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2014 IL App (3d) 130983-U
Consolidated with 130984, 130985, 130986

Order filed May 23, 2014

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2014

<i>In re</i> A.T., H.T., A.T., and J.T.,	)	Appeal from the Circuit Court
	)	of the 14th Judicial Circuit
Minors,	)	Rock Island County, Illinois,
)	
(The People of the State of Illinois,)	
)	
Petitioner-Appellee,	)	Appeal Nos. 3-13-0983; 3-13-0984,
	)	3-13-0985; 3-13-0986
	)	Circuit Nos. 11-JA-101; 12-JA-12;
	)	12-JA-13; 12-JA-14
v.)	
)	
Lynn T.,	)	Honorable
	)	Thomas C. Berglund,
Respondent-Appellant).	)	Judge, Presiding.

JUSTICE HOLDRIDGE delivered the judgment of the court.
Justices O'Brien and Carter concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court's finding respondent unfit was not against the manifest weight of the evidence and its determination that the best interest of the minors required the respondent's parental rights be terminated was likewise not against the manifest weight of the evidence.

¶ 2 The respondent, Lynn T., appeals from judgments of the circuit court of Rock Island County finding her to be an unfit parent of her four children and terminating her parental rights regarding each child. On appeal, she maintains that the trial court's findings as to her parental fitness and the best interest of her children were against the manifest weight of the evidence. For the following reasons, we affirm the judgment of the circuit court.

¶ 3 **FACTS**

¶ 4 The respondent has four children at issue in these consolidated appeals: A.T., born August 16, 2004; H.T., born March 26, 2006; A.T., born June 22, 2007; and J.T., born July 15, 2009. On August 23, 2011, a juvenile petition alleging neglect of A.T. (born 2004) was filed along with a petition for temporary custody. Following a hearing held on the same day, the court found that A.T. was already in foster care through Lutheran Social Services and the respondent was living in a shelter. Temporary guardianship and custody was placed with the Department of Children and Family Services (DCFS).

¶ 5 On September 27, 2011, another hearing was held regarding A.T., at which the respondent reported that she was living with her sister and had custody of her three other children through the Iowa Department of Child Services. The court allowed placement of A.T. with the respondent and ordered her to cooperate with DCFS, comply with all service plans, and correct the conditions that required A.T. to be placed in the custody of DCFS. The court admonished the respondent that failure to comply with the court's order risked termination of her parental rights as to A.T.

¶ 6 On October 25, 2011, an adjudicatory hearing was held at which A.T. was found to be neglected. Guardianship of the minor remained with DCFS and the respondent was given custody. The respondent was ordered to continue to cooperate with DCFS and to follow all its

recommendations, including continued psychiatric care and counseling, and the successful completion of domestic violence counseling. The respondent was also ordered to obtain and maintain appropriate housing and employment.

¶ 7 On February 15, 2012, a petition for adjudication of wardship and temporary custody was filed regarding H.T., alleging that H.T. had been left without supervision for an unreasonable period of time and had been physically abused by the respondent. Specifically, the petition alleged that H.T. had missed 47 days of school, had been left in the care of A.T. (age 7 at the time) and had been struck in the face by an object thrown by the respondent. All four children were taken into protective custody at this time.

¶ 8 On February 16, 2012, petitions seeking adjudication of neglect were filed regarding J.T. and A.T. (born 2007). Each petition noted allegations similar to those contained in the petition regarding H.T. A report prepared by DCFS indicated that respondent threw an object at H.T. causing a facial injury. Respondent denied throwing an object at H.T. and claimed that A.T. had injured H.T. Also in the report was a statement from 7-year-old A.T. that he had been left in charge of the other children on many occasions. Records indicated that A.T. missed 40 days of school and H.T. had missed 45 days of school. Following a hearing on the petitions, the court noted that the respondent did not appear to be making progress toward return of the children and admonished the respondent that she risked termination of her parental rights if she did not make progress.

