in-patient drug treatment program for four to six weeks starting in early January 2015; (9) had not visited with the children from October 27, 2014, through April 21, 2015; and (10) had not tried to contact his caseworker since his release from in-patient drug treatment. At the conclusion of the report, the caseworker recommended that the service plan/permanency goal remain at return home within one year, that respondent be found to still be an unfit parent, and that DCFS remain guardian of the children. The caseworker noted that respondent's progress had taken a dramatic turn for the worse at the end of October 2014, only a few weeks after the trial court had decided not to terminate respondent's parental rights. Respondent had stopped cooperating with the drug court program and had relapsed with his drug use. After considering the caseworker's report, the trial court found that the current service plan/permanency goal of return home pending status was inappropriate and changed the service plan/permanency goal to substitute care pending a court determination of parental rights. The trial court found further that respondent was still unfit, that respondent had failed to make reasonable efforts or progress, and that custody and guardianship of the children were to remain with DCFS.

In March and again in April 2015, the State filed motions asking the trial court to hold a best interest hearing for the purpose of permanently terminating respondent's parental rights to the children. A best interest hearing was held in June 2015. Respondent was present in court for the hearing and was represented by his attorney. A best-interest report had been prepared by the caseworker in preparation for the hearing and had been filed with the court. In the report, the caseworker noted that C.H. was 3½ years old and K.H. was 2½ years old and that both children had resided together in the same foster home with the current foster parents for over two years, since March 2013. The foster parents had adequately provided for the children's basic needs of food, shelter, health, and clothing, and also provided for the children's medical needs. The foster parents' home had adequate food, was in a good state of repair, had no visible safety or fire hazards, and had adequate space for the family size. The children had an affectionate relationship with the foster parents and referred to them as "mom/mommy" and "dad/daddy." The children also had an affectionate relationship with the foster parents' teenage daughter and referred to her as their "sissy" and referred to their foster parents' extended family as their grandparents. Both of the children were attending, and doing well at, daycare. The foster parents loved C.H. and K.H., viewed them as their own children or part of their family, and wanted to adopt them. The foster mother was a teacher and would often take the children to various school activities. In addition, the children had been doing well in daycare and had developed relationships with their peers. As for the children's relationship with respondent, the caseworker indicated in her report that the children would visit with respondent once a month and would refer to respondent as "dad/daddy" at those visits. The children appeared to have a positive relationship with respondent at the visits, were affection toward respondent, and would tell respondent that they loved him at the end of the visits. In the caseworker's opinion, C.H. had

only a small understanding of the situation with respondent and K.H. had no understanding of the situation. According to the caseworker, C.H. would often become confused in the parent-child visits when respondent would refer to himself as "dad/daddy." At the conclusion of her report, the caseworker stated that it was her belief that it was in the children's best interest to terminate respondent's parental rights.

¶ 22 At the beginning of the best interest hearing, the trial court acknowledged that it had reviewed the best interest report and any updates to the report. The State then called its witnesses. The State's first witness was the caseworker, who testified consistently with her reports. The caseworker noted during her testimony that a pattern had developed in respondent's progress whereby respondent would perform very well for six to eight months and then would relapse with his drug use. Upon questioning from defendant's attorney, the caseworker agreed that in the past, respondent had an extremely strong bond with the children. The caseworker acknowledged that respondent had contacted her in March 2015 after his court date and after he had finished in-patient drug treatment and wanted to resume visitation with the children and that visitation was delayed for about a month because the caseworker/agency did not know whether respondent's parental rights were going to be terminated in the near future. The caseworker stated that she did not want to bring respondent back into the children's lives if his parental rights were going to be terminated soon thereafter.

¶ 23 When the caseworker's testimony was finished, the foster parents testified for the State. Both foster parents stated that they loved the children, that they provided for all of the children's needs, and that the children had a strong relationship with them and with their extended family.

¶ 24 After the State rested, the guardian *ad litem* (GAL) gave her report. The GAL stated that she had seen the children with the foster parents, that the interaction between the foster parents

and the children was normal, and that she had no concerns. The GAL acknowledged during her testimony that she had never had an opportunity to see the children in respondent's care, but she was aware from prior testimony that in the past, respondent had a very strong bond with the children.

