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2011 IL App (3d) 110524-U

Order filed December 19, 2011

IN THE
APPELLATE COURT OF ILLINOIS
THIRD JUDICIAL DISTRICT

A.D., 2011

<i>In re</i> J.J., At.J., T.J. and Am.J.,)	Appeal from the Circuit Court
)	of the 10th Judicial Circuit,
Minor,)	Peoria County, Illinois,
)	
(The People of the State of Illinois,)	
)	Appeal No. 3-11-0524
Petitioner-Appellee,)	Circuit Nos. 09 JA 62, 63, 64, and 65
)	
v.)	
)	
S. DOOLITTLE,)	Honorable
)	Chris L. Frederickson,
Respondent-Appellant).)	Judge Presiding.

JUSTICE WRIGHT delivered the judgment of the court.
Justices Holdridge and O'Brien concurred in the judgment.

ORDER

¶ 1 *Held:* The court's order finding that it was in the best interests of the minor to terminate mother's parental rights was not against the manifest weight of the evidence.

¶ 2 Respondent-appellant S. Doolittle is the mother of four minor children. In March of 2009, the State filed a separate petition on behalf of each one of mother's four children asking the court to find each child was neglected due to both an injurious environment and medical

neglect. The court found the children were neglected, granted guardianship of the children to the Department of Children and Family Services (DCFS), and ordered the parents to complete several tasks to regain custody of the children.

¶ 3 On December 20, 2010, the State filed petitions to terminate the parental rights of each parent based upon the failure of each parent to make reasonable progress toward having the children returned to that parent's care. The court found the State had proven both parents unfit by clear and convincing evidence. After a best interests hearing, the court found that it was in the best interests of all of the children to terminate the parental rights of mother and father and authorize the DCFS to consent to the adoption of the children.

¶ 4 Mother filed a timely appeal, challenging only the trial court's finding that it was in the children's best interests to terminate her parental rights. We affirm.

¶ 5 **BACKGROUND**

¶ 6 Respondent-appellant S. Doolittle is the mother of four minor children: J.J., born January 20, 2004; Am.J., born August 22, 2005; T.J.; At.J., born April 20, 2007; and T.J.; born November 17, 2008. On March 3, 2009, the State filed neglect petitions, on behalf of each child separately, alleging medical neglect and that the children's environment was injurious to their welfare.

The petitions allege that J.J., At.J., and Am.J. are severely developmentally delayed. The medical neglect counts are based on allegations that mother caused the children to miss several doctor's and Easter Seals appointments for these children. Further, the petition alleges DCFS investigators found At.J. lying on a bedroom floor in a lethargic condition, unable to cry or move, on March 3, 2009. The environment injurious count alleges that mother is developmentally delayed and has become overwhelmed by the requisite care for her four

children.

¶ 7 On May 18, 2009, the court found J.J., At.J., and Am.J., the developmentally delayed minors, were each medically neglected. The court also found all four minors were neglected due to an environment was injurious to their welfare.

¶ 8 At the dispositional hearing, on June 15, 2009, the court found mother and father were dispositionally unfit to care for the minor children and named DCFS the guardian for all of the children. DCFS continued the placement of J.J., Am.J., and T.J. together in the foster home of their godparents. DCFS continued the placement of At.J. in specialized foster care due to her severe developmental disabilities.

¶ 9 The court entered separate orders for each parent listing the tasks to complete to regain custody of the children. Mother's tasks included: obtain a drug and alcohol assessment and cooperate with recommendations; submit to at least two random urinalyses each month; submit to psychological testing and cooperate with recommendations; participate in and successfully complete domestic violence classes and individual counseling; and attend supervised visitation with the children.

¶ 10 On December 30, 2010, the State filed a separate "Petition for Termination of Parental Rights," on behalf of each one of the four children. Each separate petition alleged that mother was an unfit parent in that she failed to make reasonable progress toward the return of each minor to her care during a specific nine month period following the neglect adjudication of the minors.

¶ 11 The court held a contested hearing on the petitions to terminate parental rights and, on May 25, 2011, the court found that the State had proven both parents unfit by clear and convincing evidence. The court set the case for a best interests hearing. On June 6, 2011,

Michelle Clark, the caseworker for J.J., Am.J., and T.J., filed a permanency review report followed by a supplemental report prepared for the best interest hearing scheduled on July 20, 2011. Carin Weisbruch, the caseworker for At.J., filed a report which she prepared for the best interest hearing.

¶ 12 In Michelle Clark's report for J.J., Am.J., and T.J., the report noted that mother cooperated at times, but then would lose contact with Clark for periods of time. Clark stated that mother did not always communicate honestly with her caseworker and struggled with making progress on the court-ordered tasks. Although mother received disability benefits, mother did not provide the caseworker with documentation for these benefits. Mother also did not provide the worker with information about other people living with her in her home.

