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2014 IL App (3d) 140158-U

Order filed July 8, 2014

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2014

<i>In re</i> T.B. and Z.M.,	)	Appeal from the Circuit Court
	)	of the 10th Judicial Circuit,
Minors	)	Peoria County, Illinois.
	)	
(The People of the State of Illinois,	)	
	)	
Petitioner-Appellee,	)	Appeal Nos. 3-14-0158 and 3-14-0159
	)	Circuit Nos. 10-JA-192 and 11-JA-223
v.	)	
	)	
Tim W.,	)	
	)	
Respondent-Appellant).	)	The Honorable
	)	Mark E. Gilles,
	)	Judge, presiding.

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JUSTICE CARTER delivered the judgment of the court.  
Justices Holdridge and Schmidt concurred in the judgment.

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**ORDER**

¶ 1 *Held:* The appellate court affirmed the circuit court's finding that it was in the best interest of the minors to terminate the respondent's parental rights.

¶ 2 The circuit court entered orders finding the respondent to be an unfit parent and terminating his parental rights to the minors, T.B. and Z.M. On appeal, the respondent argues

that the court erred when it found it was in the minors' best interest to terminate his parental rights. We affirm.

¶ 3

### FACTS

¶ 4

On July 12, 2010, the State filed a juvenile petition alleging that the minor, T.B. (born June 25, 2010), was neglected by reason of an injurious environment. Specifically, with regard to the mother, the petition alleged that she had been previously found unfit, had not subsequently been found fit, had not completed services that would result in a finding of fitness, and had her parental rights terminated in that case in May 2010. With regard to the respondent, the petition alleged that he had a criminal history that included convictions in 2000 for unlawful possession of a stolen vehicle, for resisting a peace officer, and for domestic battery; in 2001 for domestic battery; in 2002 for solicitation of a sex act and for resisting a peace officer; and in 2008 for obstructing justice. The petition also alleged that the respondent punched the mother in the chest while she was pregnant in November 2009. T.B. was taken into temporary shelter care.

¶ 5

The mother stipulated to the petition and the respondent stipulated to all of the petition's allegations except the allegation that he punched the mother in the chest while she was pregnant. On September 28, 2010, the circuit court entered an order finding T.B. to be neglected. On October 26, 2010, after a dispositional hearing, the court found the respondent to be an unfit parent, and he was ordered to complete numerous tasks. T.B. was made a ward of the court and guardianship was given to the Department of Children and Family Services (DCFS).

¶ 6

On September 23, 2011, the State filed a juvenile petition alleging that the minor, Z.M. (born September 20, 2011), was neglected by reason of an injurious environment. Specifically, in addition to the allegations that were listed in T.B.'s juvenile petition, this petition included, *inter alia*, allegations that the respondent had been found unfit with regard to T.B., had not

subsequently been found fit, and had not completed services that would result in a finding of fitness. Z.M. was adjudicated neglected on May 22, 2012. That same day, at the dispositional hearing, the court found that the respondent remained unfit, and he was ordered to complete numerous tasks. Z.M. was made a ward of the court and guardianship was given to DCFS.

¶ 7 Between 2011 and 2013, numerous permanency review hearings were held. At some of the hearings, the circuit court found that the respondent had made mixed efforts to achieve the service plan goals, but at most of the hearings, the court found that the respondent had not made reasonable efforts.

¶ 8 On July 17, 2013, the State filed petitions to terminate the parental rights of the mother and the respondent. With regard to the respondent, the petitions alleged that he was unfit for failing to maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare (750 ILCS 50/1(D)(b) (West 2012)). The petition also alleged the respondent was depraved due to his numerous criminal convictions (750 ILCS 50/1(D)(i) (West 2012)). Beyond those convictions listed above, the petition included convictions in 2012 for resisting a peace officer and for unlawful possession of a controlled substance with intent to deliver. After a hearing, the circuit court found both allegations against the respondent proven by clear and convincing evidence. Accordingly, the court found the respondent to be an unfit parent.

¶ 9 On January 9, 2014, a best-interest hearing report was filed with the circuit court. In that report, the caseworker noted that T.B. was three years and four months old and Z.B. was two years and one month old. They had been placed in their current foster placement since July 9, 2010, and October 5, 2011, respectively. The foster parents provided a safe, stable, and nurturing environment for the minors. They took the minors to all of their appointments, including T.B.'s physical and behavioral therapists. T.B. had been diagnosed with oppositional

defiant disorder and attention-deficit hyperactivity disorder and was taking medication, which was helping to improve his behavior. Z.M. was attending weekly counseling because he would mimic T.B.'s behavior. Both minors were age-appropriate in terms of developmental level.

¶ 10 The report noted that the respondent was incarcerated and that neither of the minors had any relationship with him. The minors had a strong bond with the foster parents, whom they called mom and dad. The minors also had a strong bond with the extended family of the foster parents. The minors attended activities in their community, which was the community in which the foster parents raised their children. The foster parents expressed the desire to adopt the minors.

¶ 11 On January 22, 2014, the circuit court held a best-interest hearing. The State rested on the caseworker's best-interest hearing report. The respondent testified that he had done everything he could to have the minors returned to his custody. He also alleged that the caseworkers were not trying to help him reunite with the minors. He stated that the caseworkers refused to consider his aunt and his girlfriend as potential caregivers for the minors. At the close of the hearing, the court stated that it had considered the report and the evidence presented at the hearing in light of the relevant statutory factors. The court then found that it was in the best interest of the minors to terminate the respondent's parental rights. The respondent appealed.

¶ 12 ANALYSIS

¶ 13 The respondent's sole argument on appeal is that the circuit court erred when it found it was in the minors' best interest to terminate his parental rights. The respondent contends that "the children should have been given an opportunity to reunite with their father upon his release from the Department of Corrections."

During a best-interest hearing, the circuit court is tasked with determining whether it is in the best interest of the children to terminate parental rights (705 ILCS 405/2-29(2) (West 2012)). The Juvenile Court Act of 1987 requires consideration of the following factors in light of the minors' ages and developmental needs:

- "(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, including:
  - (i) where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);
  - (ii) the child's sense of security;
  - (iii) the child's sense of familiarity;
  - (iv) continuity of affection for the child;
  - (v) the least disruptive placement alternative for the child;
- (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 2010).

¶ 15 "[A]t a best-interests hearing, the 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 (2004). This court will not disturb a circuit court's best-interest determination unless it was contrary to the manifest weight of the evidence. *In re S.D.*, 2011 IL App (3d) 110184, ¶ 33.

¶ 16 Our review of the record reveals no error in the circuit court's best-interest determination. The best-interest hearing report indicated that the minors were thriving in their placement. The foster parents were meeting all of the minors' basic needs, and the minors' attachments were with the foster parents and their community. The minors had a strong bond with the foster parents and the extended family of the foster parents. In contrast, the respondent had no relationship with the minors. The respondent was incarcerated and would not be released until December 2015; he therefore could not provide stability or permanence for the minors any time soon. The foster parents had been providing stability for the minors since their respective placements, which both occurred within weeks of their births. The foster parents also wanted to provide permanence for the minors, as they had expressed the desire to adopt the minors. Under the circumstances of this case, we hold that the circuit court's best-interest determination was not contrary to the manifest weight of the evidence.

¶ 17 **CONCLUSION**

¶ 18 The judgment of the circuit court of Peoria County is affirmed.

¶ 19 Affirmed.