¶ 25 In respondent's case-in-chief, respondent's attorney called respondent to the witness stand. Respondent testified that in November 2014, he got pulled over for having an expired driver's license and that he got scared and left the area because he thought he was going to be sanctioned in drug court for the violation. Less than a full week later, respondent turned himself in. By that time, however, he had relapsed and had taken Xanax and two Vicodin pills. Respondent was in jail until the end of December 2014 when he went back into in-patient drug treatment. Respondent finished in-patient treatment in early February 2015. Since that time, respondent had taken three or four drug tests per week and had tested negative for the presence of drugs on every test. According to respondent, he was attending and chairing AA and NA meetings. Respondent stated during his testimony that he did not have any excuses for what he had done and that if often took addicts multiple tries to beat their addictions. According to respondent, he was denied visits with the children between March 20 and April 21, 2015. Respondent stated that when he had visits, the children would rush up to him without hesitation, were interactive with him, and would call him "daddy." Respondent believed that the strong bond that he had with his children still remained. Respondent wanted to care for, and provide permanency for, his children. Respondent complained that in the past, items he had purchased for the children were either not given to the children or he was not allowed to give those items to the children and that he had trouble providing proof of employment to his caseworker because he worked for his father and the personal checks that his father gave him were considered not to be

sufficient proof of employment. Upon being asked, respondent denied that he currently had a girlfriend who was pregnant with his child.

¶ 26 In its rebuttal case, the State's called Shawn Oetzel to the witness stand. Oetzel was respondent's supervising officer in the drug court program. Oetzel testified that he had been involved with respondent in the drug court program for just over a year. During that time, Oetzel became familiar with respondent's pattern of drug usage. According to Oetzel, respondent would be sober for a while and then would relapse. Oetzel stated that respondent had told him that respondent's ex-girlfriend was pregnant and that respondent and respondent's mother had attended a doctor appointment with the ex-girlfriend. Oetzel stated that about a month prior to the November 2014 issue, he noticed that respondent's appearance started changing. Respondent had lost weight, was anxious, and was not as put together as he usually was. Respondent had missed a couple of drug tests and had said that he was working. Respondent showed up for drug court in the middle of November 2014 and was asked by the court to complete a drug test that day. Respondent left the courthouse, and Oetzel had no further direct contact with him until respondent turned himself in on the warrant later that month. Oetzel spoke to respondent while he was in jail, and respondent told him that he had gotten scared that he was going to get into trouble and that he had panicked and just left. Oetzel acknowledged during his testimony that he had no direct knowledge as to whether respondent's ex-girlfriend was pregnant or if respondent was the father. Oetzel confirmed that respondent was currently doing very well in the drug court program. Since respondent's release from in-patient treatment, respondent had not missed any appointments or counseling and had tested negative on all of his drug tests.

¶ 27 Following the presentation of the evidence, the trial court heard the arguments of the attorneys. The State argued for termination of respondent's parental rights, and respondent's

attorney argued against termination. The GAL for the minors represented to the trial court that she felt that it was in the best interest of the children to terminate respondent's parental rights.

¶ 28 After reviewing the reports, the testimony, and the arguments, the trial court made its ruling. In doing so, the trial court specifically ruled upon all of the statutory best-interest factors in writing. The trial court found that all of the factors favored termination, except for the fifth factor (the child's wishes and long term goals), which was neutral. The trial court ultimately found by a preponderance of the evidence that it was in the best interest of the minors to terminate respondent's parental rights. The trial court terminated respondent's parental rights, set the minors' permanency goal to adoption, and named DCFS as the guardian of the minors with the right to consent to adoption. Respondent filed this appeal to challenge the trial court's ruling.

¶ 29 ANALYSIS

¶ 30 As his only contention on appeal, respondent argues that the trial court's best interest determination was against the manifest weight of the evidence. Respondent asserts that the trial court's finding was erroneous because the statutory best interest factors weighed against termination of respondent's parental rights in this particular case. In making that assertion, respondent focuses primarily upon the strong bond that historically existed between respondent and the children. Based upon that strong bond and his assessment of the other best interest factors, respondent asks that we reverse the trial court's best interest determination and remand this case for further proceedings.

¶ 31 The State argues that the trial court's decision was proper and should be upheld. The State asserts that the evidence overwhelmingly established that it was in the children's best interest to terminate respondent's parental rights so that the children could have permanency and be adopted into the current foster home. The State disagrees with respondent's assessment of the

best interest factors and contends that every factor favored termination in this case, except for the fifth factor (the child's wishes and long term goals), which was neutral. The State asserts further that termination was appropriate because respondent's bond to the children was not a sufficient basis upon which to deny the children the permanency that they could achieve through adoption. For all of the reasons stated, the State asks that we affirm the trial court's order terminating respondent's parental rights.

