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2021 IL App (3d) 210234-U

Order filed October 20, 2021

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2021

<i>In re: T.B.-S., C.S., P.S., T.B., and J.W.,</i>	)	Appeal from the Circuit Court
	)	of the 10th Judicial Circuit,
Minors,	)	Peoria County, Illinois,
)	
(The People of the State of Illinois,	)	Appeal Nos. 3-21-0234, 3-21-0235,
	)	3-21-0236, 3-21-0237, and 3-21-0238
	)	(Consolidated)
Petitioner-Appellee,	)	Circuit Nos. 15-JA-77, 15-JA-104,
	)	15-JA-105, 15-JA-106, and 15-JA-
v.	)	107 (Consolidated)
)	
Jalisa B.,	)	Honorable
	)	Timothy J. Cusack
Respondent-Appellant).	)	Judge, Presiding.

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

ORDER

¶ 1 *Held:* The circuit court's decisions, first finding mother unfit, and then terminating mother's parental rights, were not against the manifest weight of the evidence.

¶ 2 Respondent, mother, appeals from orders of the circuit court terminating her parental rights. On appeal, mother challenges the circuit court’s fitness and best interest findings. We affirm.

¶ 3 I. BACKGROUND

¶ 4 A. Adjudicatory/Dispositional Proceedings

¶ 5 On April 22, 2015, the State filed five petitions for adjudication of wardship (neglect petitions) alleging siblings T.B.-S. (D.O.B. 5/23/2007), C.S. (D.O.B. 8/27/2008), P.S. (D.O.B. 12/06/2010), T.B. (D.O.B. 2/25/2012), and J.W. (D.O.B. 1/30/2013) were neglected pursuant to section 2-3 of the Juvenile Court Act of 1987 (the Act). 705 ILCS 405/2-3 *et seq.* (West 2014). The minors’ cases were consolidated in the circuit court.

¶ 6 1. Neglect Petition (T.B.-S.)

¶ 7 The neglect petition pertaining to T.B.-S. alleged that T.B.-S. was a chronic truant, despite offers to participate in services and programs in Peoria County case No. 14-J-8. The neglect petition alleged that T.B.-S. attempted to hang himself with a scarf on December 11, 2014. Further, the neglect petition alleged that T.B.-S.’s medications for several disorders were not refilled consistently. Lastly, the neglect petition alleged that mother struck T.B.-S. in the face with a hanger.

¶ 8 2. Neglect Petitions (C.S., P.S., T.B., and J.W.)

¶ 9 The neglect petitions pertaining to C.S., P.S., T.B., and J.W., alleged that on or about April 7, 2015, C.S. and P.S. watched as mother struck T.B.-S. in the face with a hanger. C.S. and P.S. reported that mother also struck them with a hanger. Mother reported to the Department of Children and Family Services (DCFS) that she was often overwhelmed when caring for the

minors. Mother stated that she signed guardianship of T.B. to Nathaniel Peterson and that T.B. was being cared for by a woman who was indicated by DCFS for sexual penetration.

¶ 10 On December 30, 2015, the circuit court found the neglect petitions had been proven. The minors were adjudicated neglected due to an injurious environment. On January 20, 2016, the court entered a dispositional order finding mother unfit based on the contents of the neglect petitions. Pursuant to the dispositional finding, the court ordered mother: to cooperate fully with DCFS, to submit to a psychological examination, to participate in and successfully complete counseling, to obtain stable housing, to attend scheduled visits with the minors, to participate in family therapy, and to complete anger management classes, among other things.

¶ 11 B. Termination Proceedings

¶ 12 On February 27, 2020, the State filed petitions to terminate mother's parental rights (termination petitions). The termination petitions alleged that mother was an unfit parent as described in section 50/1(D)(m)(ii) of the Adoption Act for failing to make reasonable progress toward the return of the minors during any nine-month period following the adjudication of neglect, being, March 15, 2019, to December 15, 2019. 750 ILCS 50/1(D)(m)(ii) (West 2018).

