

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).

No. 3--11--0023

Order filed June 1, 2011

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2011

<i>In re</i> P.W., N.W., J.W., and)	Appeal from the Circuit Court
JR.W.,)	of the 10th Judicial Circuit,
)	Peoria County, Illinois,
Minors)	
)	
(The People of the State of)	
Illinois,)	
)	
Petitioner-Appellee,)	Nos. 06--JA--54, 06--JA--180
)	07--JA--199, and
v.)	08--JA--154
)	
Roberta W.,)	Honorable
)	Chris L. Fredericksen,
Respondent-Appellant).)	Judge, Presiding.

PRESIDING JUSTICE CARTER delivered the judgment of the court.

Justices McDade and Wright concurred in the judgment.

ORDER

Held: The trial court's determination that the respondent was an unfit mother and that the termination of her parental rights was in the best interest of her children was not against the manifest weight of the evidence.

The trial court terminated the parental rights of the respondent, Roberta W., as to her four children, P.W., N.W.,

J.W., and JR.W. On appeal, the respondent argues that the trial court erred in finding that: (1) she failed to maintain a reasonable degree of interest, concern, or responsibility for the minors' welfare (750 ILCS 50/1(D)(b) (West 2008)); and (2) it was in the minors' best interest to terminate her parental rights (705 ILCS 405/2--29(2) (West 2008)). We affirm.

FACTS

On July 22, 2005, the respondent (age 21) and her husband (age 28), had a daughter, P.W. On February 24, 2006, the State filed a juvenile petition on behalf of P.W., which was later amended. The petition, in relevant part, alleged that P.W. was neglected in that her father: (1) in 1997, had been indicated for sexual penetration of a five-year-old child and had not completed sexual offender services¹; (2) in 1998, at age 19, placed a tattoo on the pubic area of a 14-year-old female with his name and her name; (3) made false statements to police when a family friend, who was placed in the family home by DCFS in December 2005 during its investigation, became a missing person and was later found deceased; and (4) had a conviction in 1998 for tattooing a 14-year-old minor, in 1998 for criminal damage to property, in 1999 for attempted obstruction of justice, in 1999 for obstruction of justice, and in 2002 for distribution of cocaine.

¹ No criminal charges were brought against the father.

On March 1, 2006, the respondent obtained an order of protection against the minor's father, which ordered that: (1) P.W. was to reside with the respondent; (2) all contact between the minor and the father was to be supervised by the Department of Children and Family Services (DCFS); and (3) the father was prohibited from entering the minor's home. At that time, the respondent was pregnant with the father's second child, N.W., who was born on July 13, 2006. On August 18, 2006, the father was found in the minors' home in violation of the order of protection.

A few months later, the respondent became pregnant with the father's third child. As of November 2006, the father was incarcerated in a Kentucky prison for a parole violation. The respondent moved P.W. and N.W. to Kentucky, near the location where the father was in prison, without notifying DCFS.

On January 24, 2007, the respondent was not present for the adjudication hearing, and P.W. and N.W. were adjudicated neglected. On February 28, 2007, the respondent was not present for the dispositional hearing. The trial court found her to be dispositionally unfit and ordered her to: (1) execute releases; (2) cooperate with DCFS; (3) obtain a drug and alcohol assessment and complete recommended treatments; (4) perform random drug drops; (5) submit to a psychological examination; (6) complete counseling; (7) complete domestic violence classes; (8) maintain

stable housing conducive to the safe and healthy rearing of the minors; (9) obey the order of protection; (10) provide change in address, telephone, or household members within three days; and (11) attend supervised visits. The minors' father was also found to be dispositionally unfit and ordered to, among other things, complete a psychological exam, an anger management program, parenting classes, and sexual perpetrator counseling.

In April 2007, DCFS located the minors in Kentucky and returned them to Illinois. They were placed into foster care.

On June 6, 2007, the respondent gave birth to J.W., in Kentucky. On July 25, 2007, the respondent returned to Illinois to attend a scheduled visit with P.W. and N.W. At the following visit, on August 2, 2007, the respondent turned J.W. over to DCFS. On August 31, 2007, the father was released from prison, and the respondent resumed living with him. On December 12, 2007, the respondent was found to be dispositionally unfit as to J.W. because she continued to reside with the father and neither of them engaged in services.

