NOTICE
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2012 IL App (4th) 120126-U

Filed 5/21/12

NO. 4-12-0126

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: G.R., J.S., M.G., T.N., R.B., B.R., and S.R., Minors,	)	Appeal from
	)	Circuit Court of
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Champaign County
Petitioner-Appellee,	)	No. 10JA46
v.	)	
CHANTA RIVERS,	)	Honorable
Respondent-Appellant.	)	Richard P. Klaus,
	)	Judge Presiding.

PRESIDING JUSTICE TURNER delivered the judgment of the court.
Justices Appleton and Knecht concurred in the judgment.

ORDER

¶ 1 *Held*: Where respondent was unfit and it was in the minors' best interests that her parental rights be terminated, the trial court's decision on termination was not against the manifest weight of the evidence.

¶ 2 In July 2010, the State filed a petition for adjudication of abuse with respect to G.R., J.S., M.G., T.N., R.B., and B.R., the minor children of respondent, Chanta Rivers. A supplemental petition for adjudication of neglect was later filed with respect to S.R., respondent's minor child. The trial court adjudicated the minors wards of the court and placed custody and guardianship with the Illinois Department of Children and Family Services (DCFS). In July 2011, the State filed a motion to terminate respondent's parental rights. In November 2011, the trial court found respondent unfit. In January 2012, the court found it in the minors' best interests that respondent's parental rights be terminated.

¶ 3 On appeal, respondent argues the trial court erred in (1) finding her unfit and (2) terminating her parental rights. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In July 2010, the State filed a petition for adjudication of abuse and shelter care, alleging respondent's children, G.R., born in July 1998; J.S., born in July 2000; M.G., born in May 2004; T.N., born in November 2006; R.B., born in December 2007; and B.R., born in February 2010, were abused minors. The petition alleged T.N. and R.B. were abused minors pursuant to section 2-3(2)(i) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(2)(i) (West 2010)) by reason that respondent and/or her paramour, Tramele Hampton, inflicted upon the minors physical injury by other than accidental means. The petition alleged G.R., J.S., M.G., and B.R. were abused minors under section 2-3(2)(ii) of the Juvenile Court Act (705 ILCS 405/2-3(2)(ii) (West 2010)) in that respondent and/or Hampton created a substantial risk of physical injury to the minors by other than accidental means. The petition also alleged T.N. and R.B. were abused minors under section 2-3(2)(v) of the Juvenile Court Act (705 ILCS 405/2-3(2)(v) (West 2010)) because respondent and/or Hampton inflicted excessive corporal punishment on them. The trial court found the minors were neglected/abused/dependent and an immediate and urgent necessity was demonstrated to place them in shelter care.

¶ 6 In September 2010, the trial court found the minors were abused in that they were physically abused, in substantial risk of physical abuse, and have been the subject of excessive corporal punishment. The court noted respondent pleaded guilty to two counts of aggravated battery to a child in case No. 10-CF-1099. Evidence indicated T.N. and R.B. had injuries to their bodies and "appeared to have been beaten by a belt or other object." At one point, respondent

admitted she gave the children a "pretty good whooping" with a belt, but she later blamed the beatings on Hampton. In its October 2010 dispositional order, the court found it in the minors' best interests that they be made wards of the court and placed custody and guardianship with DCFS.

¶ 7 In March 2011, the State filed a supplemental petition for adjudication of neglect and shelter care, alleging S.R., born in March 2011, was a neglected minor pursuant to section 2-3(1)(b) of the Juvenile Court Act (705 ILCS 405/2-3(1)(b) (West 2010)). The petition alleged S.R. was neglected based on an injurious environment when she resided with respondent and/or Hampton in that they had failed to correct the conditions that resulted in a prior adjudication of unfitness to exercise guardianship and/or custody of her half-siblings. The petition also alleged S.R. was neglected based on an injurious environment when she resided with respondent because the environment exposed her to risk of physical harm. The trial court found probable cause to believe the minor was neglected and granted temporary custody to DCFS.

