

NOTICE

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FILED

January 22, 2015
Carla Bender
4th District Appellate
Court, IL

2015 IL App (4th) 140786-U

NOS. 4-14-0786, 4-14-0787, 4-14-0788 cons.

IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

In re: A.C., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF)	Circuit Court of
ILLINOIS,)	Sangamon County
Petitioner-Appellee,)	No. 12JA46
v. (No. 4-14-0786))	
CESSLEY COLE,)	
Respondent-Appellant.)	
-----)	
In re: Z.C., a Minor,)	No. 12JA47
THE PEOPLE OF THE STATE OF)	
ILLINOIS,)	
Petitioner-Appellee,)	
v. (No. 4-14-0787))	
CESSLEY COLE,)	
Respondent-Appellant.)	
-----)	
In re: K.C., a Minor,)	No. 12JA48
THE PEOPLE OF THE STATE OF)	
ILLINOIS,)	
Petitioner-Appellee,)	
v. (No. 4-14-0788))	Honorable
CESSLEY COLE,)	Esteban F. Sanchez,
Respondent-Appellant.)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Presiding Justice Pope and Justice Turner concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court's finding it was in the best interest of the minors to terminate respondent's parental rights was not contrary to the manifest weight of the evidence.

¶ 2 Respondent mother, Cessley Cole, appeals the orders terminating her parental rights to her children. We affirm.

¶ 3 I. BACKGROUND

¶ 4 In April 2012, the State filed three petitions for adjudication of wardship as to K.C., born November 25, 2001; A.C., born March 15, 2005; and Z.C., born May 31, 2006. In October 2012 the children were adjudicated neglected minors. The adjudication was based on a finding the minors' environment was injurious to their welfare as evidenced by the minors' sibling being adjudicated neglected and respondent's failure to make reasonable progress toward having the child returned to her care. Respondent's parental rights were terminated as to that child.

¶ 5 On October 24, 2012, the trial court entered a dispositional order finding it was in the minors' best interest they be made wards of the court and custody and guardianship of the minors be placed with the Illinois Department of Children and Family Services (DCFS).

¶ 6 On December 18, 2013, the State filed a motion seeking a finding of unfitness and termination of the parental rights of respondent with regard to the three minors, K.C., A.C., and Z.C. Following an evidentiary hearing on respondent's unfitness, respondent stipulated to a finding of unfitness.

¶ 7 The best-interest hearing was held afterward, on July 30, 2014. Linda Jones, a DCFS caseworker, testified A.C. was currently in a foster-care placement, where she had been since May 2012. She had friends in her placement and the foster parents took care of her educational, religious, social, and medical needs. A.C. shared a bedroom with another foster child in a very large house. The foster parents had signed a commitment-to-adopt form should

respondent's parental rights be terminated. A.C. was attached to her foster parents and called them "mom" and "dad." A.C. talked about her future in her foster home, including high school and jobs. The foster parents told Jones they are willing to keep A.C. in their home and make her a part of their family.

¶ 8 Jones testified there was not much attachment at all between A.C. and respondent. There was a visit with respondent two weeks before the best-interest hearing, but none before that since September 2013. Jones felt there would be no harm to A.C. if respondent's parental rights were terminated. From 2006 until now A.C. had never been in respondent's care.

¶ 9 Z.C. has been in his placement since February 2014. His sibling, previously adopted, is also in the home. Z.C. was making progress in his placement, having a reduction in temper tantrums and getting along with other children in the home. The foster parents were supportive of Z.C.'s therapeutic behavioral needs and participated in behavioral sessions with him. The foster parents took care of Z.C.'s educational, social, and medical needs. Z.C. had friends in his current placement and had his own bedroom in the five-bedroom home. The foster parents were an adoptive resource for Z.C. and there was already an attachment between him and the foster parents. Z.C. talked about a future in this home.

¶ 10 There was not much attachment between Z.C. and respondent. During visits, Z.C. would play on the floor and respondent would sit in a chair. Z.C. had not been in respondent's care since 2006.

¶ 11 K.C. had been in her current placement since April 2012. She was making progress in her placement. Initially, she had an emotional disorder, but she no longer has the disorder and has been doing very well in school. The foster parents took care of K.C.'s

educational, social, and medical needs. K.C. had friends in the neighborhood through school and church. She had her own bedroom in the foster family's five-bedroom home. There was an attachment between K.C. and her foster parents, calling them "mom" and "dad" and referring to the other children in the home as her siblings. K.C. talked about her future in this home and having her new sisters in her future wedding. The foster parents were committed to adopting K.C. if respondent's parental rights were terminated.

¶ 12 During visits with K.C., respondent spent a great deal of time "doing" K.C.'s hair, but that was the only observable interaction between the two.