¶ 13 On March 18, 2021, the circuit court conducted the fitness portion of the termination proceeding. The court took judicial notice of all prior permanency review orders and counseling/therapy records, among other things, before beginning the evidentiary portion of the hearing.¹ The Center for Youth and Family Solutions (CYFS) caseworker, Shannon Doubet,

¹In a June 26, 2019, addendum to the permanency review report, Doubet emphasized that respondent was no closer to providing permanency for the minors than she was several years earlier. The court took judicial notice of the June 26, 2019, permanency review order wherein the court found mother failed to make reasonable efforts and set the minors' permanency goal to substitute care pending court determination. The court took judicial notice of the October 30, 2019, permanency review order wherein the court determined that mother's efforts were mixed and that the minors' permanency goal should remain substitute care pending court decision.

testified that she was the caseworker assigned to the minors' cases. Doubet monitored mother's progress toward the successful completion of the tasks and services mandated in the court's January 20, 2016, dispositional order. According to Doubet, mother failed to contact Doubet in March and April of 2019. Mother's failure to communicate with Doubet created difficulties for Doubet when attempting to arrange for court-ordered visitation between mother and the minors. Mother also failed to attend a scheduled visit with the minors on April 11, 2019. Mother informed Doubet that mother lacked the funds to attend the visit.

¶ 14 In May 2019, Doubet unsuccessfully attempted to contact mother at the Dream Center in Peoria, Illinois. Doubet eventually spoke with mother during a visit with the minors on May 20, 2019. During the conversation, mother advised Doubet that because she was ill, she no longer resided at the Dream Center, but was residing with friends. During the same conversation, Doubet informed mother that her son, T.B.-S., recently had been hospitalized due to psychiatric issues.

¶ 15 On June 17, 2019, Doubet spoke with mother and discussed mother's progress toward the successful completion of court-ordered services. During this conversation, mother told Doubet that mother occasionally resided at the Dream Center but also resided with various unnamed friends. Doubet testified that mother failed to attend her scheduled visitation session with the minors in August 2019, despite mother's knowledge that the visitation sessions took place on the third Monday of every month.

¶ 16 A child and family team meeting took place on September 13, 2019. The team meeting included a discussion that mother purportedly had unsupervised and unauthorized contact with T.B.-S., C.S., and P.S. Mother denied the allegation.

¶ 17 Three days later, on September 16, 2019, Doubet was present during the scheduled September visitation. At that time C.S. and P.S. told mother that they were going to change their names if they were adopted in the future. Mother responded that the name she had chosen for P.S. was “ugly.”

¶ 18 Doubet explained that during the relevant time period, being, March 15, 2019, to December 15, 2019, mother was referred to a housing advocate who attempted to obtain Norman public assistance funds so that mother could secure residential housing. However, Doubet discovered that additional financial assistance for mother was unavailable. On October 21, 2019, mother advised Doubet that she had obtained housing but failed to provide Doubet with documentation of residency.

¶ 19 Doubet described mother as dishonest. Doubet opined that mother had not utilized the skills she had been taught during counseling and parenting classes. For these reasons, Doubet did not believe it would be appropriate to return the minors to mother’s care.

¶ 20 During cross-examination by mother’s counsel, Doubet testified that during the relevant time period, mother attended counseling sporadically. Mother had yet to complete court-ordered counseling, had not secured suitable housing, failed to consistently attend scheduled visitation with the minors, and had been less than cooperative with Doubet. During cross-examination by the minors’ guardian *ad litem*, Doubet testified that mother failed to engage with all five minors during visits. Mother became frustrated when attempting to manage the minors’ behaviors and would raise her voice. Mother once blamed the minors for being in substitute care due to their unruly behavior during visits. Doubet testified that mother did not comprehend that her accusations had a negative impact on the minors.

¶ 21 Mother testified that she had been employed at McDonald's during the relevant period, where she worked approximately 30 hours per week. Mother testified that she began residing in her own one-bedroom home in September 2019. Mother added that if the minors were returned to her care, a housing complex in Pierson Hills would provide a four-bedroom residence for the family. Mother testified that she always attended weekly counseling sessions during the relevant period. Mother supplied food and played games with the minors during visitation at CYFS. According to mother's testimony, she had not been informed by any caseworkers that the visits were not going well. Mother observed that the minors would cry when it was time to go home. Mother denied that she failed to contact Doubet and stated that she left messages with Doubet and CYFS. According to mother, Doubet did not return mother's phone calls. However, mother admitted that she did not have a phone to receive calls from Doubet.

¶ 22 The State recalled Doubet as a rebuttal witness. Doubet testified that mother did not provide proof that mother secured a 1-bedroom home during the relevant time period.

¶ 23 The Dream Center records presented to the court indicated that mother completed the Dream Center program by obtaining a rental in May 2019. The counseling records reflected that mother completed a mental health assessment, indicating that mother suffered from an adjustment disorder, anxiety, and a depressed mood. However, mother's therapist documented that the mental health assessment was incomplete due to mother's sporadic attendance prior to June 2019.