¶ 13 The report stated that mother completed a parenting class, but mother did not apply what she learned to properly parent her children during supervised visits at the office. According to the report, mother also attended bonding classes at "White Oaks Project Joyous and Safe." The report stated that White Oaks supervised those visits and they determined that mother was unable to supervise her four children at the same time. According to the report, during these supervised visits, mother did not notice when the younger children would frequently place small objects in their mouths or eat from the garbage. Mother would attempt to use time outs to discipline the children, but lacked the ability to follow through and enforce the time outs when the children left the time out location. The report detailed that mother was unable to recognize when and why the children became upset and did not comfort them or address the issues unless the children sought her out. Mother completed domestic violence classes in September of 2009, but continued her relationship with father, who previously abused her and failed to cooperate with his own domestic violence counseling. In August of 2010, Clark observed father at mother's house

consuming alcohol.

¶ 14 The report noted that mother eventually successfully completed a treatment program, which diagnosed her as cannabis dependent and learning disabled. She participated in a psychological assessment which also diagnosed mother with major depressive disorder; recurrent and severe, generalized anxiety disorder; avoidant personality disorder; and noted mother was recovering from a recent gunshot wound to the leg. Although mother attended individual counseling sessions, mother's therapist felt that mother had an inability to address the issues that led to the removal of the children based upon the results of the psychological evaluation report written by Dr. Luke Dalfiume, PhD. According to Dr. Dalfiume, mother was mildly mentally retarded with an IQ of 63, and her diagnoses affected her adaptive functioning. In this case, it meant that, "when following through to meet the emotional and physical needs of the children, including monitoring their medications, she [mother] may experience a great deal of difficulty without one on one daily assistance." Additionally, after the permanency goal changed to a non-return home goal, around May 4, 2010, mother's therapist wrote that mother failed to continue to attend free counseling services. Mother's therapist also recommended that the children should not be returned to mother due to her limited intellectual and adaptive functioning, as well as her current emotional impairment. The report expressed concerns that, although mother completed some treatment, she continued to associate with other substance abusers and allow them into her home.

¶ 15 Clark's report provided that J.J., Am.J. and T.J. were comfortable and happy in their current foster home environment, which met all DCFS standards and was a healthy and safe environment for the children. All three children had strong bonds with their foster parents and only a limited bond with mother. According to the report, J.J. had been in this placement since

February 27, 2009; Am.J. since March 4, 2009; and T.J. since June 25, 2009.

¶ 16 Carin Weisbruch's report indicated that At.J. was four years old, had been in a stable specialized foster home since March 2009, and was very bonded to her foster family. At.J. is seriously developmentally and cognitively delayed with a functioning level of a six-month old child. Since her placement in this foster home, the report stated that At.J. had made significant developmental progress. Additionally, the foster parents are able to meet the child's medical needs and are diligent in assuring that At.J. attends all of her scheduled therapy sessions and medical appointments. The foster parents have other children, including a toddler, and At.J. has a strong bond with the toddler as well as the other children in the home. The foster family was willing to provide permanence for this child through adoption. In the caseworker's opinion, it was in the best interests of At.J. to terminate the parental rights of both parents.

¶ 17 On July, 20, 2011, the court held the best interest hearing in this matter. In addition to the reports, the court took judicial notice of the prior permanency review orders in these cases.

Michelle Clark, caseworker from the Family Core agency, testified that she is the caseworker for only J.J., Am.J., and T.J. At.J. is assigned to a different agency due to the specialized foster care placement. Clark testified that the foster parents for J.J., Am.J., and T.J., who were also their godparents, were willing to adopt or to be named permanent guardians of those three children.

¶ 18 Clark said that mother had two main struggles with court-ordered tasks. One was "being able to use the skills taught in parenting classes and apply those to the visits and keep the children safe and parent them positively during visits." The second struggle was the overall lack of progress toward all of her goals. Clark stated that, although mother attended domestic violence classes, she continued a relationship with father, who had been abusive to her, until June, 2010. Clark said she personally saw father drinking alcohol at the house, on one

occasion.

¶ 19 Clark said mother attended parenting classes with two different agencies, but demonstrated only slight improvements and inconsistent parenting skills. When mother attended supervised visits with all four children at the Family Core facility, she appeared to be “overwhelmed,” and had difficulty managing the children during these supervised visits.

¶ 20 Mother next testified that she visited with all four children together at Family Core. She did not feel she had any problem managing the children during those visits. For discipline, mother said she used “time outs” if she saw the children doing something wrong during visits, she would take inappropriate items away from them, and she would discuss inappropriate behavior with them. According to mother, the children would sometimes get upset during the visits and mother would comfort them by sitting the child on her lap or giving them a hug. Mother said all of the children would give her hugs and kisses at the visits, and they seemed happy to see her at the start of the visits. Mother testified that she felt all four of the children had a strong bond with her. Mother stated that she did not think it was in the best interests of the children for the court to terminate her parental rights.

