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2013 IL App (3d) 130206-U

Order filed August 12, 2013

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2013

<i>In re</i> A.A.,	) Appeal from the Circuit Court
	) of the 10th Judicial Circuit,
A Minor,	) Tazewell County, Illinois,
	)
(The People of the State of Illinois,	)
	) Appeal No. 3-13-0206
Petitioner-Appellee,	) Circuit Nos. 11-JA-21
	)
v.	)
	)
Amy A.,	) Honorable
	) Albert Purham,
Respondent-Appellant).	) Judge, Presiding.

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JUSTICE HOLDRIDGE delivered the judgment of the court.  
Presiding Justice Wright and Justice Schmidt concurred in the judgment.

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**ORDER**

- ¶ 1 *Held:* The trial court's decision to terminate the respondent's parental rights was not against the manifest weight of the evidence.
- ¶ 2 The respondent, Amy A., appeals from an order terminating her parental rights to her minor child, A.A., entered by the circuit court of Tazewell County. Respondent's sole claim is

that the trial court's finding that it was in the best interest of the child to terminate her parental rights was against the manifest weight of the evidence. We affirm.

¶ 3

### BACKGROUND

¶ 4 On March 11, 2011, the State filed a petition for adjudication of neglect regarding the minor, A.A. A temporary custody order was entered the same day. Following the respondent's stipulation to the facts contained in the petition, the minor was adjudicated neglected on June 23, 2011. On February 14, 2013, a petition for termination of parental rights was filed alleging the respondent was an unfit parent due to her failure to make reasonable progress during a nine-month period after the adjudication of neglect, specifically between June 23, 2011, and March 23, 2012. The trial court determined that the allegations of the petition had been proven by clear and convincing evidence. At a subsequent hearing, the court found that it was in the best interest of the minor child to terminate the respondent's parental rights. On appeal, the respondent does not challenge the finding that she was unfit but maintains that the finding that it was in the best interest of the child to terminate the respondent's parental rights was against the manifest weight of the evidence.

¶ 5 At a hearing on March 22, 2013, the parties stipulated that the evidence was sufficient to prove the allegations contained in a petition to terminate parental rights filed on October 1, 2012, which alleged that, between June 23, 2011, and March 23, 2012, the respondent had failed to make reasonable progress toward the return of the minor to her care. The parties also stipulated that the evidence was sufficient to prove the allegations contained in a second petition to terminate parental rights filed on February 14, 2013, which alleged that, between April 23, 2012, and January 23, 2013, the respondent had failed to make reasonable progress toward the return of

the minor to her care. The circuit court found the allegations of unfitness alleged in both petitions to have been proven by clear and convincing evidence. The matter then proceeded to a best interest hearing.

¶ 6 Jordan Edwards, the respondent's caseworker, testified that the respondent had completed a brief residential substance abuse treatment, but she continued to abuse alcohol after completing the treatment. Edwards noted that, during a telephone conversation with the respondent on March 18, 2013, the respondent exhibited slurred speech and was very abusive in her tone. Edwards also testified that the respondent left a voice mail message on March 19, 2013, in which the respondent speech was very slurred. The respondent's tone in the voice mail started out conciliatory but became angry and aggressive over the course of the recording. Edwards then testified that the respondent had been subsequently admitted to a detoxification facility later that same month.

¶ 7 Edwards also testified that she observed several of the monthly visits between the respondent and the minor. She described the visits as appropriate and noted some bonding between A.A. and respondent. Edwards also reported that several scheduled visits were not held due to the respondent's failure to call to confirm the scheduled visitation or the respondent showing up late.

¶ 8 Edwards opined that it was in the minor's best interest that the respondent's parental rights be terminated and that he be placed with the current family for potential adoption.

¶ 9 Janice W. testified that she is the foster mother, and A.A. was placed in her care on March 9, 2011. She testified that she and A.A. have a loving relationship. A.A. calls her "mommy" and has completely integrated into her family. Her husband and two children, ages 11

and 4, love A.A. and treat him as part of their family, as does her extended family network.

Janice testified that she is willing to adopt A.A. Janice also testified that she was previously good friends with the respondent and the child's biological father. However, since taking A.A. into her home, the respondent became abusive toward Janice, once threatening to kick in her door and kidnap A.A. Janice testified that she received an order of protection against the respondent.

¶ 10 Janice also testified that A.A. has received surgery to correct an eye problem and will likely need future surgery to correct a breathing problem. She testified that she will be able to provide for the child's medical needs as they arise.

¶ 11 The respondent testified that she was unemployed but had recently completed job training. She was not actively seeking employment due the likelihood of incarceration because of a pending DUI charge. She also anticipated additional in-patient alcohol rehabilitation. She testified that her goal was to get sober and do whatever was necessary to care for A.A.