¶ 8 In April 2011, the trial court found S.R. was a neglected minor based on an injurious environment. In its May 2011 dispositional order, the court found it in S.R.'s best interest that she be made a ward of the court and placed custody and guardianship with DCFS.

¶ 9 In July 2011, the State filed a motion to terminate respondent's parental rights as to all seven minors. The State alleged respondent was unfit because she (1) had been convicted of aggravated battery to a child (750 ILCS 50/1(D)(i)(7) (West 2010)); (2) failed to make reasonable progress toward the return of G.R., J.S., M.G., T.N., R.B., and B.R. within nine months of the adjudication of neglect or abuse (750 ILCS 50/1(D)(m)(ii) (West 2010)); (3) failed to make reasonable efforts to correct the conditions that were the basis of the minors' removal

from her (750 ILCS 50/1(D)(m)(i) (West 2010)); and (4) failed to maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare (750 ILCS 50/1(D)(b) (West 2010)).

¶ 10 In October 2011, the trial court conducted a hearing on the motion to terminate parental rights. Debbie Nelson, an owner of Cognition Works, testified she received a referral from DCFS for respondent to attend domestic-violence counseling. After an assessment, Nelson believed the "Options" program would be most appropriate for her. During the 18 weeks of sessions, respondent's attendance was "erratic." As she only attended five sessions, respondent was terminated from the program.

¶ 11 Tammie Roedl, a therapist with Lutheran Social Services (LSS), testified respondent's goals were self-sufficiency and working through what brought the children into care, which included bruising on a minor "due to being spanked with a belt." Roedl stated respondent attended counseling sessions and appeared "engaged." Respondent was also working part-time at a service station.

¶ 12 Sarah Brown, a child-welfare specialist with LSS, testified she supervised the weekly visits respondent had with the minors. Brown described the visits as "chaotic." Respondent seemed "very overwhelmed" with the presence of seven children as well as several who exhibited "acting out behaviors."

¶ 13 Rachel Kramer, a caseworker and supervisor at LSS, testified respondent admitted having a "very volatile relationship" with Hampton, which included acts of physical abuse against her and the children. Respondent told Kramer that Hampton disciplined the children by hitting them. Kramer described the visits as "chaotic" and stated it was difficult for respondent

"to keep an eye on all of the children at the same time."

¶ 14 Kymberle West, a child and family coordinator with Generations of Hope, testified she previously worked as a child-welfare specialist at LSS. She was the children's caseworker from July 2010 until March 2011. During the initial assessment, respondent indicated she had completed her sophomore year of high school and did not have full-time employment. Respondent also reported relationships with respondent fathers Jabari Sharp and Hampton in which there were incidents of domestic violence. Respondent reported she frequently used marijuana but had not used for several years prior to the assessment. West described the visits as "very chaotic." However, respondent was able to control the children better as the visits continued. As to the injuries to the children that brought the case to the attention of the court, respondent stated Hampton was responsible.

¶ 15 The trial court took judicial notice of respondent's plea of guilty to two counts of aggravated battery to a child. Respondent testified she had not been in a relationship since the case started and there had been no instances of domestic violence. She completed a parenting class, a psychological evaluation, and a substance-abuse evaluation. She believed she made progress in counseling. Respondent agreed the visits with seven children were chaotic at the start but felt it was "better now." She stated she worked at Jackson Hewitt for a time and then worked as a cashier at a gas station.

¶ 16 On cross-examination, respondent stated Hampton was verbally and physically abusive to her during their relationship that ended in June 2010. Hampton was also verbally and physically abusive to two of her boys.

