2013 IL App (3d) 120940-U

Order filed May 13, 2013

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2013

In re Al. S. and Am. S.,	)	Appeal from the Circuit Court
	)	of the 14th Judicial Circuit,
Minors	)	Rock Island County, Illinois,
	)	
(The People of the State of Illinois,	)	
	)	
Petitioner-Appellee,	)	Appeal No. 3-12-0940
	)	Circuit Nos. 10-JA-98 and 11-JA-11
v.	)	
	)	
Amanda L.,	)	Honorable
	)	Raymond J. Conklin,
Respondent-Appellant).	)	Judge, Presiding.

JUSTICE CARTER delivered the judgment of the court.
Justice Lytton concurred in the judgment.
Justice McDade concurred in part and dissented in part.

ORDER

¶ 1 *Held:* In a proceeding to terminate parental rights, the trial court's findings–that the biological mother of the minor children was unfit and that termination of her parental rights was in the best interests of the children–were not against the manifest weight of the evidence. The appellate court, therefore, affirmed the judgment of the trial court.

¶ 2 In the context of a juvenile-neglect proceeding, the State filed petitions to involuntarily

terminate the parental rights of respondent, Amanda L., to her minor children, Al. S. and Am. S. After evidentiary hearings on the matter, the trial court found that respondent was an unfit person and, based upon the best interests of the children, subsequently terminated respondent's parental rights. Respondent appeals, challenging both the finding of unfitness and the best-interests determination. We affirm the trial court's judgment.

¶ 3 FACTS

¶ 4 Respondent was the biological mother of two minor children, Al. S., born in January 2010 to respondent and an unknown father, and Am. S., born in January 2011 to respondent and her live-in boyfriend, Aaron S. At different times and in different proceedings, both children were adjudicated neglected minors: Al. S. in July 2010 and Am. S. in February 2011. The finding of neglect in both proceedings was based upon an injurious environment due, in part, to acts of domestic violence committed against respondent by Aaron. The children were later made wards of the court and the Department of Children and Family Services (DCFS) was named as the children's guardian. Both children were placed into foster care, and respondent was ordered by the court to complete certain tasks to correct the condition that led to the removal of the children. Those tasks included: (1) cooperating with the service plan and with DCFS; (2) successfully completing parenting classes; (3) submitting to random drug testing; (4) obtaining a psychological evaluation and following all treatment recommendations; (5) obtaining and maintaining appropriate housing; and (6) successfully completing domestic violence counseling. The proceedings in the trial court as to both children were eventually combined.

¶ 5 Permanency review hearings were held in March and September 2011, and in January 2012, and in all three instances, the trial court found that respondent had failed to make either

reasonable efforts or reasonable progress toward the return of the children. After the hearing in January 2012, the trial court changed the permanency goal of the children from return home to substitute care pending a determination regarding termination of parental rights.

¶ 6 In February 2012, the State filed petitions to terminate respondent's parental rights to both Al. S. and Am. S. The petitions alleged that respondent was an unfit person in that she had failed to make reasonable progress toward the return of the minors for the initial nine-month period following each of the adjudications of neglect (750 ILCS 50/1(D)(m)(ii) (West 2010)) because she had: (1) remained homeless or did not have appropriate housing; (2) maintained a relationship with Aaron, despite being his victim in repeated instances of domestic violence; (3) failed to consistently attend counseling; (4) failed to establish a means of supporting herself and the children; and (5) failed to attend all of her available visits with Am. S.

¶ 7 An evidentiary hearing on the unfitness portion of the State's petition was held in July 2012. The evidence presented at the unfitness hearing relative to respondent can be summarized as follows. The State admitted into evidence several exhibits pertaining to respondent or the children, including the children's birth certificates; the court file from a prior order of protection case, which showed that respondent had obtained an emergency order of protection against Aaron in July 2010 and that the order was later vacated on respondent's motion; and certified copies of Aaron's convictions for domestic battery in 2010 and 2011 and for resisting arrest in 2011, a case in which a domestic battery charge was dismissed.