¶ 21 After closing arguments, the court said it considered the evidence, the reports, and the best interest factors enumerated in the statutes. The court noted that it was clear that mother loved her children, but that mother had not been able to apply the strategies provided to her by caseworkers or learned through her classes. The court found that this was an issue that involved the safety of the children and the reports showed that mother demonstrated difficulty in providing a safe environment for the children. The court also found that mother had a minimal bond with all four of the children. Additionally, the court found that all four children were very bonded to and loved their current foster parents, and were happy living in their current

environments. The foster parents of the three children, J.J., Am.J., and T.J., provided a very safe and secure environment for these minors, and At.J., in her specialized foster care, was now in a very safe and secure environment. Based on the reports, the court also noted that, during visitations, when the children became upset, they sought comfort from the caseworkers rather than either of their parents. The court found that it was in the best interests of the minors to terminate the parental rights of mother. The court also made many specific findings regarding father, and found that it was in the best interests of the minors to terminate father's rights.

¶ 22 On July 20, 2011, the court entered a written order terminating the rights of both parents and appointed DCFS as guardian of the minors with the authority to consent to adoption.

Mother appeals the court's findings that it was in the best interests of the minors to terminate her parental rights.

¶ 23 ANALYSIS

¶ 24 In the case at bar, mother does not challenge the court's finding of unfitness, based upon her failure to make reasonable progress toward having the children returned to her care, but she appeals the court's finding that it was in the children's best interests to terminate her parental rights and place the children for adoption. The State contends that the court's findings were not against the manifest weight of the evidence.

¶ 25 Proceeding on a petition for termination of parental rights involves a two-step, bifurcated approach where the court first holds an "unfitness hearing" (705 ILCS 405/2-29 (West 2000); 750 ILCS 50/1(D) (West 2010)) and, if the parent is found unfit, conducts a subsequent "best interests hearing." 705 ILCS 405/2-29(2) (West 2010); *In re D.T.*, 212 Ill. 2d 347, 352-53 (2004). After a finding of unfitness, the State must prove by a preponderance of the evidence that it is in the child's best interests to terminate the parental rights. *D.T.*, 212 Ill. 2d at 365-66.

During the best interest hearing, the parent's interest in maintaining the parent-child relationship must yield to the child's interest to live in a stable, permanent, loving home. *D.T.*, 212 Ill. 2d at 364.

¶ 26 When determining the best interests of a child for purposes of a termination petition, the court is required to consider a number of statutory factors “in the context of the child's age and developmental needs.” 705 ILCS 405/1-3(4.05) (West 2008). These statutory factors include: 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; (ii) the child's sense of security; (iii) the child's sense of familiarity; (iv) continuity of affection for the child; and (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 2008); *In re L.B.*, 397 Ill. App. 3d 335, 339 (2009). The “trial court is not required to explicitly mention, word-for-word,” the statutory factors in its decision. *L.B.*, 397 Ill. App. 3d at 339 (quoting *In re Janira T.*, 368 Ill. App. 3d 883, 894 (2006)).

¶ 27 On review, we will not reverse a trial court’s finding that termination of a parent’s rights is in the child’s best interests unless it is against the manifest weight of the evidence. *In re D.M.*, 336 Ill. App. 3d 766, 773 (2002); *In re B.B.*, 386 Ill. App. 686, 697 (2008). A trial court’s

decision is against the manifest weight of the evidence if the facts clearly demonstrate that the court should have reached the opposite result. *In re D.F.*, 201 Ill. 2d 476, 498 (2002).

¶ 28 Here, the record reveals three of the four children are developmentally disabled, with At.J. being severely disabled and requiring a specialized foster care placement. T.J. is the only child without special needs. J.J., Am.J., and T.J. are residing together in a relative foster placement with their godparents. At.J. is residing in a specialized foster home where the foster parents are able to provide for At.J.'s special needs, including assuring At.J.'s attendance at both her physical therapy sessions and medical appointments.

¶ 29 All four children have improved and progressed since being placed in their respective foster homes and all of their needs, including their special needs, have been met. The children are bonded to their foster parents and families and their foster parents are willing to provide permanent care for these children.

¶ 30 In spite of mother's attendance at various classes and programs, she did not have the ability to apply what she learned to benefit her children. During the bonding assessment, as well as visitations, it was determined that mother had only a minimal bond with her children.

¶ 31 Based on this information, the trial judge found that the State had established, by a preponderance of the evidence, that it was in the best interests of the minors to terminate mother's parental rights. After our careful review of the record, we conclude the facts in this case do not clearly demonstrate that the court should have reached the opposite result.

Therefore, the trial court's finding regarding the children's best interests was not against the manifest weight of the evidence.

¶ 32 CONCLUSION

¶ 33 For the foregoing reasons, we affirm the decision of the trial court terminating mother's

parental rights.

¶ 34 Affirmed.