¶ 24 Following arguments from counsel, the court specifically noted that mother's participation in court-ordered services continued to be erratic during the relevant 9-month period, which, after several years, was not indicative of a person who is trying to get their children back into their care. The court observed that during the "9-month period of time, from March 15th to December

15th, [mother's] level of cooperation, [mother's] reasonable degree of progress fell below the limits that are acceptable." Consequently, the circuit court found that the State established mother's continuing unfitness based on clear and convincing evidence.

¶ 25 C. Best Interest Hearing Reports

¶ 26 In March 2021, CYFS submitted best interest hearing reports on behalf of the minors for the court's consideration. The best interest hearing reports submitted by CYFS are summarized individually for each minor below.

¶ 27 1. Best Interest Hearing Report (T.B.-S.)

¶ 28 The 2021 best interest hearing report regarding T.B.-S. indicates that T.B.-S. is 13 years old. T.B.-S. has resided in his current foster home for approximately 1 1/2 years. During this period, T.B.-S. has made significant improvements in his behavior. T.B.-S. has benefited from having a male caregiver, who has developed a positive and supportive attachment with T.B.-S. Importantly, T.B.-S.'s current foster placement is willing and able to adopt T.B.-S.

¶ 29 The report provides that T.B.-S.'s basic needs of food, shelter, health, and clothing are being met in his current placement. In addition, T.B.-S.'s current caregiver attends all of T.B.-S.'s psychiatric appointments and monitors whether T.B.-S. takes his medications as prescribed. T.B.-S. is enrolled in 7th grade in a special education setting and is currently earning A's and B's as part of a remote learning program. Despite cognitive delays, T.B.-S. continues to develop as a compassionate and responsible young man.

¶ 30 T.B.-S. refers to his caregiver by his first name and states that he wishes to be adopted by his caregiver. T.B.-S. does not wish to return to mother's care and does not currently wish to attend scheduled visits. However, T.B.-S. would like to maintain some contact with his mother so that she can know T.B.-S. is doing well. In conclusion, the report cites T.B.-S.'s need for

permanency, recommends that mother's rights be terminated, and recommends that T.B.-S.'s permanency goal be changed to adoption.

¶ 31 Additionally, the record contains a report submitted by the Court Appointed Special Advocate (CASA) that is consistent with the CYFS best interest hearing report regarding T.B.-S.

¶ 32 2. Best Interest Hearing Report (C.S.)

¶ 33 The best interest hearing report regarding C.S. provides that 12-year-old C.S. has resided with her current foster family since October 2019. C.S. has a positive and strong attachment to her current foster parents, who treat C.S. as part of the family. Importantly, C.S.'s foster parents are willing and able to adopt her.

¶ 34 The report provides that C.S.'s basic needs of food, shelter, health, and clothing are being met in her current placement. C.S.'s foster parents are diligent and make sure that C.S. attends all medical appointments. C.S. is in 7th grade and struggles academically. C.S.'s foster mother has been instrumental in getting C.S. the extra educational services she needs to be successful in her schooling.

¶ 35 The report reflects on C.S.'s removal from mother's care when she was six years old and the profound impact that foster care has had on C.S.'s life. The report documents that C.S. pleaded with the caseworker to allow her current foster parents to adopt C.S. because she just wants to be a regular kid. C.S. calls her foster parents mom and dad. C.S. currently refuses to attend visits with mother. Citing to C.S.'s need for permanency, the best interest hearing report contains a recommendation that mother's parental rights be terminated and recommends that C.S.'s permanency goal be changed to adoption.

¶ 36 Additionally, the record contains a report submitted by CASA that is consistent with the CYFS best interest hearing report regarding C.S.

¶ 37 3. Best Interest Hearing Report (P.S.)

¶ 38 The best interest hearing report regarding P.S. provides that 11-year-old P.S. has resided in her current foster home since September 2019. P.S. has a positive and strong attachment to her current caregivers, who treat P.S. as part of the family. Importantly, P.S.'s foster parents are willing and able to adopt her.

¶ 39 The report provides that P.S.'s basic needs of food, shelter, health, and clothing are being met in her current placement. P.S. is in 5th grade, where she is above average, academically.

¶ 40 The report reflects on P.S.'s removal from mother's care when she was just five years old and the profound impact that foster care has had on P.S.'s life. P.S. currently refuses to attend visits with mother. P.S. calls her foster parents mom and dad and wishes to be adopted. The report, citing P.S.'s need for permanency, recommends that mother's parental rights be terminated and that P.S.'s goal be changed to adoption.

¶ 41 Additionally, the record contains a report submitted by CASA, that is consistent with the CYFS best interest hearing report regarding P.S.

¶ 42 4. Best Interest Hearing Report (T.B.)