¶ 32 In a termination proceeding, once the trial court finds that a parent is unfit as defined in section 1(D) of the Adoption Act, the trial court must then determine, pursuant to the Juvenile Court Act of 1987 (Juvenile Court Act), whether it is in the minor's best interest to terminate parental rights. See 705 ILCS 405/2-29(2) (West 2012); *In re Tiffany M.*, 353 Ill. App. 3d 883, 891 (2004). The burden of proof in the trial court is upon the State to show by a preponderance of the evidence that termination is in the minor's best interest. *Tiffany M.*, 353 Ill. App. 3d at 891. The trial court's ruling in that regard will not be reversed on appeal unless it is against the manifest weight of the evidence; that is, unless it is clearly apparent from the record that the trial court should have reached the opposite conclusion or that the conclusion itself is unreasonable, arbitrary, or not based on the evidence presented. *In re Austin W.*, 214 Ill. 2d 31, 51-52 (2005); *Tiffany M.*, 353 Ill. App. 3d at 890-92.

¶ 33 In a best interest hearing, the focus of the termination proceeding shifts to the child, and the parent's interest in maintaining the parent-child relationship must yield to the child's interest in having a stable and loving home life. *In re D.T.*, 212 Ill. 2d 347, 364 (2004). The issue is no longer whether parental rights can be terminated, but rather, whether in the child's best interest, parental rights should be terminated. *Id.* In making a best-interest determination, the trial court must consider, in the context of the child's age and developmental needs, the numerous statutory

factors listed in section 1-3(4.05) of the Juvenile Court Act. See 705 ILCS 405/1-3(4.05) (West 2012); *Tiffany M.*, 353 Ill. App. 3d at 892-93. Some of those factors include the child's physical safety and welfare, the development of the child's identity, the child's sense of attachment, and the child's need for permanence and stability. *Id.* The trial court may also consider the nature and length of the child's relationship with the current caretaker and the effect that a change in placement would have on the child's emotional and psychological well-being. *Tiffany M.*, 353 Ill. App. 3d at 893. Although the trial court is required to consider the statutory factors in making its best-interest determination, it is not required to articulate specific reasons for its decision. *Id.*

¶ 34 In the present case, after having reviewed the record, we find that the trial court's determination—that it was in the best interest of C.H. and K.H. to terminate respondent's parental rights—was not against the manifest weight of the evidence. The evidence presented at the best interest hearing indicated that the children were in a stable, secure, and loving home with the foster family that they had lived with for over the past two years. The children had a strong relationship with the foster parents, who were willing to adopt them, and with the foster parents' biological daughter and extended family. All of the children's needs were being met in the foster home, and it was the opinion of the caseworker and of the GAL that it was in the children's best interest to terminate respondent's parental rights. Although there is no question that respondent and the children had a strong bond, that factor alone is not dispositive in making a best interest determination. See *Austin W.*, 214 Ill. 2d at 50; *In re K.H.*, 346 Ill. App. 3d 443, 463 (2004) (the existence of a parent-child bond does not automatically ensure that the parent will be fit or that the child's best interest will be served). The other statutory best interest factors, such as the children's need for permanency, must be considered. See 705 ILCS 405/1-3(4.05) (West 2012);

Austin W., 214 Ill. 2d at 49-52; *Tiffany M.*, 353 Ill. App. 3d at 892-93. In this particular case, the children had been in foster care for 2 ½ to 3 ½ years (over two years with the current foster parents) and there was no indication that respondent would be restored to fitness anytime soon as respondent had developed a pattern of behavior in which he would be sober for a period of time and would then relapse with his drug use. The trial court properly considered the evidence and other information before it and properly weighed the statutory factors in making its decision that termination was appropriate. We will not re-weigh the statutory best interest factors on appeal or substitute our judgment for that of the trial court merely because respondent asserts that the factors should have been weighed differently. See *In re A.W.*, 231 Ill. 2d 92, 102 (2008) (when the manifest weight standard of review applies, the reviewing court will not substitute its judgment for that of the trial court on such matters as witness credibility, the weight to be given evidence, and the inferences to be drawn from the evidence, even if the reviewing court would have reached a different conclusion if it had been the trier of fact); *In re Lakita B.*, 297 Ill. App. 3d 985, 994 (1998) (because of the delicacy and difficulty involved in a child custody case, wide discretion is placed in the trial court to an even greater degree than in an ordinary appeal where the manifest weight standard of review is applied). The trial court's ruling has ample support in the record and, based upon the standard of review, must be affirmed. See *Tiffany M.*, 353 Ill. App. 3d at 892.

¶ 35

CONCLUSION

¶ 36

The judgment of the circuit court of Tazewell County is affirmed.

¶ 37

Affirmed.