¶ 9 On March 27, 2012, respondent stipulated to the allegations of the petitions. The court found H.T. to be an abused minor based upon the proven allegations of the petition and A.T.(2007) and J.T. to be neglected minors. The court made those three children wards of the court. The court noted that A.T. (2004) remained a ward of the court pursuant to the prior order.

¶ 10 On April 24, 2012, a permanency review hearing was held regarding all the children except A.T. (2004). H.T. was again found to be neglected and abused and placed in foster care. A.T. (2007) and J.T. were also ordered to remain in foster care. The court noted that A.T. (2004) remained in foster care with DCFS as guardian.

¶ 11 On March 22, 2013, a hearing was held on the status of each of the four children. The record shows that the respondent had done little to comply with her service plan and that her last visitation with any of the children occurred approximately five months prior to the hearing. The court found that the respondent had failed to make reasonable progress or reasonable efforts toward reunification and ordered all four children remain in foster care with DCFS guardianship. The court admonished the respondent that she must cooperate with DCFS, comply with the terms of her service plan, and correct the conditions that required the children to be placed in foster care. The court further warned the respondent that failure to do so would likely result in termination of her parental rights.

¶ 12 On May 2, 2013, the State filed petitions to terminate respondent's parental rights for each of the four children. The petitions regarding the three younger children each alleged that the respondent failed to make reasonable efforts and reasonable progress for the nine-month period April 24, 2012, through January 24, 2013. The petitions specifically alleged that the respondent had inconsistent and inappropriate housing, failed to maintain employment, failed to attend a majority of scheduled visitations, failed to complete a psychiatric evaluation and cooperate with counseling for parenting, anger management, and domestic violence. The petitions also alleged that in August 2012 the respondent expressed her intention to decline all services and surrender her parental rights to each of the children. The petition regarding the older A.T. alleged respondent had failed to make reasonable efforts and reasonable progress

toward his return within a nine-month period after the adjudication of neglect. The petition listed two time periods: October 25, 2011, through July 25, 2012; and July 25, 2012, through April 24, 2013. The petition alleged the same failures to make reasonable efforts or progress listed in the other petitions.

¶ 13 On June 18, 2013, a single hearing was held combining each of the four termination petitions. The respondent was not present at this hearing. Respondent's counsel was present and stated that the respondent had moved to California. Counsel informed the court that the respondent was looking for work and appropriate housing for the children in California and he did not know if she intended to return. The matter was then continued.

¶ 14 A fitness hearing commenced on November 5, 2013. The respondent did not attend although her counsel advised the court that he had sent notices to her last known address to no avail and he did not know how to contact her. The hearing proceeded without the respondent's presence, although she was represented by counsel.

¶ 15 Sara Cetanyan testified that she was employed by Lutheran Social Services as a caseworker assigned to A.T. from August 22, 2011, to February 16, 2012. Cetanyan testified that initially A.T. was placed with the respondent who was living at the time with a family friend. Cetanyan testified that problems arose when A.T. was reported truant at the rate of two or three times per week for several weeks. The respondent claimed that the children turned off her alarm clock. Cetanyan also testified that all four children were taken into protective custody on February 14, 2011.

¶ 16 Ezekiel Davis testified that he was the caseworker assigned to the respondent from May 2012 to January 2013. He testified that the respondent failed to make reasonable efforts or progress. He also testified that all four children were taken into protective custody in February

2012 after the respondent allegedly threw an object at H.T. striking him in the eye. Both A.T. and H.T. reported that the respondent had thrown the object at H.T., although A.T. later changed his story. Davis also testified that A.T.'s school attendance continued to deteriorate. The school reported to him that the respondent claimed she needed the 7-year-old child to babysit J.T. for her. Davis also testified that the respondent had been ordered to engage in mental health treatment, parenting classes, complete anger management and domestic violence assessments, obtain suitable housing and employment, and maintain a regular visitation schedule. Davis testified that, other than attending a parenting class, the respondent had not taken steps to complete any of the other required steps in her service plan.