In the spring of 2008, DCFS confirmed the respondent was pregnant with the father's fourth child. On April 30, 2008, in its permanency review order, the court admonished the respondent that continuing a relationship with the minors' father while he failed to engage in services was a barrier to her children returning home and "she [had] to make some decisions." On July

16, 2008, the respondent gave birth to JR.W. On August 20, 2008, the respondent was found to be dispositionally unfit as to JR.W. In its permanency review order of the same day, the court noted that the respondent had a codependent relationship with the minors' father and admonished her to "overcome her dependency on [him] to create an independent return home location" as he had been noncompliant with services.

On November 24, 2009, the State filed petitions to terminate the respondent's parental rights as to each minor. The petition alleged that the respondent was unfit as defined by section 1D(b) of the Adoption Act in that she failed to maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare. 750 ILCS 50/1D(b) (West 2008).

On November 3, 2010, a hearing took place regarding the State's termination petition. The record indicates that in August 2008, the respondent lost her job for not providing her employer with the appropriate paperwork for maternity leave after the birth of JR.W. In 2009, the respondent became employed at Majestic Motors, where the minors' father was also employed. The respondent maintained a relationship with the minors' father, and repeatedly lied to caseworkers regarding her relationship with him. She failed to benefit from counseling and generally failed to cooperate with DCFS.

The State presented evidence of police reports involving the

respondent and the minors' father, which supports the State's contention that they worked together, lived together, and were consistently involved in each other's lives. Specifically, June 12, 2009, the respondent called police to report missing items from Majestic Motors. When police arrived both the respondent and the minors' father were present as employees, and they both listed the Brown Street address as their residence.

On June 20, 2009, police went to the Brown street residence because the respondent shot a man who was removing items from the home. The mother of the respondent's husband and another individual indicated they also lived at the Brown Street residence. The respondent never notified DCFS that anyone else was living in the home. On June 22, 2009, the minors' father bailed the respondent out of jail. Later that day, police were dispatched to their Brown Street home on a report of a burglary, and both the respondent and the minors' father were present when they arrived.

On December 18, 2009, the respondent told police that she resided at 1437 Garden Street, which was located 50 to 70 yards from the Brown Street address. Police gave her a citation for an accumulation of litter and dog feces at the 1437 Garden Street property. On January 27, 2010, the respondent called police to report a burglary in progress at the home of her husband, who lived at 1437 Garden Street. She later told caseworkers that she

did not know that her husband lived in the home.

On September 22, 2010, police were called to the respondent's home on Brown Street after she fired a gun at the minors' father inside the home. She told police that the minors' father entered the residence and physically threatened her for failing to heat up his dinner. She told police that she wanted him charged with trespass and assault. Two days later she dropped the charges, claiming that he had not trespassed because he lived with her.

Caseworkers testified that the respondent had completed a psychological evaluation and domestic violence classes, and had consistently attended visits with her children and life-skill classes. The respondent did not have any drug or alcohol problems, and she lived at the same Brown Street address since 2008. The respondent would not sign a release for caseworkers to speak with her landlord to verify who was living in her home and the amount of her rent. The respondent was attending AL-ANON classes for her codependency issues, but her classes were discontinued due to her lack of progress.

The respondent testified that she had an emotional bond with the minors and having them returned to her care was her main motivation in life. She testified that she made the minors' father leave her residence because she was told her parental rights would be terminated if she lived with him. She claimed

that he had only lived with her temporarily to help her fix her house and she did not have a relationship with him. She testified that he was physically abusive toward her throughout their relationship and that she dropped the September 22, 2010, charges and did not seek a restraining order against him because she was afraid of him. The respondent further testified that she had lived at the Brown Street address since 2008 and intended to purchase the house. She earned money by exchanging scrap metal for money and was in search of more gainful employment.

The trial court found that the respondent was not credible and that she had a relationship with the minors' father as recently as September 22, 2010. The court found that she was unfit because she had not demonstrated sufficient responsibility for the return of the minors.

On December 8, 2010, a best interest hearing took place. The best interest report indicated that on November 30, 2010, the minors' father called the respondent and she provided a tow for his vehicle after he had been arrested for insurance fraud and then bailed him out of jail the following morning.

The respondent testified that she attended supervised visits once per month and the minors were emotionally bonded to her. The best interest report indicated that P.W. and N.W. were placed together in their current foster home on April 11, 2007. Their foster parents were willing to adopt both minors. P.W. and N.W.

had a relationship with the respondent but did not seem to have a strong bond with her. They had a strong bond with their foster parents and were involved in activities in the community.

