

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2012 IL App (3d) 110341-U

Order filed May 1, 2012

---

IN THE  
APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2012

<i>In re</i> J.G.,	)	Appeal from the Circuit Court
	)	of the 10th Judicial Circuit,
a Minor,	)	Peoria County, Illinois
	)	
(The People of the State of Illinois,	)	
	)	
Petitioner-Appellee,	)	Appeal No. 3-11-0341
	)	Circuit No. 11-JA-28
v.	)	
	)	
T.J.,	)	
	)	Honorable Mark E. Gilles,
Respondent-Appellant).	)	Judge, Presiding.

---

PRESIDING JUSTICE SCHMIDT delivered the judgment of the court.  
Justices Lytton and Wright concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* The trial court's finding that respondent is unfit is not against the manifest weight of the evidence.
- ¶ 2 On May 9, 2011, the circuit court of Peoria County found respondent, T.J., to be an unfit

parent. She appeals, claiming the trial court's finding is against the manifest weight of the evidence.

¶ 3

### FACTS

¶ 4 On January 27, 2011, the State filed a petition alleging that J.G., respondent's minor child, was neglected due to an injurious environment. J.G. was born in March of 2008. The petition asked that the minor be adjudged a ward of the court and that guardianship be granted to the Department of Children and Family Services (DCFS). The petition noted that: respondent had previously been found unfit; there was no subsequent finding of fitness; respondent's parental rights had been terminated as to J.G.'s siblings; respondent previously had been ordered to provide urine drops; and respondent had been arrested in Chicago on August 13, 2010, for possession of cannabis. Finally, the petition alleged that respondent left J.G. in a vehicle in the care of a registered sex offender, Torrence Young, respondent's paramour.

¶ 5 Respondent filed an answer to the petition stipulating that the State could call witnesses to support the allegations made within its petition. Respondent averred, however, that she had never been convicted of the cannabis possession charge and further that her paramour's status as a registered sex offender did not "prohibit him from being with children."

¶ 6 The matter proceeded to an adjudicatory hearing on May 9, 2011. The State proffered that it could, in fact, call witnesses to confirm the allegations within the petition. Respondent's attorney did not object and, in fact, agreed that "the discovery is consistent with what the State has proffered." Hearing no objection from the parties, the trial court found "the minor in this

matter is a neglected minor in that her environment is injurious to her welfare" and the matter proceeded to a dispositional hearing.

¶ 7 Christina Staes, a caseworker assigned to this matter, testified at the dispositional hearing. She noted Torrence Young was not a party to this matter, but mentioned him as he recently married respondent and she believed respondent was "pregnant by him." The only information the agency had on Young at the time of the hearing was that he was a registered sex offender. He had not provided documentation to the agency regarding his offense or any restrictions associated therewith.

¶ 8 Staes confirmed that respondent had been providing urine drops and that all drops tested negative for prohibited substances. Respondent completed parenting classes and participated in counseling. She requested documents regarding services ordered through a different agency in the prior termination case, but respondent failed to provide such documents.

¶ 9 During her testimony, Staes discussed the dispositional report she prepared on March 2, 2011. The report indicates that respondent's previous finding of unfitness was due to "noncompliance with services as well as being a young teen mom." Staes indicated that respondent is "very capable of caring for her child" and that since her last involvement with DCFS, respondent "appears to have made changes in her life that would make her capable of parenting her child." Respondent was appropriate with her child during supervised visits and uses timeouts and dialogue for discipline.

¶ 10 Staes continued her testimony noting that respondent completed a parenting class in

March of 2011, has obtained her general equivalency diploma (GED), works as a pharmacy technician and arranged for daycare for her child during working hours. At the time of the hearing, respondent was currently in counseling regarding her relationship choices and involvement with DCFS. Other than the counseling, respondent completed all recommended services.

¶ 11 Staes noted that respondent had not been truthful during her counseling as she failed to disclose her marriage to Young. In fact, prior to counseling, respondent informed Staes that she was not involved in a relationship with Young. The dispositional report indicates that Staes learned the two obtained a marriage license when the information was listed in the Peoria Journal Star newspaper. Staes then confirmed with respondent's aunt that the two had, in fact, married.

¶ 12 Respondent testified that she married Young on March 22, 2011. She was not familiar with his sex offense conviction other than believing "he was alleged of raping someone." Respondent knew her husband awaited trial on charges of failure to properly register as a sex offender and that he had recently been arrested for "stealing a vehicle" as she "was there." At the time of the hearing, respondent lived with Young's mom as Young was working on the couple's residence and, due to her pregnancy, she could not be around paint fumes.

¶ 13 Other relevant information from the dispositional report, and addendum thereto, indicates that respondent failed to provide a scheduled drop on March 1, 2011, but provided a clean sample the next day. Respondent also failed to complete a drug and alcohol assessment as scheduled on March 11, 2011. She did, however, complete the assessment on April 6, 2011.

The assessment indicated that respondent did not drink as she was pregnant and found she needed no further services.

¶ 14 The report notes that respondent lied to Staes regarding the status of her relationship with Young and the resulting pregnancy. It further notes that while respondent "continued to deny the relationship" with Young and specifically informed Staes that the two were not living together throughout the pendency of this matter, the sex offender registry indicates that Young resides at respondent's address.

¶ 15 The recommendations in the addendum to the dispositional hearing report request that respondent be found unfit, and that she attend, participate and complete counseling services and parenting classes. Other recommendations include making the minor a ward of the court, ordering respondent to continue urine drops, as well as execute all releases for information requested by DCFS.

