

**NOTICE**  
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2015 IL App (4th) 150046-U

NO. 4-15-0046

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

**FILED**  
June 16, 2015  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

In re: Clav. D., Clan. D., Car. D., Cas. D., and Cal. D.,	)	Appeal from
Minors,	)	Circuit Court of
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Champaign County
Petitioner-Appellee,	)	No. 13JA36
v.	)	
TRACY BECKETT,	)	Honorable
Respondent-Appellant.	)	John R. Kennedy,
	)	Judge Presiding.

PRESIDING JUSTICE POPE delivered the judgment of the court.  
Justices Harris and Appleton concurred in the judgment.

**ORDER**

¶ 1 *Held*: The trial court's best-interest determination was not against the manifest weight of the evidence.

¶ 2 In August 2014, the guardian *ad litem* filed a motion to terminate respondent Tracy Beckett's parental rights to her children, Clav. D. (born October 30, 1998), Clan. D. (born November 29, 1999), Car. D. (born November 2, 2002), Cas. D., (born June 30, 2004), and Cal. D. (born August 13, 2008). Following adjudicatory and best-interest hearings, the trial court terminated her parental rights as to Cal. D. and Cas. D.

¶ 3 Respondent appeals, arguing the trial court erred in finding it was in the minors' best interest to terminate her parental rights. We affirm.

¶ 4 I. BACKGROUND

¶ 5 On July 15, 2013, the State filed a five-count petition for adjudication of neglect and shelter care regarding the five minors at issue in the instant appeal. (A sixth count pertained to M.D. (born July 22, 2011), respondent's other child. However, M.D. is not at issue in this appeal.) The petition alleged Clav. D., Clan. D., Car. D., Cas. D., and Cal. D. were neglected where their environment was injurious to their welfare when residing with (1) respondent, because (a) they were exposed to substance abuse (count I); (b) they were exposed to inadequate supervision (count II); (c) they were exposed to the risk of physical harm (count III); (d) respondent leaves them in the care of inappropriate persons (count IV); and (2) their father, Clavin Davis, in that Davis failed to correct the conditions which resulted in a prior adjudication of parental unfitness regarding the minors (count V). 705 ILCS 405/2-3(1)(b) (West 2012). (The issue of Davis' parental rights is the subject of a separate appeal.)

¶ 6 According to the shelter-care report, respondent went to Mario Dunklin's home at 2 a.m. on July 12, 2013. Dunklin is the putative father of M.D. Two of her children were with her, one of whom was driving the vehicle. According to the report, respondent confronted Dunklin's girlfriend and slapped her. The police were called and respondent's children drove away from the scene, leaving respondent behind. Respondent was arrested. According to the record in this case, respondent pleaded guilty to the assault charge and was placed on 12 months' court supervision.

¶ 7 On July 16, 2013, the trial court found probable cause and an immediate and urgent necessity existed to place the minors' temporary custody with the Department of Children and Family Services (DCFS).

¶ 8 Following an August 27, 2013, adjudicatory hearing, the trial court found the

minors neglected. According to the court's findings, in the early morning hours of July 12, 2013, 14-year-old Clay. D. drove respondent to Dunklin's home, where she confronted Dunklin's girlfriend. An altercation ensued and Clan. D., who accompanied them, became involved in the altercation. As the altercation continued, Clay. D. and Clan. D. fled in the vehicle. The court also found respondent had left her children in the care of her sister, whose parental rights to her own children had already been terminated.

¶ 9 Prior to the dispositional hearing, the Center for Youth and Family Services (CYFS) filed a home and background report. According to the report, respondent had been arrested for driving while under the influence in 2006 when Cas. D., then two years old, was in the car. DCFS opened and maintained an intact case from that arrest until April 2008, when the children were taken into protective custody as the result of respondent's violation of a supervision order restricting contact between the minors and Davis. In December 2010, the children were returned to respondent for extended unsupervised overnight visits. However, in April 2011, they were returned to protective custody due to inadequate supervision. The minors were eventually returned to respondent and remained with her until the instant case was opened.

¶ 10 Following the October 3, 2013, dispositional hearing, the trial court adjudged the minors neglected, made them wards of the court, and placed their custody and guardianship with DCFS.

¶ 11 According to the January 15, 2014, permanency report, the children were doing well in their relative foster placements. The report indicated respondent had been inconsistent in her cooperation and had not visited the children since December 12, 2013.

¶ 12 On January 22, 2014, the trial court reviewed the case and found respondent had

made neither reasonable and substantial progress nor reasonable efforts toward the goal of return home. The court noted respondent had missed visits due to a lack of contact with the caseworker and had also missed counseling appointments.

¶ 13 The July 3, 2014, permanency report indicated the children, with the exception of Cas. D., who was hospitalized, had been doing well in their relative foster placements. The report again noted respondent's last visit with the children took place on December 12, 2013.

¶ 14 On July 9, 2014, the trial court again reviewed the case and found respondent had failed to make either reasonable efforts or reasonable and substantial progress toward achieving the permanency goal of return home.