¶ 43 The best interest hearing report regarding T.B. provides that nine-year-old T.B. has resided in her current foster home since May 2015, when T.B. was three years old. T.B. has a positive and strong attachment to her current caregivers, who are willing and able to adopt T.B.

¶ 44 The report provides that T.B.'s basic needs of food, shelter, health, and clothing are being met in her current placement. T.B.'s foster parents make sure that P.S. attends her medical examinations. T.B. is in 3rd grade, where she is typically an excellent student, but has struggled with remote learning.

¶ 45 T.B. has experienced most of her memories in her foster home and calls her foster parents mom and dad. T.B. does not wish to attend any more scheduled visits with mother. The report, citing T.B.'s need for permanency, recommends that mother's parental rights be terminated and that T.B.'s goal be changed to adoption.

¶ 46 Additionally, the record contains a report, submitted by CASA, that was consistent with the CYFS best interest hearing report regarding T.B.

¶ 47 5. Best Interest Hearing Report (J.W.)

¶ 48 The best interest hearing report regarding J.W. provides that eight-year-old J.W. has resided in her current foster home since May 2015, when J.W. was two years old. J.W. has a positive and strong attachment to her current caregivers, who are willing and able to adopt J.W.

¶ 49 The report provides that J.W.'s basic needs of food, shelter, health, and clothing are being met in her current placement. J.W.'s foster parents make sure that J.W. attends her medical examinations. J.W. is in second grade and has been diagnosed with autism, which makes learning more challenging. Remote learning has further complicated J.W.'s educational progress. However, J.W.'s foster mother ensures that J.W.'s educational needs are met.

¶ 50 J.W. refers to her foster parents as mom and dad. J.W.'s foster home is the only home she has ever experienced and most of her memories have been made with her foster parents. J.W. does not wish to attend further scheduled visits with mother. The report, citing J.W.'s need for permanency, recommends that mother's parental rights be terminated and that J.W.'s goal be set to adoption.

¶ 51 Additionally, the record contains a report, submitted by CASA, that is consistent with the CYFS best interest report regarding J.W.

¶ 52

D. Best Interest Hearing

¶ 53

The best interest hearing commenced on May 26, 2021. CYFS caseworker, Lora Thompson, testified that: the minors basic needs of food, shelter, health, and clothing are met by their current caregivers, the minors have strong bonds with their caregivers, the minors have strong community ties, the minors do not share a strong bond with mother, and the minors' current caregivers wish to adopt the minors. Thompson testified that the minors have spent approximately six years in substitute care and that the minors' current caregivers offered the minors long-term permanency.

¶ 54

Mother testified that she has a bond with all five minors and that she does not believe it is in the best interest of the minors to terminate her parental rights. Mother testified that she has a stronger bond with the older minors than with the two youngest minors. The last visit mother had with the minors was on October 3, 2020.

¶ 55

Following the arguments of counsel, the circuit court applied the best interest factors outlined in section 1-3(4.05) of the Act and found that the factors favored the termination of mother's parental rights. 705 ILCS 405/1-3(4.05) *et seq.* (West 2020). Citing the length of the case, the court found that the termination of mother's parental rights was in the best interest of the minors.

¶ 56

Mother filed a timely notice of appeal on May 27, 2021.

¶ 57

II. ANALYSIS

¶ 58

On appeal, mother challenges both the circuit court's fitness and best interest findings. The State asserts that we should affirm the court's fitness and best interest findings, where neither finding was against the manifest weight of the evidence.

¶ 59

A. Parental Fitness

¶ 60

Parental termination proceedings are initiated by the filing of a termination petition pursuant to the provisions of the Act. 705 ILCS 405/2-13 (West 2020). Thereafter, a parent's rights may be terminated upon clear and convincing evidence that the parent is unfit under any of the grounds enumerated in section 1(D) of the Adoption Act. *In re D.D.*, 196 Ill. 2d 405, 417 (2001); 750 ILCS 50/1(D) (West 2020). A circuit court's fitness determination will not be reversed on appeal unless the ruling is against the manifest weight of the evidence. *Id.* A ruling is against the manifest weight of the evidence where the opposite conclusion is clearly evident. *Id.*

¶ 61

In this case, the circuit court found mother unfit by clear and convincing evidence, where mother failed to make reasonable progress toward the return of the minors during any nine-month period, from March 15, 2019, to December 15, 2019, following the adjudication of neglect. 750 ILCS 50/1(D)(m)(ii) (West 2018). Regarding mother's failure to make reasonable progress between March 15, 2019, and December 15, 2019, the court found that mother's sporadic engagement in court-ordered services, several years² into the case, indicated that mother did not appear interested in reunification with the minors.

