

NOTICE

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2014 IL App (4th) 131098-U

NO. 4-13-1098

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

April 18, 2014

Carla Bender

4th District Appellate

Court, IL

| | | |
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| In re: T.F. and L.Z., Minors, |) | Appeal from |
| THE PEOPLE OF THE STATE OF ILLINOIS, |) | Circuit Court of |
| Petitioner-Appellee, |) | Champaign County |
| v. |) | No. 11JA55 |
| SABRINA ZWART, |) | |
| Respondent-Appellant. |) | Honorable |
| |) | John R. Kennedy, |
| |) | Judge Presiding. |

JUSTICE HOLDER WHITE delivered the judgment of the court.
Presiding Justice Appleton and Justice Turner concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, concluding the trial court's decision to terminate respondent's parental rights was not against the manifest weight of the evidence.

¶ 2 Following an October 2013 fitness hearing and a December 2013 best-interests hearing, the trial court terminated the parental rights of respondent, Sabrina Zwart, as to her minor children, T.F. (born September 17, 2006) and L.Z. (born June 1, 2009).

¶ 3 Respondent appeals, arguing the trial court erred by finding that it was in the minors' best interests that her parental rights be terminated.

¶ 4 For the reasons that follow, we affirm.

¶ 5 I. BACKGROUND

¶ 6 In October 2011, a Department of Children and Family Services (DCFS) investigator made a hotline call, reporting that respondent left then two-year-old L.Z. alone while

picking up T.F. The investigator had arrived at respondent's home to follow up on a report that respondent attempted suicide while in a caretaker role. Thereafter, in November 2011, the State filed a petition for adjudication of neglect and shelter care, alleging T.F. and L.Z. were neglected based on their environment being injurious to their welfare in that (1) respondent had a history of mental illness, (2) their environment exposed them to a risk of physical harm, (3) their environment exposed them to inadequate supervision, and (4) their environment exposed them to substance abuse. 705 ILCS 405/2-3(1)(b) (West 2010). At a hearing later that day, the trial court granted temporary custody to DCFS.

¶ 7 An adjudicatory hearing commenced in January 2012, at which respondent admitted and stipulated that the minors' environment while living with her exposed them to substance abuse. The trial court accepted respondent's stipulation, finding respondent had overused prescription medication, had expressed depression and suicidal thoughts, had recently been hospitalized, and had difficulty emotionally dealing with the suicide of the minors' father, Joseph.

¶ 8 In January 2012, Sel Gokturk of Lutheran Social Services of Illinois (LSSI) prepared a dispositional report. The report stated that Joseph, with whom respondent had a six-year relationship, committed suicide in June 2011. Respondent denied current or prior thoughts of suicide, homicide, or self-harm. However, in November 2011, she was hospitalized for psychiatric reasons. Respondent reportedly wrote a four-page letter to Joseph, stating she missed him and "wanted to be with him." Respondent gave the letter to Joseph's sister, Jennifer, who was also the minors' babysitter. Jennifer interpreted the letter as a suicide note and reported respondent to DCFS. According to respondent, Jennifer "[took] things out of proportion," and respondent denied that the letter was a suicide note. At a February 2012 dispositional hearing,

the trial court admitted the letter into evidence over defendant's objection. Thereafter, the court found respondent was unfit and unable to care for, protect, and discipline the minors. The court adjudged the minors neglected, made them wards of the court, and placed custody and guardianship with DCFS.

¶ 9 In June 2013, the State filed a motion to terminate respondent's parental rights, alleging she was unfit because she failed to (1) make reasonable efforts to correct the conditions that were the basis for the minors' removal (750 ILCS 50/1(D)(m)(i) (West 2012)) (count I); (2) make reasonable progress toward the minors' return home within the initial nine months after the adjudication of neglect or abuse (750 ILCS 50/1(D)(m)(ii) (West 2012)) (count II); and (3) maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare (750 ILCS 50/1(D)(b) (West 2012)) (count III). Following an October 2013 hearing, the trial court found the State proved each count by clear and convincing evidence.

¶ 10 In November 2013, Kelsey Sauder, an LSSI child welfare specialist, filed a best-interests report. The report noted that during the history of the case, respondent had moved several times, often neglecting to inform LSSI of her intentions to move until after the fact. In October 2013, respondent reported she had moved to a new apartment in Urbana, Illinois, but the worker had been unable to confirm that information with a walk-through. According to the caseworker, reports also indicated respondent was living with her paramour in Bloomington, Illinois, while also keeping the apartment in Urbana. Respondent did not confirm or deny those reports. Respondent last reported in April 2013 that she was an exotic dancer and had not provided any current information regarding employment.