¶ 15 On August 6, 2014, the guardian *ad litem* filed a motion to terminate respondent's parental rights to the children. According to the motion, respondent was unfit for (1) failing to make reasonable efforts to correct the conditions that triggered removal of the children (count I); (2) failing to make reasonable progress toward the return of the children within nine months of the adjudication of neglect (count II); and (3) failing to maintain a reasonable degree of interest, concern, or responsibility as to the children's welfare (count III).

¶ 16 Following an October 1, 2014, review of the case, the trial court changed the permanency goal for respondent to substitute care pending determination of termination of parental rights.

¶ 17 In November 2014, the trial court held an adjudicatory hearing on the petition to terminate. Because respondent's appeal does not challenge the trial court's fitness findings, we need not recount the evidence presented at the adjudicatory hearing. At the conclusion of the

hearing, the court found respondent unfit on all three counts alleged in the petition for termination.

¶ 18 On January 2, 2015, CYFS filed its best-interest report, which recommended the termination of respondent's parental rights as to Cal. D. and Cas. D., but not Clav. D, Clan. D., or Car. D. According to the report, Clav. D. and Clan. D. were living with their paternal grandmother. The report indicated Clav. D., then a high school sophomore, appeared closely bonded with his sister. Clav. D. was doing well in school and athletics. He reported he did not mind living with his grandmother but wanted to be returned home to his mother. CYFS recommended Clav. D.'s goal be changed to guardianship, which would allow him the freedom to spend time with his mother while ensuring all his needs were being met.

¶ 19 The report indicated Clan. D., then a freshman in high school, also wanted to be returned to her mother. Clan. D. was also doing well in school and maintaining average grades. CYFS recommended the trial court change Clan. D.'s permanency goal to guardianship if return home was inappropriate.

¶ 20 According to the report, Car. D., then 12 years old, was living with her maternal grandmother and doing well in school and at home. The report indicated Car. D.'s placement was "beyond adequate" and she had a healthy bond with her grandmother. However, the report also noted Car. D.'s desire to return home to her mother and father. The report recommended Car. D. remain in her current placement with a goal of guardianship.

¶ 21 With respect to Cas. D., then in fifth grade, the report noted he was struggling the most with his placement compared to his siblings. Cas. D. was living with M.D.'s grandmother, with whom he has a "unique bond" as his "grandmother." However, according to the report,

Cas. D. "has difficulty responding to many adults and needs a lot of stability." In school he demonstrates "consistently disruptive behavior," including "cussing, outbursts or running out of class, talking back to teachers with specific sexual references, and making sexual comments and threats toward female classmates." The report noted the threats were particularly concerning. The report recommended the termination of respondent's parental rights as to Cas. D. The report also recommended the trial court change Cas. D.'s permanency goal to adoption as his caregiver was willing to provide permanency through adoption.

¶ 22 Finally, the report recommended the termination of respondent's parental rights as to Cal. D. Cal. D., then six years old, was on time-release medication to deal with her attention deficit/hyperactivity disorder. She also meets with a psychiatrist every month due to her previous struggles in school. According to the report, Cal. D. was thriving in her foster placement and her foster parent expressed a desire to adopt her.

¶ 23 A second best-interest report, dated January 2, 2015, and submitted by the guardian *ad litem*, recommended termination of respondent's parental rights as to Cal. D. and Cas. D. The report reasoned, "the probability of their mother's successfully completing service, and in a time frame that minimizes her children's current instability is not great enough to continue in the current direction." With regard to Cas. D., the report cited a number of troubling behavioral issues and stated he was "not in good shape." The report expressed concern if he did not receive the care he needed, he had the potential to develop into "a very troubled adult with possible dire consequences." As to Cal. D., the report indicated she had been with her current foster mother almost since her birth. According to the report, Cal. D.'s foster mother "is a licensed child care giver, and family friend, and a person who gives [Cal. D.] the safety and structure she needs."

The report also stated Clan. D., Car. D., and Cla. D. were all "in stable placements that would be willing to provide permanency for them."

¶ 24 No testimony was presented during the January 7, 2015, best-interest hearing. During the hearing, the State took the position the detailed recommendations of the best-interest reports were appropriate and asked the trial court to adopt those recommendations. Respondent asked the court not to terminate her parental rights to any of the children. Respondent acknowledged the situation was different for Cal. D. and Cas. D. but wanted the court to instead consider setting a goal of long-term guardianship over termination.

¶ 25 At the conclusion of the hearing, the court terminated respondent's parental rights as to Cal. D. and Cas. D. The court did not terminate respondent's parental rights as to Clav. D., Clan. D., and Car. D. and ordered DCFS to continue as their guardian. Specifically, the court found the following:

"[Respondent] is able to do things toward restoration of custody. She has shown that.

On the other hand, she's able to do things that cause disruption in the children's lives and the custodial relationship.