¶ 8 Sherri George-McHugh testified that she was a caseworker for Lutheran Social Services and was assigned to respondent's case from March through October 2010. In August 2010, respondent was ordered to complete certain tasks as part of a dispositional order. During

George-McHugh's time as the caseworker, the positive aspects of respondent's performance relative to those tasks were that respondent: obtained a psychological evaluation; tested clean in random drug screens; was generally cooperative with services; attended three parenting classes as part of an 8 to 10 week course; participated in individual one-on-one parenting classes once a week; and attended and did well in her scheduled visits with Al. S. The negative aspects of respondent's performance during George-McHugh's involvement with the case were that respondent: only sporadically attended assigned trauma counseling sessions; did not undergo domestic violence counseling; did not cooperate with a home visit; did not look for work; continued to live with Aaron; and did not obtain appropriate housing. George-McHugh stated that there were at least three reported incidents of domestic violence, one in May 2010 and two in July 2010. According to George-McHugh, respondent obtained an order of protection against Aaron after the second incident in July 2010 but failed to follow through with the order. In George-McHugh's opinion, at the time her involvement with the case ended, respondent was not any closer to having Al. S. returned home, although she had made some progress.

¶ 9 Sherry Koerperich testified that she was a DCFS caseworker and that she took over respondent's case in November 2010. As for the positive aspects of respondent's performance during the relevant nine-month periods, Koerperich testified that respondent: attended most of her scheduled visitations with the children and generally did well during those visits; allegedly completed parenting classes, although Koerperich had no proof of completion; participated in individual parenting classes; and had tested negative on all of her random drug screens. Regarding the negative aspects of respondent's performance during the relevant periods, Koerperich testified that respondent: failed to obtain employment or a steady stream of income to

support herself and the children; failed to obtain or maintain appropriate housing and lived with her friends or with Aaron; failed to obtain domestic violence counseling; failed to complete trauma counseling and was discharged from that counseling in November 2011 for missing three consecutive sessions; failed to obtain recommended psychiatric treatment; missed two weeks of scheduled visits with the children in the summer of 2011 because, according to respondent, she had other things to do; failed to provide proof of completion of parenting classes; and continued in an abusive relationship with Aaron. According to Koerperich, there were ten incidents of domestic violence committed against respondent by Aaron from July 2010 to January 2012 in which reports were made to the police. Two of those incidents resulted in Aaron being convicted of domestic battery, and a third resulted in Aaron being convicted of resisting arrest after respondent refused to press charges for domestic battery. Koerperich testified further, however, that respondent and Aaron had stopped seeing each other and that their relationship had "calmed down" in the months before the unfitness hearing.

¶ 10 During her testimony, Koerperich noted that DCFS had provided respondent with transportation to her services when necessary and that DCFS had helped respondent obtain an apartment in October 2011 by paying a deposit, but that respondent was evicted from that apartment three months later. Koerperich stated that respondent got along well with her normal visitation supervisor, but Koerperich was concerned that respondent was too dependent on that supervisor and that the supervisor was "co-parenting" the children during the visits. In Koerperich's opinion, at the end of the relevant nine-month periods, respondent was no closer to having her children returned to her.

¶ 11 Respondent testified at the unfitness hearing that she had completed all of her parenting

classes, that she had obtained a psychological evaluation and a mental-health evaluation, that she had attended visits with the children as much as possible, that she had never refused to submit to any drug screen and always tested clean, and that she had recently obtained employment. Respondent stated that she did not have her own housing and had been staying with Aaron or other friends, but that she had an appointment to look at an apartment on the afternoon of the unfitness hearing. Respondent admitted that she had failed to follow through with her trauma counseling and stated that she felt that the sessions focused too much on her relationship with Aaron, instead of on her relationship with the children. Respondent stated further that she was no longer in a romantic relationship with Aaron but that she wanted to remain close with him so that they could raise their children together. Respondent commented that it was difficult for her to complete the tasks assigned in the service plan because she was pregnant during those time periods. Respondent explained that she missed some visits and counseling sessions because she was looking for employment and housing and because she had problems obtaining transportation, although she acknowledged that DCFS had provided her with a free bus pass and with transportation, at various times, to her visits. Respondent testified further that she enjoyed her visits with the children, that she loved the children, that she wanted to have custody of the children returned to her, and that she would do anything that was required of her by the court to have her children returned.

