2015 IL App (4th) 141018-U

NO. 4-14-1018

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
April 17, 2015
Carla Bender
4th District Appellate
Court, IL

In re: the Adoption of J.W., a minor,	)	Appeal from
SAMANTHA SHINNEBARGER and DANIEL	)	Circuit Court of
SHINNEBARGER,	)	Sangamon County
Petitioners-Appellees,	)	No. 13AD73
v.	)	
RAMONE WILLIAMS,	)	Honorable
Respondent-Appellant.	)	John P. Schmidt,
	)	Judge Presiding.

JUSTICE HOLDER WHITE delivered the judgment of the court.
Justices Knecht and Steigmann concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, concluding the trial court's best-interest finding was not against the manifest weight of the evidence.

¶ 2 In September 2013, petitioners, Samantha and Daniel Shinnebarger, filed a petition to adopt J.W. (born April 1, 2008). Samantha is J.W.'s biological mother, and Daniel is J.W.'s stepfather. Respondent, Ramone Williams, J.W.'s biological father, objected to the adoption. As part of the petition for adoption, petitioners claimed respondent was an unfit parent.

¶ 3 In February 2014, the trial court found respondent unfit and terminated his parental rights. However, on appeal, this court held the best-interest hearing was deficient and remanded the case for a new best-interest hearing. See *In re Adoption of J.W.*, 2014 IL App (4th)

140196-U. In November 2014, the court held a new best-interest hearing, after which it terminated respondent's parental rights and granted the petition for adoption.

¶ 4 Respondent appeals, asserting the trial court's best-interest finding was against the manifest weight of the evidence. For the following reasons, we affirm.

¶ 5 I. BACKGROUND

¶ 6 The background of this case was discussed at length in the original appeal; thus, we will outline only the facts necessary to the determination of the issue presently before us.

¶ 7 In September 2013, petitioners filed a petition to adopt J.W. As part of the petition, petitioners requested the trial court find respondent unfit. In February 2014, the court found respondent unfit and terminated his parental rights. In March 2014, the court granted the petition for adoption.

¶ 8 Respondent appealed the trial court's fitness and best-interest findings. In July 2014, this court upheld the court's finding of unfitness based on respondent's failure to maintain a reasonable degree of interest, concern, or responsibility as to J.W.'s welfare. *Id.* ¶ 27. However, this court reversed the termination of respondent's parental rights, holding the court failed to engage in an analysis of J.W.'s best interest prior to terminating respondent's parental rights. *Id.* ¶ 32. Thus, the case was remanded back to the trial court for a new best-interest hearing. *Id.*

¶ 9 In November 2014, pursuant to this court's order for remand, the trial court commenced a new best-interest hearing. Samantha testified she had always been J.W.'s custodial parent. In June 2013, Samantha married Daniel. He had been a daily fixture in J.W.'s life since May or June 2010. Samantha believed terminating respondent's parental rights and allowing Daniel to adopt J.W. was in J.W.'s best interest because Daniel had "taken care of [J.W.] financially, insurance, emotionally. He's done everything a father, outside of legal rights, [could]

have done." According to Samantha, she and Daniel had provided a stable family unit for J.W. and her younger half-brother. She further stated J.W. did not recognize respondent as her father because "he's never been around." Rather, J.W. identified Daniel as her father. Samantha indicated she would tell J.W. the truth about her parentage when J.W. became old enough to ask. She also expressed no concerns over the fact that J.W. was a biracial child in petitioners' otherwise white family.

¶ 10 Daniel testified Samantha's statements were true and accurate. He had no knowledge of J.W. being treated differently because she was biracial. Daniel stated he provided financial and emotional support for J.W., attended her school functions, and participated in her activities. He considered J.W. to be his child. According to Daniel, J.W. and her younger brother were close and "surprisingly good together for siblings." Daniel further stated J.W. identified him as her father rather than respondent.

¶ 11 Respondent testified J.W. called him "daddy" and recognized him as her father. He testified it was not in J.W.'s best interest for his rights to be terminated because he could provide her with knowledge of her biracial heritage and provide support for any hardships she may face as a biracial child. Respondent said he "always tried to be there" for J.W. and wanted to remain in her life.

¶ 12 Sarah Amos, respondent's fiancée, testified she had been in a relationship with respondent for nearly six years. She explained she had a biracial son and would therefore be in a position to support J.W. through any hardship she may face as a biracial child. She also expressed concern that changing J.W.'s name would change her cultural- and self-identity. Amos stated J.W. referred to respondent as "daddy." She acknowledged respondent had not been a part of J.W.'s life, but she explained that was "not by his choice."

¶ 13 Miriam Williams, respondent's aunt, testified she had known respondent his entire life. She explained respondent had a difficult childhood due to the lack of a father figure and his biracial background. According to Miriam, J.W. identified respondent as "daddy" and Miriam as her "auntie." Though it had been several years, Miriam recalled J.W. appearing "very happy" when she was with respondent. Miriam opined it was in J.W.'s best interest to have both biological parents in her life and that terminating respondent's rights would remove J.W. from respondent's family as well. Miriam testified she had seen J.W. approximately five to six times, with the last occasion being when J.W. was approximately two years old.

¶ 14 The trial court also took into consideration a November 2013 report filed by the guardian *ad litem* (GAL) during the course of the initial termination proceedings. The GAL stated petitioners were fit and appropriate individuals to care for J.W. According to the report, J.W. identified Daniel as her father and had no knowledge of respondent's existence. Respondent was more than $12,000 in arrears in child support and had minimal contact with J.W. throughout her lifetime. Accordingly, the GAL concluded the adoption would be in J.W.'s best interest.