¶ 17 In making his ruling, the trial judge noted the reason for the minors' involvement

in this case was that two of the minors had been beaten. Given that respondent pleaded guilty to aggravated battery to a child but stated at the hearing that Hampton had committed the abuse, the judge stated respondent either "lied to the judge over the felony proceeding in this case or she lied to me." The judge also found it troubling that respondent was unwilling to complete domestic-violence classes. The judge found the State proved by clear and convincing evidence that respondent was "unfit within the meaning of Section 1 of the Adoption Act." The judge entered a written order finding respondent unfit.

¶ 18 In January 2012, the trial court conducted the best-interest hearing. The best-interest report indicated G.R. resided with her maternal grandmother and step-grandfather along with her siblings, J.S. and M.G. They all had a strong bond and attachment with their grandparents and siblings. T.N. resides with his paternal grandmother along with his brother, R.B. The relative foster parent was willing to provide permanency for the boys. B.R. resides with her sister, S.R., in a traditional foster home. Both girls had strong bonds and attachment with their foster parent and each other.

¶ 19 In its written order, the trial court found it in the minors' best interests that respondent's parental rights be terminated. This appeal followed.

¶ 20 II. ANALYSIS

¶ 21 A. Unfitness Findings

¶ 22 Respondent argues the trial court erred in finding her unfit. We disagree.

¶ 23 Because termination of parental rights is a serious matter, the State must prove unfitness by clear and convincing evidence. *In re M.H.*, 196 Ill. 2d 356, 365, 751 N.E.2d 1134, 1141 (2001). " 'A determination of parental unfitness involves factual findings and credibility

assessments that the trial court is in the best position to make.' " *In re Richard H.*, 376 Ill. App. 3d 162, 165, 875 N.E.2d 1198, 1201 (2007) (quoting *In re Tiffany M.*, 353 Ill. App. 3d 883, 889-90, 819 N.E.2d 813, 819 (2004)). A reviewing court accords great deference to a trial court's finding of parental unfitness, and such a finding will not be disturbed on appeal unless it is against the manifest weight of the evidence. *In re Veronica J.*, 371 Ill. App. 3d 822, 828, 867 N.E.2d 1134, 1139 (2007). "As the grounds for unfitness are independent, the trial court's judgment may be affirmed if the evidence supports the finding of unfitness on any one of the alleged statutory grounds." *In re H.D.*, 343 Ill. App. 3d 483, 493, 797 N.E.2d 1112, 1120 (2003).

¶ 24 In the case *sub judice*, the trial court found respondent unfit under section 1(D) of the Adoption Act. 750 ILCS 50/1(D) (West 2010). One of the grounds alleged by the State focused on respondent's conviction for aggravated battery of a child. Section 1(D)(i) of the Adoption Act sets forth the depravity ground of unfitness. 750 ILCS 50/1(D)(i) (West 2010). A conviction for aggravated battery of a child creates a presumption that the parent is depraved, and that presumption can be overcome only by clear and convincing evidence. 750 ILCS 50/1(D)(i)(7) (West 2010).

¶ 25 Here, the evidence indicated respondent had been convicted of aggravated battery of her children. The trial court recognized the presumption set forth in the Adoption Act and found it had not been overcome. In her brief on appeal, respondent does not argue the court erred in making this unfitness finding. Instead, respondent claims the State did not prove she failed to make reasonable progress. "Evidence of a single statutory ground is sufficient to uphold a finding of parental unfitness." *In re T.Y.*, 334 Ill. App. 3d 894, 905, 778 N.E.2d 1212, 1220 (2002). Respondent's omission concedes she is unfit on the unchallenged ground and makes it

unnecessary to address her remaining arguments. *In re D.L.*, 326 Ill. App. 3d 262, 268, 760 N.E.2d 542, 547 (2001).

¶ 26 B. Best-Interest Findings

¶ 27 Respondent argues the trial court erred in finding it in the minors' best interests that her parental rights be terminated. We disagree.