¶ 17 The hearing was adjourned until November 20, 2013. The respondent's attorney reported that he was successful in contacting the respondent and informing her of the hearing. However, she failed to attend the hearing. Davis continued his testimony. He testified that during a counseling session in March 2012, the respondent stated that she did not want to participate in any further services related to the oldest child (A.T.) and wished to sign over her parental rights regarding him. Davis further testified that from February to June of 2012, the respondent attended only 8 of 20 scheduled visits with the children. Davis noted that the visits were all "traumatic" and often ended early. During a visit on February 28, 2012, the respondent became angry with A.T. and tried to strike him but was prevented from doing so by the foster parent. Davis also testified that the respondent had not secured safe and adequate housing, failed to secure any employment, and did not otherwise cooperate with her service plan.

¶ 18 Davis further testified that he had contact with the respondent during the time he was her caseworker but she did not provide information to allow him to conduct a safety check of her living situation. The respondent informed Davis of several moves during this time, but she

would not provide addresses. Davis also noted that two psychiatric appointments were made during this period but the respondent failed to show up for either one. During the time period from February through June of 2012 the respondent attended only 8 of 20 scheduled visitations. She attended no visitations after late June of that year. Davis testified that in August he inquired of the respondent by phone regarding visitation and she told him that she did not want to participate in any services and that she wished to surrender her parental rights. On cross-examination, Davis acknowledged that the respondent had visited the children once in November 2012. He also acknowledged that the respondent did attend a diagnostic psychiatric session in November.

¶ 19 Alyse Egan testified that she was the assigned caseworker for the four children from January 25, 2013, through March 14, 2013. She prepared a report on March 18, 2013. Egan reported that the respondent had completed diagnostic psychiatric assessment in November 2012, but did not participate in prescribed counseling thereafter. Egan also reported that the respondent had moved five times in seven months, but had provided addresses for none of the moves. It was during this time period that Lutheran Social Services decided that the respondent could not resume visitation until she enrolled in parenting and anger management counseling. Respondent did not enroll in those programs. The respondent had one supervised visitation thereafter.

¶ 20 Following the close of evidence, the trial court found that the allegations in the termination petitions regarding all four children had been proven. The court noted that other than attending one psychiatric assessment and a few contentious visitations, the respondent had failed to make any reasonable efforts or reasonable progress toward reunification. The court noted that respondent moved constantly and failed to provide current addresses, had little or no

contact with the children during the relevant time periods and chose not to attend the fitness hearings.

¶ 21 On December 4, 2013, a best interest hearing was held. The respondent did not attend, although the record establishes that she received due notice.

¶ 22 Collette Johnson testified that she was the caseworker currently assigned to the four children. She prepared a best interest report that was filed on November 22, 2013. She reported that all four of the children are in two foster homes, two in each home. All four have adjusted well to their new homes and are accepted into those homes. The children had been in those homes for over two years at the time Johnson issued her report. The two foster families are related to each other and live in close proximity, allowing for frequent contact among the four children. The two foster families are part of an extended family network which allows all four children to be fully integrated that network. All four children were progressing physically, socially and emotionally at the time of the report. All were doing well in school and all had received appropriate educational, medical, and social services. The foster families indicated a willingness to adopt.

¶ 23 The court found, based upon the evidence and the respondent's complete failure to cooperate with the care of the children, that it was in the best interest of each of the children to terminate the respondent's parental rights. In doing so, the court reiterated that the respondent's failure to provide for the best interest of the children was illustrated by her failure to attend and participate in the best interest hearing, just as she had failed to participate in the fitness hearings. The respondent then filed this timely appeal.