¶ 12 At the conclusion of the unfitness hearing, the trial court took the case under advisement. The trial court later found that the State had proven by clear and convincing evidence that respondent was an unfit person as alleged in the termination petition. In reaching that conclusion, the trial court noted that although respondent had engaged in some of the required

services, she had failed to do so "a lot of [the] time" and any progress that respondent had made toward the return of the children "would have to be measured in millimeters."

¶ 13 An evidentiary hearing on the best-interests portion of the State's petition was held in October 2012. In preparation for the hearing, a best-interests report was prepared by Koerperich. Koerperich indicated in the report that Al. S. was two years old and Am. S. was one year old and that they had been living with their current foster parents for just over one month, although they had been visiting with the foster parents for approximately five months. Al. S. and Am. S. had adjusted well to their new home and to their new foster parents. The best-interests report indicated further that respondent had been attempting to change her lifestyle in the past month. Respondent had obtained an apartment (with financial assistance from the township); had obtained employment in July 2012, but was terminated the following month; and had attended two counseling sessions. Koerperich recommended in her report that respondent's parental rights be terminated.

¶ 14 At the best-interests hearing, Koerperich testified consistently with her report. In addition, Koerperich stated that the children seemed happy during their visits with respondent and that respondent displayed appropriate parenting behavior. Koerperich recognized that respondent had made progress complying with the service plan and had gained some stability in her life over the past month but expressed doubts over whether respondent would be able to care for Al. S. and Am. S. In Koerperich's opinion, it was in the best interests of the children for respondent's parental rights to be terminated and for the children to be adopted.

¶ 15 One of the foster parents testified that the children were very comfortable at the foster couple's home and that the children were closely bonded with them. The foster parent stated that

the couple was willing to permanently adopt Al. S. and Am. S. and that they would be able to care for the children's physical and emotional needs.[1]

¶ 16 DCFS was investigating the current foster parents for abuse after Aaron noticed a scratch and bruise on Am. S. The foster parent testified that the injury occurred at day care, and an "Ouch Report" from the day-care facility documenting the injury was admitted into evidence.

¶ 17 Respondent testified at the best-interests hearing that she had almost completed the DCFS service plan in that she had finished parenting classes, obtained appropriate housing, and had been attending counseling sessions. Respondent lived in a two-bedroom apartment with space, furniture, and toys for the children. She paid for the apartment with the help of a $300 per month subsidy from her township, although she was responsible for the remaining $175 in rent. Respondent had lost her last job but was currently looking for a new job. As long as respondent kept looking for work or was employed, her rental assistance would continue. Respondent testified further that she visited with the children for two hours each week, that the children were happy to see her during those visits, and that they referred to her as "Mom." Respondent stated that she wanted to keep her children and could offer them love and stability as their biological mother.

¶ 18 At the conclusion of the hearing, the trial court found that it was in the best interests of the children that respondent's parental rights be terminated and that the children be adopted. In reaching that conclusion, the trial court stated:

"All right, none of these things are easy, I think that they are making

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[1] Respondent's third child, Z.S., was also placed into foster care with that couple. Respondent's parental rights to Z.S. have not been terminated.

progress, but I am going to ask — I reviewed the files, I reviewed my order which I found that unfitness had been proven by clear and convincing evidence. I considered testimony, best interest criteria of Juvenile Court Act, these children have not been in current placement very long — for the record I do not find credible the accusations of abuse made before, made again, I don't find that to be credible, I find that there were injuries but they were not caused by foster parents, the problem is there's a third child coming on for review, you continue on you are making progress — [Al. S.] was born in January of 2010, he has bee[n] in the system since March 2010, [Am. S.] was born I think January 2010, 2011, but January I think 2011, this thing was filed three days after he was born. Would I return the children to you. No. You have had stable housing for a month, today live with grandmother in Rock Island, the last hearing, we had living with relatives in Davenport, you have made some progress, if this keeps up in December with respect to the third child I may find progress. With respect to these two children that train left the station long time ago I am sorry, we are way past that, these children where we are at now is really not whether you are fit, the questions today what's in the best interest of the children, I am sorry, the best interest of these children is to move on. I hate to say it but put you two behind them, and move on with a new life. I don't say it with rancor or any dislike towards either of you, this is hard part of my job. I find best interest of these children that your rights be terminated and goal will be changed to adoption. I will set a review hearing in March 2013. *** If this continues - you are making

progress, you are the same place you are in December — I don't like what I am doing today but — good luck to you."