In my judgment[,] I think the evidence shows in this case that with regard to the younger children that's at least more disruptive in terms of their progress and their future than the older children.

Again, I'm not trying to single out [Cas. D.] and issues that are evident there, he can't be in a home that has any risks of disruption. [Respondent] has shown making some [progress] \*\*\* but

returning [Cas. D] or having the opportunity, even showing the direction of going home to [respondent] is very much against his best interest, and just in terms of a future there, there isn't one that is going to provide him with the help that he needs.

I think that is equally, not for the same reasons, but it's equally true with regard to [Cal. D.] considering the evidence of relationship, bonds, permanence, where she is going to grow up and thrive is clearly, on the record, not with [respondent]. The history just says that that isn't going to happen, so they are going to have permanence and security [elsewhere].

The needs are different with respect to the other children. The more immediate need of [Clav. D. and Clan. D.] is not, you know, minute-by-minute monitoring and security, etc., as you have with [Cal. D. and Cas. D.], you know, at least more supervision.

Obviously, [the older children] are closer to being independent and making decisions on their own, achieving things on their own, but they each think that that's going to happen better with having their mother to some extent in their lives and maybe as the custodian. And clearly [Car. D.], who is younger, feels that way too."

¶ 26 This appeal followed.

¶ 27

## II. ANALYSIS



¶ 28 On appeal, respondent argues the trial court's order terminating her parental rights to Cal. D. and Cas. D. was not in their best interest. We disagree.

¶ 29 Because respondent does not challenge the trial court's unfitness finding, we confine our analysis on appeal to the court's best-interest determination. At the best-interest stage of the termination proceedings, a "parent's interest in maintaining 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). Before a parent's rights may be terminated, a court must find the State proved, by a preponderance of the evidence, it is in the child's best interest those rights be terminated. See *D.T.*, 212 Ill. 2d at 366, 818 N.E.2d at 1228. The trial court's finding termination of parental rights is in a child's best interest will not be reversed unless it is against the manifest weight of the evidence. *In re Anaya J.G.*, 403 Ill. App. 3d 875, 883, 932 N.E.2d 1192, 1199 (2010). A decision will be found to be against the manifest weight of the evidence "if the facts clearly demonstrate that the court should have reached the opposite conclusion." *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1072, 859 N.E.2d 123, 141 (2006).

¶ 30 When considering whether termination of parental rights is in a child's best interest, the trial court must consider a number of factors within "the context of the child's age and developmental needs." 705 ILCS 405/1-3(4.05) (West 2012). These factors include the following:

"(1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's familial, cultural[,] and religious background and ties; (4) the child's sense of attachments, including love, security, familiarity, continuity of affection, and the

least[-]disruptive placement alternative; (5) the child's wishes and long-term goals; (6) the child's community ties; (7) the child's need for permanence, including the need for stability and continuity of relationships with parent figures and siblings; (8) the uniqueness of every family and child; (9) the risks related to substitute care; and (10) the preferences of the person available to care for the child."

*Daphnie E.*, 368 Ill. App. 3d at 1072, 859 N.E.2d at 141; 705 ILCS 405/1-3(4.05)(a) to (j) (West 2012).

¶ 31 Here, although the trial court found it was not in Clav. D.'s, Clan. D.'s, or Car. D.'s best interest to terminate respondent's parental rights as to them, the evidence presented showed the two younger children, Cas. D. and Cal. D., have special issues, which extend beyond respondent's current ability of care. The court clearly considered these issues in terminating respondent's rights to Cas. D. and Cal. D. and the record supports the court's determination. The fact the court did not terminate respondent's rights to Clav. D., Clan. D., or Car. D. does not compel an identical disposition with respect to Cas. D. and Cal. D. See *In re G.L.*, 329 Ill. App. 3d 18, 26, 768 N.E.2d 367, 373-74 (2002) (decision to terminate a respondent's parental rights requires consideration of the best interest of the minors as unique individuals).

¶ 32 In this case, Cas. D. has a history of serious behavioral problems, which includes sexually aggressive behavior. Cas. D. was receiving special help at school and through his foster placement to address these issues. Cas. D. had also been receiving individual counseling and treatment from various sources to manage his mental-health issues. As of January 2015, Cas. D.

was showing progress in his new foster placement. Cas. D. has developed a special bond with his new foster mother and has experienced the most stability he has had while living with her.

¶ 33 Similarly, Cal. D. had experienced difficulty at school and demonstrated disruptive behavior in the past. However, she is receiving treatment, which has resulted in improved behavior. Cal. D. is very bonded to her foster mother, with whom she has lived for almost her entire life. Her foster mother is willing to provide permanency to Cal. D. through adoption. The trial court's finding it is in Cas. D.'s and Cal. D.'s best interest to terminate respondent's parental rights is not against the manifest weight of the evidence.

¶ 34 **III. CONCLUSION**

¶ 35 For the reasons stated, we affirm the judgment terminating respondent's parental rights.

¶ 36 Affirmed.