¶ 62

The record lends full support to the circuit court's findings. The testimony established that mother failed to maintain contact with Doubet in March and April of 2019, and generally failed to provide her caseworker with contact information throughout the relevant nine-month period. Mother failed to attend scheduled visits in April and August of 2019. During a scheduled visit on September 16, 2019, mother told P.S. the name mother had chosen for P.S. was "ugly." The testimony further established that mother failed to properly engage the minors during visits and blamed the minors for the instant court proceedings.

²The record indicates that more than three years passed between the January 20, 2016, dispositional order and the beginning of the relevant nine-month period on March 15, 2019.

¶ 63 In June 2019, mother advised she did not have a permanent residence and was sometimes staying at the Dream Center and sometimes staying with various friends. Doubet explained that during the relevant nine-month period, mother was referred to a housing advocate who attempted to obtain funds so that mother could obtain suitable housing. However, this effort was unsuccessful. In October 2019, mother advised Doubet that she had suitable housing but failed to provide Doubet with any proof of residency. The testimony further established that mother attended counseling sporadically during the relevant nine-month period.

¶ 64 Ultimately, the relevant evidence presented at the fitness hearing established that after three years, mother had yet to complete court-ordered counseling, obtain suitable housing, consistently attend visitation with the minors, or cooperate with Doubet. Accordingly, we cannot say the court's finding that mother failed to make reasonable progress toward the return of the minors during any nine-month period following the adjudication of neglect was against the manifest weight of the evidence.

¶ 65 B. Best Interest Determination

¶ 66 Following a finding of parental unfitness, the court's focus must shift to the child's interest in "a stable, loving home life." *In re D.T.*, 212 Ill. 2d 347, 364 (2004). At this stage, the State's burden of proof lessens to a preponderance of the evidence. *Id.* at 366-67. When considering whether the termination of parental rights serves the child's best interest, court's consider: (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 attachment; (e) the child's wishes and long-term goals; (f) the child's community ties; (g) the child's need for permanence; (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) *et seq.* (West 2020). A circuit court's finding that the termination of parental rights was in the child's best interest will not be disturbed on appeal unless it is contrary to the manifest weight of the evidence. *In re Parentage of J.W.*, 2013 IL 114817, ¶ 55.

¶ 67 The best interest hearing reports and the testimony at the best interest hearing established that the minors had been in foster care for approximately six years at the time of the best interest hearing. During this time, all five minors had developed positive and supportive attachments with their respective foster parents, all of whom are willing and able to adopt the minors. The minors' basic needs of food, shelter, health, and clothing are met by their current caregivers. None of the minors wished to continue visiting with mother.

¶ 68 T.B.-S. currently benefits from having a male caregiver. T.B.-S. has been in his current placement for approximately 1 1/2 years and has made significant improvements in his behavior. T.B.-S.'s caregiver is attendant to T.B.-S.'s psychological needs. T.B.-S. wishes to be adopted by his caregiver, though T.B.-S. would like to maintain some contact with mother.

¶ 69 C.S. has resided with her foster family since October 2019. C.S.'s foster mother works to ensure that C.S.'s academic struggles are addressed. C.S. calls her foster parents mom and dad. The report specifically notes the profound impact foster care has had on C.S.'s life and states that C.S. wishes to be adopted by her current foster family.

¶ 70 P.S. has resided with her foster family since September 2019. P.S. is above average, academically. P.S. calls her foster parents mom and dad. The report specifically notes the profound impact foster care has had on P.S.'s life and states that P.S. wishes to be adopted by her current foster family.

¶ 71 T.B. has resided with her current foster family since May 2015, when T.B. was just three years old. T.B. has made most of her memories in her current foster home. T.B. is an excellent student but has struggled with remote learning. T.B. calls her foster parents mom and dad.

¶ 72 J.W. has resided with her current foster family since May 2015, when J.W. was just two years old. J.W.'s foster home is the only home she has ever known. J.W. is autistic, and J.W.'s foster mother ensures that J.W.'s educational needs are met. J.W. refers to her foster parents as mom and dad.

¶ 73 Based on the evidence, the statutory factors enumerated in section 1-3(4.05) *et seq.* favored the termination of mother's parental rights. Importantly, the minors have been placed in substitute care for six years and deserve permanent homes. We believe the minors' best interests are served in their current placements and affirm the termination of mother's parental rights.

¶ 74 III. CONCLUSION

¶ 75 The judgment of the circuit court of Peoria County is affirmed.

¶ 76 Affirmed.