

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).

2014 IL App (4th) 140066-U

NO. 4-14-0066

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

May 22, 2014

Carla Bender

4th District Appellate

Court, IL

In re: M.J., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Champaign County
v.)	No. 12JA38
DENZEL JORDAN,)	
Respondent-Appellant.)	Honorable
)	Richard P. Klaus,
)	Judge Presiding.

JUSTICE POPE delivered the judgment of the court.
Justices Turner and Holder White concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court's order finding termination of respondent's parental rights was in the minor's best interest was not against the manifest weight of the evidence.

¶ 2 In December 2013, the trial court found respondent, Denzel Jordan, unfit for termination purposes pursuant to section 1 of the Illinois Adoption Act (Adoption Act) (750 ILCS 50/1(D) (West 2012)). In January 2014, the court found termination of respondent's parental rights to be in M.J.'s best interest. Respondent appeals, arguing the court erred in finding termination was in M.J.'s best interest. We affirm.

¶ 3 I. BACKGROUND

¶ 4 In September 2012, the State filed a petition for adjudication of neglect and shelter care as to M.J. (born June 20, 2012), alleging M.J. was neglected pursuant to section 2-

3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Act) (705 ILCS 405/2-3(1)(b) (West 2012)) because his environment residing with either respondent or M.J.'s mother, Taylor Abernathy, was injurious to his welfare as he was exposed to domestic violence and the risk of physical harm. That same month, the trial court found probable cause to believe M.J. was neglected/abused after Abernathy pushed M.J. in a stroller behind respondent's vehicle as he was backing up. The court placed temporary custody of M.J. with the guardianship administrator of the Department of Children and Family Services (DCFS).

¶ 5 In November 2012, respondent and Abernathy stipulated M.J. was neglected pursuant to section 2-3(1)(b) of the Juvenile Act (705 ILCS 405/2-3(1)(b) (West 2012)) because residing with respondent and/or Abernathy was injurious to his welfare.

¶ 6 In December 2012, the trial court entered a dispositional order, finding it was in the best interest of M.J. and the public that M.J. be made a ward of the court. The court removed custody and guardianship from respondent and Abernathy. The court found a significant history of domestic violence between respondent and Abernathy and between Abernathy and her mother. The court also noted respondent had pleaded guilty to a domestic-battery charge on November 14, 2012, in case No. 12-CM-1146. Custody and guardianship were placed with the guardianship administrator for DCFS. The court ordered respondent and Abernathy to cooperate with DCFS, comply with the terms of any service plan, and correct the conditions requiring the minor to be made a ward of the court.

¶ 7 In February 2013, the Center for Youth and Family Solutions (CYFS) informed the trial court M.J. was doing well in his foster placement. Further, respondent had stopped visiting M.J., having contact with CYFS, and engaging in any services. CYFS was unaware of

respondent's residence as he refused to release information to CYFS.

¶ 8 In March 2013, the trial court entered an order finding respondent had made neither reasonable and substantial progress nor reasonable efforts toward returning the minor home. The court continued custody and guardianship of M.J. with DCFS.

¶ 9 In June 2013, CYFS submitted another permanency report to the trial court, noting respondent continued to have no contact with his caseworker or CYFS. The report further stated he had not visited with M.J. since the last reporting period. According to the report:

"[Respondent] is currently not engaging in any services and has not maintained contact with this case worker [*sic*]. [Respondent] has not scheduled any visits since 1/14/13 and has not participated in his urine analysis drops. This worker has tried to reach [respondent] via mail, since this worker has no contact number for [respondent]. [Respondent] contacted this worker and scheduled two meetings for which both [respondent] did not attend. [Respondent] shows no investment in his son's life since the first of the year. He has not complied with the requests of the agency in working toward reunification with his son[, M.J.]"

The trial court once again found respondent had neither made reasonable and substantial progress nor reasonable efforts toward returning M.J. home. The court noted respondent had no contact with DCFS, was a no-show for all drug drops, and had engaged in no services.

¶ 10 In September 2013, the State filed a motion seeking a finding of unfitness and termination of respondent's and Abernathy's parental rights. The petition included three counts

alleging respondent was unfit because he failed to (1) make reasonable efforts to correct the conditions that were the basis for the removal of M.J.; (2) make reasonable progress toward the return of the minor within the initial nine months of the adjudication of neglect or abuse; and (3) maintain a reasonable degree of interest, concern, or responsibility as to M.J.'s welfare.

