2015 IL App (4th) 140916-U

NO. 4-14-0916

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

February 13, 2015
Carla Bender
4th District Appellate
Court, IL

In re: A.H., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Livingston County
v.	)	No. 13JA1
DAN MASON,	)	
Respondent-Appellant.	)	Honorable
	)	Robert M. Travers,
	)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.
Justices Knecht and Holder White concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed the trial court's judgment, which terminated the respondent's parental rights.

¶ 2 In February 2014, the State filed a motion to terminate the parental rights of respondent, Dan Mason, as to his daughter, A.H. (born January 23, 2013). Following a July 2014 fitness hearing, the trial court found respondent unfit as a parent within the meaning of section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2012)). Following an October 2014 best-interest hearing, the court terminated respondent's parental rights.

¶ 3 Respondent appeals, arguing only that the trial court's best-interest determination was against the manifest weight of the evidence. We disagree and affirm.

¶ 4 I. BACKGROUND

¶ 5 The following facts were gleaned from the State's pleadings, the reports and ser-

vice plans on file, and evidence admitted at the various hearings in this case.

¶ 6 A. The State's Wardship Petition

¶ 7 In January 2013, two days after A.H.'s birth, the State filed a two-count petition alleging that A.H. was neglected within the meaning of section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(b) (West 2012)). In count I, the State alleged that (1) in November 2011, A.H.'s older sister, Ak. H. (born June 14, 2011), was adjudicated neglected in Ford County case No. 11-JA-10; (2) in December 2011, A.H.'s mother, Kalee Hummel, was found to be unfit within the meaning of section 2-27 of the Juvenile Court Act (705 ILCS 405/2-27 (West 2012)); and (3) Hummel failed to correct the conditions that brought Ak. H. into care in that she continued to associate with respondent, who (a) had sexual contact with Hummel when she was 14 years old and respondent was 18 years old and (b) had not completed any sex-offender treatment. In Count II, the State further alleged that Hummel failed to correct the conditions that brought Ak. H. into care in that she had not completed individual counseling or substance-abuse treatment.

¶ 8 At a May 2013 adjudicatory hearing, Hummel admitted both counts in the State's wardship petition and the trial court adjudicated A.H. neglected. In June 2013, following a dispositional hearing, the court made A.H. a ward of the court and appointed the Department of Children and Family Services (DCFS) as guardian.

¶ 9 In November 2013, respondent was arrested and charged with several heroin-related felonies. In January 2014, respondent pleaded guilty to possession with intent to deliver heroin (more than 1 gram but less than 15 grams of heroin) (720 ILCS 570/401(c)(1) (West 2012)). The trial court sentenced defendant to four years in the Illinois Department of Corrections (DOC).

¶ 10 B. The State's Motion To Terminate Parental Rights

¶ 11 In February 2014, the State filed a motion to terminate Hummel's and respondent's parental rights, alleging that Hummel and respondent were unfit within the meaning of section 1(D) of the Adoption Act in that they both failed to (1) make reasonable progress toward the return of A.H. within nine months after the adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2012)); (2) make reasonable efforts to correct the conditions that brought A.H. into care (750 ILCS 50/1(D)(m)(i) (West 2012)); and (3) maintain a reasonable degree of interest, concern, or responsibility for A.H.'s welfare (750 ILCS 50/1(D)(b) (West 2012)).

¶ 12 In March 2014, Hummel voluntarily surrendered her parental rights as to A.H.

¶ 13 1. *The July 2014 Fitness Hearing*

¶ 14 In July 2014, the trial court held a fitness hearing on the State's motion to terminate respondent's parental rights, at which the following evidence was presented.

¶ 15 Jessica Moorehouse, an employee of Children's Home and Aid (Children's Home), an organization under contract with DCFS, served as A.H.'s caseworker. Moorehouse testified that respondent's service plan required him to complete certain goals related to (1) substance-abuse treatment, (2) counseling, (3) sex-offender treatment, (4) housing, (5) income, and (6) parenting. Respondent failed to complete any of his service-plan goals. Although respondent completed parenting classes, a Children's Home caseworker observed at a May 2013 visit—the only visit respondent had with A.H. during her lifetime—that respondent did not know how to feed, change, or care for A.H. Respondent "had no skills with dealing with a child." Although 2 hours had been allotted for the May 2013 visit, respondent left after 30 or 45 minutes. Moorehouse directed respondent to retake parenting classes, but respondent never did so.

¶ 16 Respondent, who appeared at the fitness hearing in DOC custody, testified that he

hoped to be released from prison in February 2015. (We take judicial notice of information posted on DOC's website (*People v. Smith*, 2014 IL App (4th) 121118, ¶ 34, 18 N.E.3d 912), which indicates that respondent's projected parole date is September 10, 2015 http://www.illinois.gov/idoc/Offender/Pages/InmateSearch.aspx (last visited Feb. 9, 2015).) Respondent explained that prior to his incarceration, he failed to attend sex-offender counseling due to a "lack of transportation and gas." Respondent did not raise this issue with Moorehouse, however, because he "didn't really like talking to her." Respondent admitted that he did not do his best to comply with his service-plan requirements because he was under the influence of drugs during the relevant time period. He acknowledged that it was a "mistake" to spend his money on heroin instead of on gas. During his incarceration, respondent attended "school" and a drug program.

¶ 17 Following the presentation of arguments, the trial court found respondent unfit for the reasons alleged in the State's motion to terminate parental rights.

¶ 18 2. *The October 2014 Best-Interest Hearing*

¶ 19 At an October 2014 best-interest hearing, Kristin Kaufman, a child-welfare specialist at Children's Home, testified that A.H. had been in her current foster-care placement for her entire life. In that placement, A.H. was happy, secure, and loved. A.H.'s foster parents provided A.H. and her sister, Ak. H., with a stable and safe environment. A.H. and Ak. H. had a close sibling relationship.