¶ 12 Kim Sharp, a former DCFS caseworker and the respondent's foster parent from age 12 to 18, testified that the respondent was attempting to get her life together and overcome her alcoholism. Sharp acknowledged that the respondent responded well to in-patient alcohol treatment but relapsed when released from the treatment facility.

¶ 13 A best interest report, prepared by Catholic Social Services, was filed at the hearing. The report stated that A.A. was born on July 17, 2010, and had been in a foster home since March 9, 2011. The current foster care providers were willing to provide permanency and were willing to adopt A.A. The child's attachment to the respondent was minimal while his attachment to the foster mother was significant. The report further stated that the child had health issues that were being adequately addressed in the current foster care setting. The report concluded that it was in

the best interest of the child that the respondent's parental rights be terminated and the foster parent's plans for possible adoption be allowed to go forward. The court-appointed guardian *ad litem* also recommended that the respondent's parental rights be terminated to permit the foster parents to proceed with adoption.

¶ 14

#### ANALYSIS

¶ 15 Before beginning our analysis, we note that the respondent does not challenge the finding that she is an unfit parent or that the children's environment was injurious when they lived in her custody and control. The sole issue on appeal is whether the trial court erred when terminating the respondent's parental rights.

¶ 16 The Juvenile Court Act of 1987 (the Act) (705 ILCS 405/1-1 *et seq.* (West 2010)) provides a two-step process for the involuntary termination of parental rights. *In re C.W.*, 199 Ill. 2d 198, 210 (2002). First, the State must prove that the parent is unfit as defined in section 1(D) of the Adoption Act. 750 ILCS 50/1(D) (West 2010); *C.W.*, 199 Ill. 2d at 210. As the termination of parental rights constitutes a complete severance of the parent-child relationship, proof of parental unfitness must be clear and convincing. *In re C.N.*, 196 Ill. 2d 181, 208 (2001). Only if the court makes a finding of unfitness will the court go on to the second stage and consider whether it is in the best interest of a child to terminate parental rights. 705 ILCS 405/2-29(2) (West 2010); *C.W.*, 199 Ill. 2d at 210. Once a trial court finds a parent to be unfit, the next step in an involuntary termination proceeding requires the court to consider whether it is in the best interest of the child to terminate parental rights pursuant to section 1-3(4.05) of the Act. 705 ILCS 405/1-3(4.05) (West 2010).

¶ 17 The factors that a trial court should consider in making a best-interest determination include: (1) the physical safety and welfare of the child, including food, shelter, clothing, and health; (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; (5) the child's wishes and long-term goals; (6) the child's community ties, including church, school, and friends; (7) the child's need for permanence; (8) the uniqueness of every family and child; (9) the risks attendant to entering and being in substitute care; and (10) the preference of the persons available to care for the child. 705 ILCS 405/1-3(4.05) (West 2010); *In re A.F.*, 2012 IL App (2d) 111079, ¶ 45.

¶ 18 A trial court's decision to terminate parental rights will not be reversed unless it is against the manifest weight of the evidence. *In re Deandre D.*, 405 Ill. App. 3d 945, 953 (2010). A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly apparent. *Id.*

¶ 19 Here, the record established that the respondent had a substantial ongoing substance abuse problem, and her attempts to overcome that problem had been unsuccessful. The record also established that A.A. was functioning well in his foster home and was receiving medical and developmental services that the respondent was unable to adequately provide due to her substance abuse issues. In addition, the record established that A.A. had bonded very strongly with the foster family. Also, the record established that the respondent was unable to provide a stable home for the child, while the foster home was meeting those needs.

¶ 20 The respondent also points to her efforts at rehabilitation and suggests that, if she were given more time, she could overcome her alcoholism and resume her role as a responsible parent. While there was some evidence in the record to support an argument that the respondent had

undertaken some recent efforts toward rehabilitation, as of the date of the termination hearing, those efforts had been unsuccessful. At a best interest hearing, the needs of the children are always paramount and take precedence over a respondent's belated efforts to rehabilitate. *In re D.T.*, 212 Ill. 2d 347, 364 (2004). The trial court weighed the evidence of the respondent's recent rehabilitative efforts and found them to be inadequate to the best interest of the minor.

¶ 21 Here, the trial court found that the minor's best interests were served by terminating the respondent's parental rights. The court noted the child's needs, particularly the need for medical care and a secure, stable environment, were being met in the foster home. Also to be noted was the child's bonding with the foster family. Given the record evidence which showed that the physical safety and welfare of the child, his emotional development, and his need for permanence were all better served by terminating the respondent's parental rights, we cannot say that the trial court's determination was against the manifest weight of the evidence. As such, we affirm the trial court's order terminating the respondent's parental rights.

¶ 22 CONCLUSION

¶ 23 For the foregoing reasons, the judgment of the circuit court of Tazewell County is affirmed.

¶ 24 Affirmed.