¶ 13 On cross-examination, Jones testified A.C. and Z.C. never talked about respondent with Jones. K.C. was angry with respondent at the time of the best-interest hearing and K.C. believed respondent will never "get herself together." Jones also testified respondent indicated there were inappropriate pictures on K.C.'s Facebook account. The foster parents were not aware K.C. had a Facebook account because she was not permitted to use the computer in their home. The foster mother guessed K.C. might have obtained access through a cell phone her biological grandmother bought for her. They checked on her cell phone and, while they found a Facebook page, they found nothing inappropriate. While respondent said there were inappropriate pictures, she never showed any to Jones.

¶ 14 Although Z.C. had only been with his foster parents a short time, he knew them prior to being placed with them and Jones believed he was attached to them. Finally, Jones stated respondent had recently delivered an infant whose meconium tested positive for marijuana.

¶ 15 Respondent testified she was close with A.C. and A.C. did not like her foster

placement. She stated she did not have a visit since September 2013 because she did not have a vehicle. Respondent testified she was not close to Z.C. and did not have any concerns with his current placement. Respondent was concerned with K.C.'s placement because she claimed there were "naked pictures" on K.C.'s Facebook page. Respondent admitted she never progressed past supervised visits with her children since 2012.

¶ 16 The trial court found it was in the best interest of the children to terminate respondent's parental rights. The court stated respondent had not made any significant progress toward the possibility of the children returning to her in the near future and the children "have been waiting for permanency." This appeal followed.

¶ 17 II. ANALYSIS

¶ 18 Respondent argues the trial court's decision to terminate her parental rights was against the manifest weight of the evidence. Despite Jones' opinion to the contrary, respondent contends the evidence demonstrates she and the children are significantly bonded. She interacted well with them during her visits and she speaks frequently with K.C. on Facebook. Respondent also contends she clearly expressed a strong love and desire to care for her children.

¶ 19 In addition to her bond with the children, respondent has made significant efforts to remedy her issues. She completed substance-abuse treatment and parenting classes.

¶ 20 Finally, respondent contends the placements of the children are not in their best interest. The children are biracial but they have no African-American influences in the homes and run the risk of being denied an awareness and understanding of their ethnicity. Respondent believes the proper place for the children is with her.

¶ 21 Once parental unfitness has been found in a proceeding to terminate parental

rights, the parent's rights must yield to the children's best interest. *In re D.T.*, 212 Ill. 2d 437, 364, 818 N.E.2d 1214, 1227 (2004). At the best-interest stage of the proceedings, the State bears the burden of proving by a preponderance of the evidence termination is in the children's best interest. *In re T.A.*, 359 Ill. App. 3d 953, 961, 835 N.E.2d 908, 914 (2005). The trial court's finding termination is in the children's best interest will not be reversed unless it is against the manifest weight of the evidence. *In re Austin W.*, 214 Ill. 2d 31, 51-52, 823 N.E.2d 572, 585 (2005).

¶ 22 The caseworker testified all the children were progressing and doing well in their current placements. The foster parents were providing everything the children needed and were willing to adopt the children. The children were attached to their foster parents and had friends in their neighborhoods and schools. K.C. had overcome her emotional disorder since being placed with her foster parents and Z.C.'s foster parents were supportive of his therapeutic behavioral needs, which helped in reducing his temper tantrums.

¶ 23 In contrast, respondent went nine months without even visiting her children and only resumed visits two weeks before the best-interest hearing. Respondent's excuse for failing to visit her children for nine months was she did not have a vehicle. However, lack of effort in obtaining transportation to visit her children for nine months demonstrated lack of interest in being a part of her children's lives. Further, Z.C., K.C., and A.C. had not been in respondent's care since 2006, respondent never graduated past supervised visits, and she only recently started completing her service-plan tasks. Finally, respondent recently delivered a baby testing positive for marijuana. This was all evidence of respondent's lack of interest in being a mother to these children and demonstrated her lack of progress, so at no time in the near future would any of

these children be returned to her care.

¶ 24 Permanency is an important factor in determining a child's best interest. All of the foster parents were willing to adopt. With termination of respondent's parental rights, all three children would be in a permanent living situation.

¶ 25 The trial court had ample evidence to determine termination of respondent's parental rights was in the best interest of the children. Respondent had already been determined unfit. In fact, she had stipulated to this finding. Her interest lessened in comparison to the superior rights of the children. The court's determination the State proved by a preponderance of the evidence termination of parental rights was in the best interest of the children was not against the manifest weight of the evidence.

¶ 26 **III. CONCLUSION**

¶ 27 For the foregoing reasons, we affirm the judgment of the trial court.

¶ 28 Affirmed.