¶ 15 After considering the evidence and the GAL report, the trial court terminated respondent's parental rights. The court found petitioners provided a stable family unit for J.W., and Daniel considered J.W. to be his child. In observing Daniel as he testified, the court determined he was sincere. Conversely, the court found J.W. had little contact with respondent and no knowledge of his existence. Thus, the court reasoned, denying the adoption would cause "irreparable harm" to J.W.

¶ 16 The trial court recognized respondent's concerns about petitioners raising a child of biracial heritage but found the family was "prepared, equipped[,] and willing to address any of

those issues should they arise in the child's life." Further, the court found the evidence did not show J.W. was experiencing difficulties due to her biracial heritage. Subsequently, the court approved J.W.'s adoption.

¶ 17 This appeal followed.

¶ 18 II. ANALYSIS

¶ 19 On appeal, respondent contends the trial court's best-interest finding was against the manifest weight of the evidence.

¶ 20 Once the trial court finds a parent to be unfit, the next stage is to determine whether it is in the best interest of the minor to terminate parental rights. *In re Jaron Z.*, 348 Ill. App. 3d 239, 261, 810 N.E.2d 108, 126 (2004). At the best-interest stage, the court determines, based on a preponderance of the evidence, whether termination of parental rights is in the best interest of the minor. *In re Adoption of Syck*, 138 Ill. 2d 255, 277, 562 N.E.2d 174, 184 (1990). The court's finding will not be overturned unless it is against the manifest weight of the evidence. *Jaron Z.*, 348 Ill. App. 3d at 261-62, 810 N.E.2d at 126-27.

¶ 21 The focus of the best-interest hearing is on determining the best interest of the child, not the parent. 705 ILCS 405/1-3(4.05) (West 2012). The trial court must consider the following factors, in the context of the child's age and developmental needs, in determining whether to terminate parental rights:

> "(a) the physical safety and welfare of the child, including food, shelter, health, and clothing;
>
> (b) the development of the child's identity;
>
> (c) the child's background and ties, including familial, cultural, and religious;

(d) the child's sense of attachments ***[;]

* * *

(e) the child's wishes and long-term goals;

(f) the child's community ties, including church, school, and friends;

(g) the child's need for permanence which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives;

(h) the uniqueness of every family and child;

(i) the risks attendant to entering and being in substitute care; and

(j) the preferences of the persons available to care for the child." 705 ILCS 405/1-3(4.05) (West 2012).

¶ 22 In his brief, respondent specifically points to subsections (b), (c), (h), and (j) in support of his arguments. Under subsections (b), (c), and (h), respondent focuses on J.W.'s biracial heritage. He argues that terminating his rights and allowing petitioners to adopt J.W. would cause her difficulty in developing her identity and understanding her cultural heritage, as she would no longer have a link to her biracial heritage through respondent and his family. Respondent argues petitioners, a white family, would be unable to understand how J.W.'s mixed ethnicity might impact her social environment. Moreover, respondent asserts petitioners could not explain or relate to J.W.'s heritage as a biracial child. Additionally, respondent notes J.W. already knows her last name and associates it as being part of her identity; thus, changing her last name could lead to J.W. questioning her identity.

¶ 23 While we agree certain challenges face a biracial child in society, the trial court found petitioners were "prepared, equipped[,] and willing to confront the issue of J.W.'s biracial heritage should the issue arise." Respondent asserts this finding is erroneous, as petitioners said they have not yet addressed the issue with J.W. We disagree with respondent's argument. J.W. was six years old at the time of the second best-interest hearing, and nothing suggests she had faced any mistreatment as the result of her biracial heritage. Petitioners testified they would address those issues if and when they arose and would also be honest with J.W. regarding the identity of her biological father and her cultural heritage. The court, which has the duty to determine the credibility of the witnesses, found credible petitioners' testimony that they would address any issues J.W. faced as a result of being biracial. See *In re J'America B.*, 346 Ill. App. 3d 1034, 1049, 806 N.E.2d 292, 306 (2004) (the trial court's role is to judge the credibility of witnesses). The court's finding was not against the manifest weight of the evidence.

¶ 24 Respondent also asserts the trial court failed to properly consider subsection (j), as respondent was opposed to the adoption and wished to remain part of J.W.'s life. However, as respondent concedes, he had very little contact with J.W. throughout her life. In fact, the record demonstrates he has had no contact with J.W. since 2010. Thus, the court's decision to give little weight to respondent's preference was not against the manifest weight of the evidence.

¶ 25 Several of the remaining best-interest factors support the trial court's finding to terminate respondent's parental rights and proceed with the adoption. Petitioners provided for the physical safety and welfare of J.W. by providing her with a stable home, financial security, and emotional support. 705 ILCS 405/1-3(4.05)(a) (West 2012). J.W. also had a strong sense of attachment to petitioners, as (1) Samantha was her biological mother, with whom she had resided her entire life; (2) she identified Daniel as her father; and (3) she interacted with her half-brother

as a sibling. 705 ILCS 405/1-3(4.05)(d) (West 2012). Though respondent presented evidence that J.W. referred to him as "daddy" and had formed a strong attachment, respondent based this information on his interactions with J.W. when she was two years old. According to the GAL and petitioners, at the time of the hearing, J.W. did not even know who respondent was.

¶ 26 Additionally, children require permanence, which J.W. receives from petitioners. Petitioners have provided J.W. with a stable and safe environment in which they have maintained a continuous relationship. 705 ILCS 405/1-3(4.05)(g) (West 2012). Nothing in the record demonstrates respondent could provide J.W. with the same permanence in the near future.

¶ 27 Accordingly, we conclude the trial court's decision to terminate respondent's parental rights and proceed with the adoption was not against the manifest weight of the evidence.

¶ 28 III. CONCLUSION

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

¶ 30 Affirmed.