J.W. and JR.W. were placed together in their current foster home on December 23, 2008. Their foster parents were willing to adopt them. At visits, J.W. would smile at the respondent but did not seem to have a strong bond with her. J.W. was very bonded to his foster mother. JR.W. did not have a bond with the respondent and "d[id] not seem to understand she should be a significant person in his life." JR.W. is very close to his foster parents. The court found that it was in the best interest of all four minors to terminate the respondent's parental rights. The respondent appeals.

ANALYSIS

I. Unfitness

On appeal, the respondent argues that the State failed to prove that she was unfit by clear and convincing evidence. Section 1(D)(b) of the Adoption Act provides that a court may find a person unfit for failure to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare. 750 ILCS 50/1(D)(b) (West 2008).

A parent's interest, concern, or responsibility must be objectively reasonable under the circumstances. *In re Daphnie E.*, 368 Ill. App. 3d 1052 (2006). Evidence that a parent failed

to comply with service plans, break a drug addiction, and visit on a regular basis are sufficient to show that a parent did not maintain a reasonable degree of interest, concern, or responsibility. *In re Jaron Z.*, 348 Ill. App. 3d 239 (2004). The reasonable degree standard takes into account the parent's efforts throughout the length of the juvenile case. *In re M.J.*, 314 Ill. App. 3d 649 (2000).

The State must prove parental unfitness by clear and convincing evidence. *In re C.N.*, 196 Ill. 2d 181 (2001). Such a finding will not be reversed on appeal unless it is against the manifest weight of the evidence. *C.N.*, 196 Ill. 2d 181.

In this case, the record reveals sufficient evidence to support the circuit court's finding that the respondent failed to maintain a reasonable degree of responsibility for the minors' welfare. It is apparent from the record that the respondent's life has been entangled with the life of the minors' father throughout the life of this case. The minors' father failed to engage in services and remained unfit throughout this period.

As a result of the respondent's relationship with the minors' father, she made decisions that evidence her lack of responsibility for the minors' welfare. Specifically, the respondent: (1) violated the order of protection that was in place to protect P.W.; (2) fled to Kentucky to be close to the minors' father while he was imprisoned without notifying DCFS of

the minors' whereabouts; (3) remained in Kentucky for over three months after P.W. and N.W. were returned to Illinois; and (4) continued having a relationship with the minors' father while lying to caseworkers about it. Also, as recent as September 22, 2010, the respondent fired a gun at the minors' father out of fear but immediately reconciled with him instead of pressing charges or seeking an order of protection.

Furthermore, the respondent's claim that she has maintained stable housing since 2008 is not supported by the evidence. She failed to sign releases for DCFS to confirm the amount of rent or other agreement with the landlord and to confirm the persons living in the home. The record shows that various persons lived at that address, including the minors' father. Therefore, although the respondent lived at the same address since 2008, there is no indication that the living arrangement is a stable environment appropriate to rear children.

As a result, the record supports the trial court's finding that the respondent is not fit to care for the minors. We affirm the trial court's finding of unfitness.

II. Best Interest

The respondent also argues that the trial court's best interest determination was erroneous. Once a parent has been found unfit, all considerations yield to the best interest of the child. *In re D.T.*, 212 Ill. 2d 347 (2004). The factors to be

considered by the court in making a best interest determination are: (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; (4) the child's sense of attachments, including love, security, and familiarity; (5) the child's wishes; (6) the child's community ties; (7) the child's need for permanence, including the child's need for stability and continuity of relationships with parental figures and relatives; (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 2008). On review of a best interest finding, the trial court's determination will not be disturbed unless it is contrary to the manifest weight of the evidence. *In re R.L.*, 352 Ill. App. 3d 985 (2004).

In analyzing the best interest factors, the trial court's decision that terminating the respondent's parental rights was in the best interest of the minors was supported by the evidence. The minors' foster families have provided them with stable homes for years. Their foster homes are where they have a sense of security and familiarity. Both foster families are willing to adopt the minors and provide them with permanency. On the other hand, the respondent remains involved in an unhealthy and abusive relationship with her husband despite years of services and

numerous admonishments that if she did so she would lose her children. Accordingly, the trial court's best interest ruling was not contrary to the manifest weight of the evidence.

CONCLUSION

For the foregoing reasons, the judgment of the circuit court of Peoria County is affirmed.

Affirmed.