¶ 24 ANALYSIS

¶ 25 Fitness Determination

¶ 26 On appeal, the respondent first maintains that the court's finding that he was unfit under section 50/1(D) of the Adoption Act (750 ILCS 50/1(D)(m)(iii) (West 2010)) was against the manifest weight of the evidence. We will not reverse a circuit court's determination regarding parental fitness unless the factual findings are against the manifest weight of the evidence. *In re Joshua S.*, 2012 IL App (2d) 120197, ¶ 44. In assessing whether the court's decision is against the manifest weight of the evidence, "a reviewing court must remain mindful that every matter concerning parental fitness is *sui generis*." *In re Gwynne P.*, 215 Ill. 2d 340, 354 (2005). Each case must be decided on the particular facts and circumstances presented. *Id.*

¶ 27 The respondent maintains that her efforts, while less than perfect, were sufficient to establish that she was making reasonable progress toward reunification. She further maintains that her actions were sufficient to establish a "minimum measurable or demonstrable movement toward reunification" and therefore it was against the manifest weight of the evidence for the trial court to find that he failed to make reasonable progress. See *In re Gwynne P.*, 346 Ill. App. 3d 584, 595-96 (2004). We disagree.

¶ 28 The trial court found that the respondent's efforts and progress were anything but reasonable. The record established that the respondent made no attempt to undertake any of the counseling or other services deemed necessary for reunification. Visitations, few and far apart, were "traumatic." The respondent not only failed to obtain stable housing, moving almost monthly, but failed to provide the caseworkers with the addresses so that the living environments could be evaluated for the safety of the children. The court also noted that on two separate occasions, the respondent told caseworkers that she did not wish to cooperate with the services deemed necessary to reunite her with her children, telling the caseworkers that she preferred to relinquish her parental rights rather than continue with the plan. Although these facts are

sufficient to support the court's ruling, we note that the respondent's failure to even attend the fitness hearings also clearly supports the trial court's determination that she was not fit to have her children returned to her care. We find that the trial court's determination that the respondent was not fit to be supported by the manifest weight of the evidence.

¶ 29 Best Interest Determination

¶ 30 The respondent next maintains that the court's decision to terminate her parental rights to each of the minors was against the manifest weight of the evidence. When reviewing a finding that it is in the best interest of a minor to terminate parental rights, the appellate court will apply the manifest weight standard of review. *In re B.B.*, 386 Ill. App. 3d 686, 697 (2008).

¶ 31 Once a court has found a parent to be unfit, all considerations must yield to the best interest of the child. *In re I.B.*, 397 Ill. App. 3d 335, 340 (2009). Accordingly, at a best interest stage, the parent's interest in maintaining a parent-child relationship must yield to the child's interest in a stable, secure home life. *Id.* Generally, there are several factors which a court can take into account when considering whether the best interest of the child is served by terminating parental rights:(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; (4) the child's sense of attachment, including love, security, familiarity, continuity of relationships with parental figures; (5) the child's wishes and goals; (6) community ties; (7) the child's need for permanence; (8) the uniqueness of every family and every child; (9) the risks related to substitute care; and (10) preferences of the person available to care for the child. *In re B.B.*, 386 Ill. App. 3d at 698-699. Additionally, a court may consider the nature and length of the child's relationship with his or her present caretaker and the effect that a change in placement would have upon the child's well-being. *In re Jaron Z.*, 348 Ill. App. 3d 239, 262 (2004). In rendering a decision to terminate

parental rights, the court is not required to expressly address each enumerated factor. *In re Janira T.*, 368 Ill. App. 3d 883, 894 (2006).

¶ 32 Here, the record clearly established that it was in the best interest of the minors that the respondent's parental rights be terminated. The evidence established that all four minors were in a stable, secure, loving environment provided by foster parents who were willing to adopt both into their families. All of the children had been in their foster homes for over two years and were developing bonds within their foster family and receiving services necessary for each to progress developmentally and educationally. Moreover, the respondent's failure to cooperate with the plan for reunification, or even attend the best interest hearing supports a conclusion that the best interest of these minors called for the termination of the respondent's parental rights.

¶ 33 CONCLUSION

¶ 34 For the foregoing reasons, we affirm judgment of the circuit court of Rock Island County.

¶ 35 Affirmed.