¶ 16 After oral arguments, the trial court found that it was in the best interest of the minor that she be made a ward of the court. The court named the minor's father as guardian, finding him to be fit, and adopted all recommendations of the report. The court indicated it wanted to know more about Young's offense and did not believe "anything that [respondent] has said in court today about it." The trial judge noted that respondent's "lack of truthfulness" regarding her relationship with Young "caused me the most concern." While acknowledging that it may be due to the manner in which Young described his offense to respondent, the trial judge stated that respondent did not just "minimize" Young's sex offense, but rather "denied it" altogether.

¶ 17 Ultimately, the trial court found respondent unfit and ordered her to continue counseling with a focus on the importance of truthfulness. The court further ordered respondent to cooperate with DCFS, comply with the terms of the service plans, and to correct the conditions that required the minor to be the subject of the proceedings. The dispositional order lists the basis for the finding of unfitness as, "Prior unfitness, relationship with sex offender." This appeal followed.

¶ 18 ANALYSIS

¶ 19 The sole issue raised by respondent on appeal is whether the trial court's finding that she is unfit is against the manifest weight of the evidence. In the case of *In re K.R.*, 356 Ill. App. 3d 517 (2005), this court noted:

"In determining whether a neglected minor's parent is fit to care for the minor, the court must consider whether the 'best interest of the minor will be jeopardized if the minor remains in the custody of his \*\*\* parent.' 705 ILCS 405/2-27(1) (West 2002). 'All evidence helpful' should be considered in reaching this decision. 705 ILCS 405/2-22(1) (West 2002). On appeal, a trial court's determination of unfitness will be reversed only if the finding is against the manifest weight of the evidence." *Id.* at 523.

¶ 20 Evidence admitted at the dispositional hearing indicated that, even though respondent made significant strides since being found unfit in her 2006 case, she was less than truthful

regarding her relationship with a registered sex offender and seemingly refused to acknowledge the seriousness of allowing him access to her child. In the words of the trial court judge, respondent did not just minimize the seriousness of the situation but denied it all together. The trial court very aptly noted that, "If, in fact, [Young's] past would be something that is not to be worried about, then your relationship wouldn't need to be hidden."

¶ 21 "A finding is against the manifest weight of the evidence where a review of the record clearly demonstrates that the result opposite to that reached by the trial court was the proper result." *In re April C.*, 326 Ill. App. 3d 225, 238 (2001). We hold the trial court's finding that respondent is unfit is not against the manifest weight of the evidence.

¶ 22 Based upon her own testimony, respondent argues that the "unrebutted evidence before the court" indicated Young's status as a sex offender included no statutory or legal prohibition that would preclude him from interacting with minors. As such, respondent argues she "was not 'minimizing' the criminal history of her new husband; rather, the State and the Court were maximizing the impact of respondent's husband's criminal history and status as a registered sex offender relative to the minor." Citing to *In re D.S.*, 326 Ill. App. 3d 586 (2001), respondent notes that the "status of sex offender, by itself, does not establish an injurious environment for a child."

¶ 23 To be clear, respondent makes no argument to this court that the trial court erred in finding an injurious environment, only that the court erred when making the finding of unfitness at the dispositional hearing. Respondent claims that the trial court "concluded that respondent

was unfit on the exclusive basis of her husband's criminal history." The record, however, indicates that while her association with Young troubled the trial court, her attempts to cover-up and not tell the truth about her marriage was more troubling. While respondent claimed she was not living with Young, the record revealed her address is listed on the sex offender registry as where he resides. Moreover, respondent admitted the allegations in the petition, claiming she was arrested for possession of marijuana four months before the filing of the petition and that she left her child alone in a vehicle with Young. His status as a sex offender is not the exclusive basis upon which the trial court found respondent unfit.

¶ 24 Finally, respondent's reliance on *In re D.S.* for the proposition that the "status of sex offender, by itself, does not establish an injurious environment" is misplaced. In *D.S.*, this court upheld a finding of unfitness based on the father's "serious criminality." *In re D.S.*, 326 Ill. App. 3d at 589. We acknowledge that the *D.S.* court discussed *In re L.M.*, 319 Ill. App. 3d 865 (2001), which held that "under the circumstances presented in this case that respondent's status as a sex offender alone, in the absence of other factors, does not establish an injurious environment." *Id.* at 868-69. However, as noted above, it was not merely Young's status as a sex offender that led to the finding of unfitness. Respondent had seemingly no interest in inquiring into the facts surrounding Young's actions and, more importantly, attempted to hide her association with him from her caseworker. Without fully knowing the facts leading to Young having to register as a sex offender, respondent left her minor child in a car alone with him. Moreover, a mere four months before the filing of the petition, respondent was arrested in Chicago for possession of

cannabis. Courts have long held that cases "involving custody rights of parents at the dispositional stage must be decided in accordance with the particular facts of that case." *In re D.S.*, 326 Ill. App. 3d at 589; see also *In re Powers*, 94 Ill. App. 3d 646 (1981) ("Cases involving custody-rights of parents are *sui generis*, and each of them must be decided in accordance with the particular facts of each case."); *In Interest of Martin*, 31 Ill. App. 3d 288 (1975). Given the facts of the case before us, we cannot say the trial court's finding of unfitness is against the manifest weight of the evidence.

¶ 25

#### CONCLUSION

¶ 26 For the foregoing reasons, the judgment of the circuit court of Peoria County is affirmed.

¶ 27 Affirmed.