The trial court entered an order terminating respondent's parental rights, setting the children's permanency goal to adoption, and naming DCFS as the guardian of the children with the right to consent to adoption. Respondent appealed.[2]

¶ 19 ANALYSIS

¶ 20 On appeal, respondent argues first that the trial court erred in finding that she was an unfit parent. Respondent asserts that the finding is against the manifest weight of the evidence because the evidence showed that respondent had made reasonable progress toward the return of her children and had demonstrated considerable concern for her children's well-being. Respondent's asserts further that DCFS was biased against her in this case and that the trial court failed to consider the difficulty she had completing her services when she was pregnant at different times during the relevant nine-month periods. Respondent asks, therefore, that we reverse the trial court's finding of parental unfitness. The State, on the other hand, argues that the trial court's ruling was proper and should be affirmed.

¶ 21 A trial court's finding of parental unfitness in a proceeding to terminate parental rights will not be reversed on appeal unless it is against the manifest weight of the evidence. *In re C.N.*, 196 Ill. 2d 181, 208 (2001). A ruling is against the manifest weight of the evidence only if it is clearly apparent from the record that the trial court should have reached the opposite conclusion. *C.N.*, 196 Ill. 2d at 208; *In re Tiffany M.*, 353 Ill. App. 3d 883, 889-90 (2004).

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[2] The trial court also terminated Aaron's parental rights to Am. S, which is the subject of a separate appeal.

Under the manifest weight standard, deference is given to the trial court as finder of fact because the trial court is in the best position to observe the conduct and demeanor of the parties and the witnesses and has a degree of familiarity with the evidence that a reviewing court cannot possibly obtain. *In re A.W.*, 231 Ill. 2d 92, 102 (2008); *Tiffany M.*, 353 Ill. App. 3d at 889-90. When the manifest weight standard applies, the reviewing court will not substitute its judgment for that of the trial court on such matters as witness credibility, the weight to be given evidence, and the inferences to be drawn from the evidence, even if the reviewing court would have reached a different conclusion if it had been the trier of fact. *A.W.*, 231 Ill. 2d at 102; *In re Lakita B.*, 297 Ill. App. 3d 985, 994 (1998) (because of the delicacy and difficulty involved in a child custody case, wide discretion is placed in the trial court to an even greater degree than in an ordinary appeal).

¶ 22 The involuntary termination of parental rights is a two-step process, which is governed by the provisions of both the Juvenile Court Act of 1987 (705 ILCS 405/1-1 *et seq*. (West 2010)) and the Adoption Act (750 ILCS 50/0.01 *et seq*. (West 2010)). See *In re D.T.*, 212 Ill. 2d 347, 352 (2004); *In re C.W.*, 199 Ill. 2d 198, 210 (2002). In the first stage of proceedings, the State must prove by clear and convincing evidence that the parent is an "unfit person" as defined in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2010)). 705 ILCS 405/2-29(2) (West 2010); *C.W.*, 199 Ill. 2d at 210. Section 1(D) lists several grounds upon which a finding of parental unfitness may be made. 750 ILCS 50/1(D) (West 2010); *Tiffany M.*, 353 Ill. App. 3d at 889. Although numerous grounds may be alleged in a termination petition, the proof of any single ground is sufficient for a finding of parental unfitness. 750 ILCS 50/1(D) (West 2010); *Tiffany M.*, 353 Ill. App. 3d at 889.

¶ 23 Of relevance to this appeal, a parent may be found unfit under section 1(D) of the Adoption Act if he or she fails to make reasonable progress toward the return home of the child within the initial nine-month period after an adjudication of neglect. 750 ILCS 50/1(D)(m)(ii) (West 2010). To determine if reasonable progress has been made, a court will apply an objective standard and will generally consider the parent's compliance with the service plans and the court's directives, in light of the condition which gave rise to the removal of the child, and in light of other conditions which later became known and which would prevent the court from returning custody of the child to the parent. *C.N.*, 196 Ill. 2d at 216-17; *In re J.A.*, 316 Ill. App. 3d 553, 564-65 (2000). "At a minimum, reasonable progress requires measurable or demonstrable movement toward the goal of reunification." *J.A.*, 316 Ill. App. 3d at 565.