¶ 20 Elizabeth Anvick testified that she and her wife, Caroline Fox, were the foster parents of both A.H. and Ak. H. Anvick was a technical analyst for State Farm Insurance Company and Fox was a teacher at Normal Community High School. Anvick and Fox hoped to adopt both girls.

¶ 21 At the conclusion of the State's evidence, the trial court took judicial notice of its previous rulings in the case and the testimony presented at the fitness hearing. We note that the State asked the court to take judicial notice of "the reports and rulings previously in the termination hearing and in the file itself." Respondent objected to the State's request based on hearsay. The court sustained respondent's objection, apparently agreeing that the hearsay rule barred the court from taking judicial notice of the reports and other documents on file.

¶ 22 Respondent testified that he hoped to be released from DOC custody in February 2015. Since September 2014, respondent had been attending a drug program, which provided him with "coping skills." Respondent testified that after his release, he planned to work for his uncle's roofing business and live with his uncle in Joliet or his parents in Chatsworth. On cross-examination, respondent acknowledged that he has never cared for A.H. or developed any type of bond with her.

¶ 23 Following arguments, the trial court found that it was in A.H.'s best interest to terminate respondent's parental rights.

¶ 24 This appeal followed.

¶ 25 II. ANALYSIS

¶ 26 On appeal, respondent argues only that the trial court's best-interest determination was against the manifest weight of the evidence. We disagree.

¶ 27 A. Standard of Review

¶ 28 At the best-interest stage of parental-termination proceedings, the State bears the burden of proving by a preponderance of the evidence that termination of parental rights is in the child's best interest. *In re Jay. H.*, 395 Ill. App. 3d 1063, 1071, 918 N.E.2d 284, 290-91 (2009). Consequently, at the best-interest stage of termination proceedings, " 'the parent's interest in

maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life.' [Citation.]" *In re T.A.*, 359 Ill. App. 3d 953, 959, 835 N.E.2d 908, 912 (2005).

¶ 29 "We will not reverse the trial court's best-interest determination unless it was against the manifest weight of the evidence." *Jay. H.*, 395 Ill. App. 3d at 1071, 918 N.E.2d at 291. A best-interest determination is against the manifest weight of the evidence only if the facts clearly demonstrate that the court should have reached the opposite result. *Id.*

¶ 30 B. The Trial Court's Best-Interest Determination

¶ 31 In support of his argument that the trial court erred by terminating his parental rights, respondent contends that he was not given an adequate opportunity to prove his ability as a parent because the proceedings in this case unfolded too rapidly. We emphatically disagree.

¶ 32 The Juvenile Court Act allows the State to move for termination of parental rights any time after the entry of the dispositional order. 705 ILCS 405/2-13(4) (West 2012). "A stated purpose of the Juvenile Court Act is to secure permanency for minors who have been removed from the custody of their parents '*at the earliest opportunity*.' " (Emphasis added.) *In re D.F.*, 208 Ill. 2d 223, 231, 802 N.E.2d 800, 805 (2003) (quoting 705 ILCS 405/1-2(1) (West 2000)). The supreme court has noted that it is not in a child's best interest "for his status to remain in limbo for an extended period of time." *In re D.L.*, 191 Ill. 2d 1, 13, 727 N.E.2d 990, 996 (2000). Respondent's claim that he should have been afforded more time to prove his ability as a parent is directly at odds with A.H.'s interest in achieving permanency.

¶ 33 Even if the State had delayed the filing of its termination motion to provide respondent with a greater opportunity to prove his ability as a parent, the record leaves little doubt that respondent would have squandered that opportunity. More than seven months elapsed between the dispositional hearing and the State's filing of the motion to terminate respondent's pa-

rental rights. During that time, respondent never visited A.H. Instead, he engaged in the use and distribution of heroin, which ultimately led to his arrest and incarceration. Nothing in the record suggests that respondent would have spontaneously lost his interest in heroin and turned his focus toward accomplishing his service-plan goals.

¶ 34 The evidence in this case overwhelmingly favored termination of respondent's parental rights. Respondent has only seen A.H. twice during her lifetime; once at her birth and once during a required visitation, which respondent left early. Respondent admitted that prior to his incarceration, he spent his money on heroin instead of on transportation to visit A.H. Respondent's projected parole date is in September 2015. Upon his release, respondent will be almost entirely dependent upon others for his support. He has taken no parenting classes and he acknowledges that he has no parenting experience. Hummel has already surrendered her parental rights as to A.H. It is simply inconceivable that respondent could properly care for A.H. as a single parent.

¶ 35 A.H.'s foster parents, on the other hand, offer a stable and loving home for A.H. and her sister. They have raised A.H. for her entire life and are willing to adopt her. Based upon the evidence presented, we conclude that the trial court's decision to terminate respondent's parental rights was not against the manifest weight of the evidence.

¶ 36 As a final matter, we note that the hearsay rule did not bar the trial court from taking judicial notice of the reports on file during the best-interest hearing. The formal rules of evidence do not apply at the best-interest stage of proceedings to terminate parental rights. *Jay H.*, 395 Ill. App. 3d at 1070, 918 N.E.2d at 289. Instead, at the best-interest hearing, "all evidence helpful (in the trial court's judgment) in determining the questions before the court may be admitted and may be relied upon to the extent of its probative value, even though that evidence would

not be admissible in a proceeding where the formal rules of evidence applied." *Id*.

¶ 37 III. CONCLUSION

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

¶ 39 Affirmed.