¶ 11 The report stated that respondent had not visited with the minors since August 21, 2013. According to the caseworker, respondent moved away from the Chicago area and LSSI

could not contact respondent to schedule visits after August 2013. Prior to her move, respondent "engaged in very positive and consistent visits" with the minors, which T.F. in particular seemed to enjoy. At the end of several of the visits, T.F. became emotional, yelling at the caseworker that she wanted to live with her mom. With respect to services, the report indicated respondent stopped participating in counseling after the State filed its petition to terminate parental rights and respondent moved without notifying LSSI. Respondent completed substance abuse services in June 2013 and her last drug screen, which was in June 2013, was negative.

¶ 12 According to the report, the minors continued to reside with their paternal aunt, Jennifer, who had committed to adopting the minors if respondent's parental rights were terminated. The report noted the minors lived with their aunt even prior to DCFS involvement. T.F. was in first grade and was performing at or above grade level in all subjects. The report described Jennifer as "proactive in advocating for her niece." L.Z. was enrolled in early educational classes. Both minors were up to date on their medical exams and immunizations, and Jennifer managed all of the medical appointments that T.F.'s rare disease required, often taking time off work.

¶ 13 The caseworker recommended respondent's parental rights be terminated, reasoning that respondent was unlikely to progress "towards providing a more stable and secure environment for her daughters." Respondent "undoubtedly love[d] her daughters," and T.F. demonstrated a stronger bond with respondent than her aunt. However, the caseworker noted, respondent's involvement in services throughout the case vacillated, and she made several moves during the two years that the case was open without notifying LSSI.

¶ 14 A best-interests hearing commenced in December 2013. Respondent testified she last visited the minors in August 2013. She indicated that she later called about resuming visitation, and a supervisor told her "they needed more time" and nobody could "do the visitation at that time." Respondent said she did not speak to anybody again about visitation.

¶ 15 On this evidence, the trial court found it was in the best interests of the minors that respondent's parental rights be terminated. The court noted the children had, for some time, been living in a stable home with a potential adoptive parent in which they could experience permanency. To disrupt that placement would put "the children on an extremely uncertain and precarious path towards restoration of custody." The court also noted that the record revealed respondent had not shown she could provide a stable, safe home for the minors, at least not in any reasonable amount of time. Although T.F. in particular clearly had a strong bond with respondent, that bond was "not compelling enough to negate, really, the very strong evidence" that the minors had a "far better opportunity for permanence and stability by granting the request for termination of parental rights, and giving them an opportunity at a future adoptive home."

¶ 16 This appeal followed.

¶ 17 **II. ANALYSIS**

¶ 18 On appeal, respondent argues the trial court erred by finding it was in the best interests of the minors that her parental rights be terminated. We disagree.

¶ 19 At a best-interests hearing, "the focus shifts to the child" and "the parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life." *In re D.T.*, 212 Ill. 2d 347, 364, 818 N.E.2d 1214, 1227 (2004). The State must prove by a preponderance of the evidence that it is in the child's best interests that parental rights be terminated. *Id.* at 366, 818 N.E.2d at 1228. We will not reverse a trial court's best-interests

determination unless it is against the manifest weight of the evidence. *In re Jay H.*, 395 Ill. App. 3d 1063, 1071, 918 N.E.2d 284, 291 (2009). "A decision is against the manifest weight of the evidence only if the facts clearly demonstrate the court should have reached the opposite result."

Id.

¶ 20 Here, the trial court found it was in the best interests of the minors that respondent's parental rights be terminated because respondent had not demonstrated she could provide a stable home for the minors in a reasonable amount of time and the minors had found stability with their aunt, Jennifer. The trial court's decision is supported by the evidence. The best-interests report indicated throughout the pendency of the case, respondent moved several times, often neglecting to report the moves to her caseworker until after she made them. These moves inhibited respondent's ability to maintain consistency in services. On the other hand, the evidence demonstrated the minors continued to live with Jennifer, with whom they had lived even prior to DCFS involvement. Jennifer demonstrated a willingness to adopt the minors and provided for the minors' medical and educational needs.

¶ 21 Respondent points out that throughout most of this case, she attended visits with her children, and those visits were consistently described as loving and affectionate. Respondent also notes that before halting counseling, she was making progress, which demonstrated she had a capacity to benefit from additional counseling. Despite the bond between respondent and the minors, the evidence at the best-interests hearing established respondent had not seen her children since August 2013. Moreover, given her frequent moves without prior notice and inconsistency with services, it was clear she would not be in a position to provide permanency in the near future. On the other hand, the minors had experienced stability with their paternal aunt,

who expressed a commitment to adopt the minors. Accordingly, the trial court's best-interests determination was not against the manifest weight of the evidence.

¶ 22

III. CONCLUSION

¶ 23

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

¶ 24

Affirmed.