¶ 28 Courts will not lightly terminate parental rights because of the fundamental importance inherent in those rights. *M.H.*, 196 Ill. 2d at 362-63, 751 N.E.2d at 1140. Once the trial court finds the parent unfit, "all considerations must yield to the best interest of the child." *In re I.B.*, 397 Ill. App. 3d 335, 340, 921 N.E.2d 797, 801 (2009). When considering whether termination of parental rights is in a child's best interest, the trial court must consider a number of factors within "the context of the child's age and developmental needs." 705 ILCS 405/1-3(4.05) (West 2010). These include the following:

> "(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 and ties; (4) the child's sense of attachments, including love, security, familiarity, continuity of affection, and the least[-] disruptive placement alternative; (5) the child's wishes and long-term goals; (6) the child's community ties; (7) the child's need for permanence, including the need for stability and continuity of relationships with parent figures and siblings; (8) the uniqueness of every family and child; (9) the risks related to substitute care; and (10) the preferences of the person available to care for the child."

In re Daphnie E., 368 Ill. App. 3d 1052, 1072, 859 N.E.2d 123, 141 (2006).

See also 705 ILCS 405/1-3(4.05)(a) to (4.05)(j) (West 2010).

¶ 29 A trial court's finding that termination of parental rights is in a child's best interest will not be reversed on appeal unless it is against the manifest weight of the evidence. *In re Anaya J.G.*, 403 Ill. App. 3d 875, 882, 932 N.E.2d 1192, 1199 (2010). A decision will be found to be against the manifest weight of the evidence in cases "where the opposite conclusion is clearly evident or where the findings are unreasonable, arbitrary, and not based upon any of the evidence." *In re Tasha L.-I.*, 383 Ill. App. 3d 45, 52, 890 N.E.2d 573, 579 (2008).

¶ 30 In this case, the best-interest report indicated G.R., J.S., and M.G. all live with their maternal grandmother and step-grandfather. G.R. and J.S. had been living with their grandparents off and on since they were young, and M.G. had resided with them "for the majority of her life." All three had a strong bond and attachment with their grandparents and their siblings. The relative foster parents wanted to be considered as a permanency option if G.R., J.S., and M.G. were not returned to respondent's care.

¶ 31 T.N. was placed with his paternal grandmother and R.B., and both minors appeared to be adjusting well. Their foster parent was willing to provide permanency for them. B.R. and S.R. reside together in a traditional foster home. Both have been observed to have strong bonds with their foster parent and sibling. The foster parent wanted to be considered as a permanency option for them.

¶ 32 The best-interest report indicated respondent was unsuccessfully terminated from her domestic-violence program and never followed through to reengage in the service. Respon-

dent did not have stable housing and her employment could not be confirmed. Although she consistently visited with the children, the visits were "chaotic" as she had "difficulty in managing poor behavior and discipline." At the best-interest hearing, respondent's attorney informed the trial court that respondent had obtained an apartment and obtained employment with the University of Illinois.

¶ 33 The evidence indicates the children are in loving homes with foster parents who are willing to provide permanency in their lives. James Forrest, a child-welfare specialist with DCFS, indicated that, with the exception of B.R. and S.R., "all [of] the children have identified needs that will require consistent and knowledgeable parental oversight and advocacy and all require a safe, secure and stable home." The best-interest report indicated the minors' foster parents "have continued to be strong and supportive advocates for the children, in every aspect of their needs and services."

¶ 34 Respondent, on the other hand, has shown an inability to maintain stable housing and employment during the life of this case. Moreover, given the abuse shown in this case, respondent's failure to complete domestic-violence counseling does not bode well for a safe and secure environment for the children. The evidence showed respondent would not be able to provide the stability and permanence the minors need for the foreseeable future. Based on the evidence presented, we find the trial court's order terminating respondent's parental rights was not against the manifest weight of the evidence.

¶ 35 III. CONCLUSION

¶ 36 For the reasons stated, we affirm the trial court's judgment.

¶ 37 Affirmed.