¶ 24 After reviewing the record in the present case, we conclude that there is ample evidence to support the trial court's finding of parental unfitness. The record shows that during the nine-month periods in question, respondent was given numerous tasks to complete as part of her service plan. Respondent completed some of those tasks during the relevant nine month periods. She obtained a psychological evaluation, passed all of her drug tests, attended parenting classes, visited with her children, and participated in some counseling sessions. However, the tasks that respondent successfully completed were dwarfed by the changes that she failed to make. In the applicable nine-month periods, respondent failed to complete parenting classes, stopped going to trauma counseling, and attended none of the court-ordered domestic violence counseling. Although the children had been removed because of domestic violence concerns, there were multiple new incidents of domestic violence between respondent and Aaron during the relevant periods, and respondent failed to address ways to avoid or deal with such violence. In addition,

respondent did not find a job during the relevant periods, did not maintain stable housing, and sporadically resided with Aaron (the source of the domestic violence concerns) or his family. Based on respondent's noncompliance with the court-ordered tasks and service plan, there was sufficient evidence to prove that respondent failed to make reasonable progress towards the return of her children.

¶ 25 In reaching that conclusion, we note that much of the testimony offered by respondent at the unfitness hearing was outside the scope of the issue at hand. Many of the tasks that respondent testified that she had completed were not completed until several months after the nine-month periods had ended. That evidence was irrelevant at the unfitness hearing and was properly given no weight by the trial court. See *In re J.L.*, 236 Ill. 2d 329, 341 (2010) (in making a unfitness determination based upon reasonable progress, a trial court will only consider evidence from the nine-month period at issue). We also reject respondent's claim that her pregnancy and her inability to find transportation were hardships that justify her failure to complete some of the ordered tasks. The record before us indicates that respondent was provided with transportation by DCFS to visits and other appointments and that respondent voluntarily stopped going to trauma counseling because she did not like that the sessions were focused on her relationship with Aaron. Based upon that evidence, we cannot find that either respondent's pregnancy or her transportation issues adequately excuse her failure to comply with her court ordered tasks. We also reject respondent's contention that DCFS was biased against her and find no support for that contention in the record. Therefore, based upon the evidence presented, we conclude that the trial court's determination of parental unfitness was not against the manifest weight of the evidence, and we affirm the trial court's ruling on this issue. See *C.N.*, 196 Ill. 2d

at 208; *Tiffany M.*, 353 Ill. App. 3d at 889-90.

¶ 26 Respondent argues next that the trial court erred in finding that termination of respondent's parental rights was in the best interests of the children. Respondent asserts that the trial court's finding was against the manifest weight of the evidence because the evidence presented at the best-interests hearing showed that respondent had completed almost all of the required services, that respondent had established a stable residence for herself and the children, and that the children had only resided with the current foster parents for about a month. Respondent asserts further that the trial court, in making its decision, ignored the preference for keeping children with their natural parents, and that DCFS, in placing the children, disregarded the requirement that the children should be placed with a relative, if possible. Based upon those errors, respondent asks that we reverse the trial court's best-interests determination.

¶ 27 The State argues that the trial court's ruling was not against the manifest weight of the evidence. The State asserts that the evidence presented at the best-interest hearing shows that despite the short duration of the current placement, the minors have bonded with the foster parents and provided with stability and possible permanency in the form of adoption. The State asks, therefore, that we affirm the trial court's best-interests determination.

¶ 28 In a termination proceeding, once the trial court finds that a parent is unfit as defined in section 1(D) of the Adoption Act, the trial court must then determine, pursuant to the Juvenile Court Act, whether it is in the minor's best interests to terminate parental rights. See 705 ILCS 405/2-29(2) (West 2010); *Tiffany M.*, 353 Ill. App. 3d at 891. The burden of proof in the trial court is upon the State to show by a preponderance of the evidence that termination is in the minor's best interests. *Tiffany M.*, 353 Ill. App. 3d at 891. The trial court's ruling in that regard

will not be reversed on appeal unless it is against the manifest weight of the evidence. *Tiffany M.*, 353 Ill. App. 3d at 892.

