

NOTICE
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2015 IL App (5th) 150021-U

NO. 5-15-0021

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

<i>In re</i> R.C., a Minor)	Appeal from the
)	Circuit Court of
(The People of the State of Illinois,)	Madison County.
)	
Petitioner-Appellee,)	
)	No. 11-JA-112
v.)	
)	
Michael C.,)	Honorable
)	David Grounds,
Respondent-Appellant).)	Judge, presiding.

JUSTICE STEWART delivered the judgment of the court.
Justices Welch and Schwarm concurred in the judgment.

ORDER

¶ 1 *Held:* Where the circuit court's determination that it was in the minor's best interest to terminate the respondent's parental rights was not against the manifest weight of the evidence, the order of the circuit court is affirmed.

¶ 2 The respondent, Michael C., appeals the order of the circuit court of Madison County that found it was in the best interest of the minor, R.C., to terminate the respondent's parental rights. On appeal, the respondent argues that the court's determination was contrary to the manifest weight of the evidence. For the following reasons, we affirm.

¶ 3

BACKGROUND

¶ 4 Because the respondent is only appealing the court's determination that it was in R.C.'s best interest to terminate the respondent's parental rights, we will discuss only those facts necessary to that issue.

¶ 5 On June 21, 2011, the State filed a petition alleging that R.C. was a neglected minor as defined by section 2-3(1)(a) of the Juvenile Court Act of 1987 (the Act) (705 ILCS 405/2-3(1)(a) (West 2012)) in that R.C.'s parents did not provide the proper or necessary support, education, medical, or remedial care for R.C.'s well-being. The petition alleged, in relevant part, that the minor's father, the respondent, had a criminal history that included domestic battery, theft, burglary, and mob action, and that the respondent failed to provide any care, support, or concern for the minor. The same factors were alleged when asserting that the minor was neglected pursuant to section 2-3(1)(b) of the Act (705 ILCS 405/2-3(1)(b) (West 2012)).

¶ 6 The court entered a temporary custody order, agreeing with the allegations of the petition. Temporary custody was given to the Department of Children and Family Services (DCFS). At this time in the proceedings, the respondent's whereabouts were unknown.

¶ 7 On September 22, 2011, the court entered an adjudicatory order finding that R.C. was abused or neglected as defined by the Act because he suffered from a lack of support, education, and remedial care, and was in an environment injurious to his welfare. That same day, the court entered a dispositional order, making R.C. a ward of the court and placing him in the custody of DCFS.

¶ 8 On May 22, 2014, the State filed a petition to terminate the respondent's parental rights and for the appointment of a guardian with the power to consent to adopt. On August 5, 2014, the court entered an order finding the respondent to be unfit after he stipulated to unfitness based on the ground of depravity in that he had been convicted of at least three felonies in Illinois with at least one of those convictions taking place within five years of the filing of the petition seeking to terminate his parental rights.

¶ 9 The court held a best-interest hearing on December 8, 2014. The State first called Sarah Vadnais as a witness, who testified as follows. She was employed by Caritas Family Solutions as a foster care case manager. She was assigned to R.C.'s case in March 2012. R.C. was 11 years old at the time of the hearing. He came into care when he was seven years old. He came into care due to inadequate food and shelter, and because he was living in a park with his mother. His father was not involved in his life at the time that he came into care.

¶ 10 R.C. was currently placed in a traditional foster home and had been there since August 2014. Prior to that placement, he was placed with his maternal grandparents, but was removed from there because the grandparents were in the process of losing their home. He was then placed with an uncle, who later asked that R.C. be removed from his home due to issues he was having with R.C. Then he was placed in a foster home with his younger sibling, but was having issues at that home as well, and was removed. He was then placed in an adoptive placement where he is still able to maintain a relationship with his younger sibling. At his current placement, R.C.'s grades have gotten better and he is focused on school. His foster parents help him with his schoolwork, and his foster

mother has a degree in special education. R.C. has attention deficit hyperactivity disorder and is on medication for it. The foster parents include R.C. in all family activities, and he calls them "mom" and "dad." R.C. wished to remain in the foster home and wished to be adopted by his foster parents. His foster parents were willing to adopt him. He had also bonded with the other children in the home. Further, R.C.'s foster parents facilitate a relationship between R.C. and his younger sibling, who is in a different foster home.

¶ 11 With respect to the respondent, Vadnais testified that there was not a visitation plan in place because the respondent was incarcerated in another state and they could not cross state lines. R.C. had received a few letters from the respondent, and R.C. wrote back one time. The last time R.C. saw the respondent was when he was one year old. The respondent had not tried to contact R.C. until the case was opened.

¶ 12 R.C. was in counseling and had benefitted from it. His foster parents were willing to continue having him meet with a counselor if it seemed that he needed to do so.

¶ 13 Vadnais ultimately testified that she believed it was in R.C.'s best interest for him to remain in his current foster placement, to be free for adoption, and for the respondent's parental rights to be terminated. She believed it was in R.C.'s best interest because R.C. was doing well in his current placement, he was doing well with school, and he wanted to stay where he was.

¶ 14 On cross-examination, Vadnais testified that the respondent had not written to R.C. since May 2014 and had only sent a total of three letters since he was located after the case was opened.

¶ 15 The State next called Amanda Dillard, a family therapist with Caritas Family Solutions. She was assigned to R.C.'s case in June 2012. She started by meeting with R.C. once every other week, but by the time of the hearing, she had been meeting with R.C. once a month. When Dillard would bring up the respondent during therapy sessions, R.C. would dismiss it. R.C. told Dillard that he wanted to stay with his current foster family and that he wanted to be adopted. Dillard testified that R.C.'s foster family provided a stable and secure home for R.C. Dillard ultimately testified that she believed it was in R.C.'s best interest to stay in his current foster home.

