2015 IL App (4th) 140915-U

NO. 4-14-0915

FILED
March 16, 2015
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: C.G., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Macon County
v.	)	No. 14JA160
TIMOTHY GILES,	)	
Respondent-Appellant.	)	Honorable
	)	Thomas E. Little,
	)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Justices Turner and Steigmann concurred in the judgment.

ORDER

¶ 1 *Held*: (1) The trial court's finding respondent was unfit based on depravity where the evidence showed he murdered the minor's grandmother and aunt and attempted to murder her mother was not against the manifest weight of the evidence.

(2) The trial court's finding it was in the best interest of the minor to terminate respondent's parental rights was not contrary to the manifest weight of the evidence where respondent is serving two sentences of natural life and one of 31 years and he is not appealing those sentences.

¶ 2 Respondent father, Timothy Giles, appeals the orders finding him unfit and terminating his parental rights to his child. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On September 12, 2014, the State filed a petition for adjudication of wardship as to C.G., born November 10, 2010. The same day, the State filed a motion seeking a finding of

unfitness and termination of parental rights.

¶ 5 On October 9, 2014, a hearing was held on the motion. The State presented evidence of respondent's convictions. On August 4, 2011, respondent murdered Cindanett Eaton, C.G.'s maternal grandmother, and Lindsey Eaton, C.G.'s maternal aunt. He also attempted to murder Casey Eaton, C.G.'s mother. On February 4, 2014, respondent pleaded guilty to all three charges. On April 4, 2014, the trial court sentenced respondent to two terms of natural life for the murder convictions and 31 years for attempted murder.

¶ 6 Respondent stated he killed Cindanett and Lindsey Eaton because they were in the house when he got there with the intent of killing Casey Eaton. He wanted to kill Casey Eaton because he lost a custody battle with her for custody of C.G. and did not think it was in C.G's best interest to live with Casey. He later admitted he did not think the murders and attempted murder were in C.G.'s best interest.

¶ 7 Respondent did not present any evidence.

¶ 8 The trial court found the State proved by clear and convincing evidence respondent was an unfit parent due to depravity. Over respondent's objection, the court proceeded to the best-interest hearing. The State requested the court to take judicial notice of respondent's criminal convictions previously testified to and the fact the case file indicated no appeal was filed as to the convictions or sentences and it was now too late to file those appeals.

¶ 9 The trial court found the State proved it was in the best interest of C.G. to terminate respondent's parental rights. This appeal followed.

¶ 10 II. ANALYSIS

¶ 11 Respondent argues both the trial court's decisions he was an unfit parent and it

was in the best interest of C.G. to terminate his parental rights were against the manifest weight of the evidence.

¶ 12 A. Parental Unfitness

¶ 13 Respondent argues the trial court's finding of unfitness based on depravity was improper since he rebutted the presumption of depravity arising from the State's proof of his convictions for murder and attempted murder.

¶ 14 The State must prove a parent's unfitness by clear and convincing evidence. A trial court's finding of unfitness will not be reversed unless it is against the manifest weight of the evidence. A finding is against the manifest weight of the evidence only if the opposite conclusion is readily apparent. *In re Addison R.*, 2013 IL App (2d) 121318, ¶ 22, 989 N.E.2d 224.

¶ 15 Respondent's convictions for two counts of murder and one count of attempted murder created a rebuttable presumption of depravity, one of the grounds of unfitness. 750 ILCS 50/1(D)(i) (West 2012). Once the presumption of depravity has been established, respondent is required to present clear and convincing evidence to rebut the *prima facie* case of depravity. *In re Donald A.G.*, 221 Ill. 2d 234, 253, 850 N.E.2d 172, 182 (2006).

¶ 16 Respondent failed to present clear and convincing evidence to rebut the presumption of depravity. He suggests the fact he committed the murders while acting out of concern for his daughter should be deemed sufficient to rebut the presumption. He tried to excuse his conduct in attempting to murder C.G's mother as being justified because he did not think C.G.'s mother was fit to be a parent and because he disagreed with the trial court's order granting temporary custody to C.G.'s mother. He tried to excuse his murders of C.G.'s

grandmother and aunt as "self-defense" since they attacked him when he broke into the house while armed with a gun and a knife.

¶ 17 Depravity is defined as "an inherent deficiency of moral sense and rectitude." (Internal quotation marks omitted.) *Addison R.*, 2013 IL App (2d) 121318, ¶ 23, 989 N.E.2d 224. It appears the grandmother and aunt were killed because they got in respondent's way when he tried to kill C.G.'s mother. A wanton slaughter of bystanders can only be characterized as depraved. Further, respondent's concern for C.G. was negated by the fact she, as well as another child, were present in the house at the time of his actions. His attempted murder of C.G's mother was also a depraved act.

¶ 18 The trial court's finding respondent was unfit due to depravity was not against the manifest weight of the evidence.

¶ 19 B. Best Interest

¶ 20 Respondent argues the order terminating his parental rights was improper because he asked for a continuance prior to the dispositional hearing and because he wanted to maintain a relationship with C.G.

¶ 21 We need not consider respondent's claim he was entitled to a continuance prior to the dispositional hearing because he cites no authority regarding a right to a continuance. He simply makes the bare assertion the trial court erred in proceeding to the dispositional hearing over his objection (see *Addison R.*, 2013 IL App (2d) 121318, ¶ 31, 989 N.E.2d 224). He had no absolute right to a continuance. *In re A.F.*, 2012 IL App (2d) 111079, ¶ 36, 969 N.E.2d 877.

¶ 22 Following a finding of unfitness, the focus shifts to the child. The issue is whether, in light of the child's needs, parental rights should be terminated. The parent's desire to

maintain the parent-child relationship must yield to the child's interest in a stable, loving home life. *In re D.T.*, 212 Ill. 2d 347, 364, 818 N.E.2d 1214, 1227 (2004). The State must prove by a preponderance of the evidence it is in the child's best interest the parental rights be terminated. *D.T.*, 212 Ill. 2d at 366, 818 N.E.2d at 1228. "A reviewing court will not disturb a trial court's determination unless it is against the manifest weight of the evidence." *In re S.M.*, 314 Ill. App. 3d 682, 687, 732 N.E.2d 140, 144 (2000).

¶ 23 The State proved respondent had been sentenced to natural life for the murder of C.G.'s grandmother and aunt. He was further sentenced to 31 years' imprisonment for the attempted murder of C.G's mother. He was not appealing either his convictions or his sentences and it was beyond the time period allowed for such appeals. Due to this sentence, respondent would never be able to act as a parent or play any meaningful role in C.G.'s life. Visiting respondent in prison periodically would have no benefits for C.G., particularly given her young age. Further, no evidence suggested C.G. had any kind of bond with respondent or she could be harmed in any way by terminating respondent's parental rights.

¶ 24 Terminating respondent's parental rights was not against the manifest weight of the evidence.

¶ 25 III. CONCLUSION

¶ 26 For the foregoing reasons, we affirm the trial court's judgment.

¶ 27 Affirmed.