¶ 29 In a best-interests hearing, the focus of the termination proceeding shifts to the child, and the parent's interest in maintaining the parent-child relationship must yield to the child's interest in having a stable and loving home life. *D.T.*, 212 Ill. 2d at 364. The issue is no longer whether parental rights can be terminated, but rather, whether in the child's best interests, parental rights should be terminated. *D.T.*, 212 Ill. 2d at 364. In making a best-interests determination, the trial court must consider, in the context of the child's age and developmental needs, the numerous statutory factors listed in section 1-3(4.05) of the Juvenile Court Act of 1987. See 705 ILCS 405/1-3(4.05) (West 2010). Some of those factors include the child's physical safety and welfare, the development of the child's identity, the child's sense of attachment, and the child's need for permanence and stability. 705 ILCS 405/1-3(4.05) (West 2010). The trial court may also consider the nature and length of the child's relationship with the current caretaker and the effect that a change in placement would have on the child's emotional and psychological well-being. *Tiffany M.*, 353 Ill. App. 3d at 893. Although the trial court is required to consider the statutory factors in making its best-interests determination, it is not required to articulate specific reasons for its decision. See *Id*.

¶ 30 In the present case, there is sufficient evidence in the record to support the trial court's finding that it was in the best interests of the children to terminate respondent's parental rights. The evidence presented at the hearing indicated that the children were in a stable, secure, and loving home with their foster parents and their younger brother, who had also been placed in the home. The foster parents were willing to adopt the children and, despite the short duration of the

placement, the children were well-adjusted to the home, had bonded with the foster parents, and had a sense of attachment in the home. Based upon the record presented, we conclude that the trial court's best-interests determination was not against the manifest weight of the evidence. See *C.N.*, 196 Ill. 2d at 208; *Tiffany M.*, 353 Ill. App. 3d at 892-93. Therefore, we affirm the trial court's ruling on this issue.

¶ 31 CONCLUSION

¶ 32 For the foregoing reasons, we affirm the judgment of the circuit court of Rock Island County.

¶ 33 Affirmed.

¶ 34 JUSTICE McDADE, concurring in part and dissenting in part.

¶ 35 I agree with the majority that the trial court's determination on the parental unfitness issue was not against the manifest weight of the evidence. However, because I do not agree that it was in the best interests of the children to terminate respondent's parental rights, I respectfully dissent.

¶ 36 Much of respondent's testimony at the best interest hearing focused on her completion of the tasks mandated by the service plan. Respondent testified that, after the nine-month period for measuring progress ended, she found housing suitable for her and the children, ended her abusive relationship with Aaron, completed her parenting classes, visited with her children, attended counseling sessions, and was diligently looking for work. Evidence of a parent's progress after the applicable nine month period has ended is a proper factor for the court to consider at a best interest hearing. See *In re C.W.*, 199 Ill. 2d 198, 217 (2002) (stating that when considering whether it is in the best interest of the child to terminate parental rights, "the full range of the parent's conduct can be considered"); *In re D.L.*, 191 Ill. 2d 1, 12 (2000) (stating that a parent's

compliance with a service plan after the time period for determining fitness has ended can be considered at best interest hearing). However, the trial court's statements, quoted in ¶ 18 of the majority's discussion, reveal that it wrongly believed it was not able to consider this evidence outside of the context of a fitness hearing.

¶ 37 I believe that had the court known it could consider this evidence, its decision could have been different, as respondent's progress with her service plan was highly relevant to the best interest determination. Respondent's frequent visitation, her acquisition of an apartment where the children can live, and her progress with counseling and parenting classes all indicate that she strongly desired to be a providing, loving mother to the children and was working to better herself to that end. Respondent's progress and her attachment to her children are persuasive evidence on the statutory best interest factors concerning the child's welfare, sense of attachment, and familial background. The trial court's statements further suggest that it did in fact find respondent's progress to be evidence of her ability to be a good mother, as the court said her progress, if maintained, might be sufficient to justify a different result as to the third child.

¶ 38 Parental rights are of deep human importance and should not be lightly terminated. See *In re H.C.*, 395 Ill. App. 3d 869, 877 (1999). Because the evidence indicated the mother was bonded with the children and willing and able to care for them, I think the court acted too hastily in terminating respondent's parental rights. I would remand the case so the trial court could consider the best interests of the children in light of all the relevant evidence, including respondent's progress, her capability to care for the children, the relationships between the children and their mother and the children and the foster parents, and the other statutory best interest factors.

¶ 39 For these reasons, I concur in part and dissent in part from the majority's order.