¶ 16 On cross-examination by the respondent's attorney, Dillard testified that she had encouraged R.C. to write to the respondent in prison and to keep his father's letters in a memory box. Dillard had told R.C. that the respondent was trying to reach out to him, but R.C. usually responded with, "why now?" He first received a letter from the respondent a year prior, when he was 10 years old. When asked whether Dillard thought it was in the best interest of R.C. to cut ties with the respondent when he was going to be released from prison in 60 days, Dillard said that it was in R.C.'s best interest to terminate the respondent's parental rights because R.C. had done so well in school and in the foster home in such a short amount of time. He and the respondent had never had a bond, and forcing a bond now could push R.C. back from the progress he had made.

¶ 17 The guardian *ad litem* (GAL) cross-examined Dillard as well. Dillard testified that there had never been a substantial bond between R.C. and the respondent. Dillard did not think it was in R.C.'s best interest to leave a stable, permanent home to live with the respondent, who he barely knew.

¶ 18 The GAL provided a statement to the court as well. He had met with R.C. in November. The GAL noted that R.C. was bonded with his foster family and was thriving. R.C. had no desire to be united with his father. He wanted to be adopted by his current foster family. The GAL testified that it would be in R.C.'s best interest to terminate the respondent's parental rights so that R.C. could be adopted.

¶ 19 The respondent made a statement to the court as well. He testified that Vadnais's testimony about his letters was incorrect, that he had actually written to R.C. every holiday. He has a home and employment that will be available when he is released from prison. He also has an option to file an interstate compact so he could be in Illinois to participate in the integrated assessments to be able to bond with his son. The last time he saw R.C. was when R.C. was five years old, not when he was one year old. He reiterated that he would be released in 60 days and asked the court to afford him the opportunity to be with R.C. He understood that R.C. was doing well, but wanted a chance to bond with him when he is released. While in prison, the respondent had completed multiple parenting classes, had obtained his GED, and had completed nine months in extensive rehab inpatient therapy.

¶ 20 The court commended the respondent on the efforts he made while incarcerated. The court found, however, that the respondent had not been part of R.C.'s life from the time of R.C.'s birth to the present. The case had been in the juvenile system since 2011, and R.C. needed permanency. Further, R.C.'s current placement was stable and secure. The court found that the State had proved by a preponderance of the evidence that it was in R.C.'s best interest that the respondent's parental rights be terminated. On December

10, 2014, the court entered a written order terminating the respondent's parental rights. From that order, the respondent appeals.

¶ 21

ANALYSIS

¶ 22 On appeal, the respondent argues solely that the court's finding that it was in R.C.'s best interest to terminate his parental rights was against the manifest weight of the evidence because R.C. had only been in the care of his foster parents for 4 months at the time of the termination hearing, the respondent was being released from prison in 60 days, and he should thus be able to create a bond with R.C. when he was released. Because the respondent stipulated to the fact that he was unfit because of depravity, we will not analyze the respondent's fitness unless it affects the best-interest determination.

¶ 23 If the trial court finds the parent to be unfit, the court must then determine whether it is in the child's best interest that parental rights be terminated. 705 ILCS 405/2-29(2) (West 2012). At this stage, the focus of the court's scrutiny shifts from the rights of the parent to the best interest of the child. *In re B.B.*, 386 Ill. App. 3d 686, 697 (2008). To terminate parental rights, the State bears the burden of proving by a preponderance of the evidence that termination is in the minor's best interest. *In re D.T.*, 212 Ill. 2d 347, 366 (2004). When determining whether termination is in the child's best interest, the court must consider, in the context of a child's age and developmental needs, the following factors: (1) the child's physical safety and welfare, (2) the development of the child's identity, (3) the child's background and ties, including familial, cultural, and religious, (4) the child's sense of attachments, including love, security, familiarity, and continuity of affection, and the least-disruptive placement alternative, (5) the child's wishes, (6) the

child's community ties, (7) the child's need for permanence, including the need for stability and continuity of relationships with parental figures and siblings, (8) the uniqueness of every family and child, (9) the risks related to substitute care, and (10) the preferences of the persons available to care for the child. 705 ILCS 405/1-3(4.05) (West 2012). A trial court's determination that termination of parental rights is in the child's best interest will not be disturbed on review unless it is contrary to the manifest weight of the evidence. *In re R.L.*, 352 Ill. App. 3d 985, 1001 (2004). A decision is against the manifest weight of the evidence only if the opposite conclusion is clearly evident or the lower court's determination is unreasonable, arbitrary, or not based on the evidence presented.

¶ 24 Here, the court clearly considered the statutory factors when making its determination, and gave a detailed analysis to support its holding. The court commended the respondent for attending parenting classes in prison. However, the court found R.C.'s best interests were served by staying with his current foster family and terminating the respondent's parental rights. The court considered the testimony of the caseworker and the family therapist. While acknowledging that the respondent was set to be released 60 days after the best-interest hearing, the court found that the respondent had no relationship with R.C. prior to the respondent's being contacted about this case. The focus of the court's determination was no longer on what the respondent can or cannot do, but rather the best interests of R.C. R.C. was excelling at school and was in a stable home. The court specifically noted that, as an 11-year-old, R.C. needed permanency. R.C.'s foster parents included him in all family activities, helped him with schoolwork,

and provided a stable environment. Therefore, we cannot agree with the respondent that the circuit court's determination was against the manifest weight of the evidence.

¶ 25

CONCLUSION

¶ 26 For the foregoing reasons, the judgment of the circuit court of Madison County is affirmed.

¶ 27 Affirmed.