¶ 11 That same month, the trial court found neither respondent nor Abernathy had made reasonable and substantial progress or reasonable efforts toward returning M.J. home. The court noted respondent had been uncooperative and had no contact with the caseworker.

¶ 12 On December 10, 2013, Abernathy surrendered her rights to M.J. Later that month, at the fitness hearing, Debbie Nelson, who provides drug services at Cognition Works, testified respondent was terminated from a parenting-education group for lack of attendance and failed to even start a domestic-violence program. Josh Hagerstron, a therapist at CYFS, testified he received a referral for individual counseling with respondent in February 2013 but was unsuccessful in setting up any counseling sessions with respondent.

¶ 13 Danielle Edenburn, a caseworker at CYFS, testified she had been the case manager since the case opened. She referred respondent for individual counseling and therapy, a parenting-education group, a domestic-violence assessment, and random drug testing. Although he was supposed to complete drug drops once per week, he only completed a few drug drops in 2012 and none in 2013. Edenburn also noted respondent had not visited with M.J. since January 2013. Prior to January 2013, respondent's visits with M.J. had occasionally been cancelled because respondent would be late.

¶ 14 Respondent testified he attended some visits with his son. However, during the visits, Edenburn told him it might be hard for him to get M.J. back because of respondent's age

and the relationship between Abernathy and her mother. He stopped attending services because of Edenburn's statements.

¶ 15 The trial court found the State had proved by clear and convincing evidence respondent was unfit within the meaning of section 1 of the Adoption Act (750 ILCS 50/1 (West 2012)).

¶ 16 In January 2014, the trial court held a best-interest hearing. The court noted it had reviewed reports from the court-appointed special advocate (CASA) and CYFS with regard to M.J.'s best interest. The CASA report stated M.J. was a "thriving 18-month-old male," who was very happy in the care of his foster parents. According to the report:

"He is being well cared for and the foster parents love him. They are very nurturing to him and want very much to adopt him. [M.J.] responds well to their love and care. He is very happy and contented in their care. He is very active and learning well from them, *i.e.*, numbers, letters, and colors. He is very much at home in their care."

As for respondent, the report stated:

"[Respondent], since [Abernathy's] surrender of her rights, has now stepped forward to gain custody of [M.J.] This case began on 11/14/12, and from the beginning [respondent's] participation has been very sparse. He attended three parenting groups, but then missed three and was terminated from the group. His visits to [M.J.] were first reduced to once a week, and then suspended on

February 13, 2013, because of lack of participation."

The CASA noted she believed respondent was only coming forward now at the request of Abernathy. Further, the CASA stated respondent lacked the skills and interest to be a parent.

¶ 17 The CYFS report noted M.J. had been with the same foster parents since October 2012 and was doing "exceptionally well." Further, the foster parents were willing to adopt the child. As for respondent, the report noted he had "made no efforts to engage in services to work towards getting custody of his son" and had not seen M.J. or made any efforts to do so since January 2013.

¶ 18 The trial court found by both a preponderance of the evidence and by clear and convincing evidence it was in M.J.'s best interest to have respondent's parental rights terminated.

¶ 19 This appeal followed.

¶ 20 II. ANALYSIS

¶ 21 On appeal, respondent does not challenge the trial court's finding of unfitness. Respondent only argues the court erred in finding termination of his parental rights was in M.J.'s best interest.

¶ 22 After a parent is found unfit, the trial court shifts its focus in termination proceedings to the child's interests. *In re D.T.*, 212 Ill. 2d 347, 364, 818 N.E.2d 1214, 1227 (2004). At the best-interest stage, a "parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life." *D.T.*, 212 Ill. 2d at 364, 818 N.E.2d at 1227. Before a parent's rights may be terminated, a court must find the State proved, by a preponderance of the evidence, it is in the child's best interest those rights be terminated. See *D.T.*, 212 Ill. 2d at 366-67, 818 N.E.2d at 1228.

¶ 23 When considering whether termination of parental rights is in a child's best interest, the trial court must consider a number of factors within "the context of the child's age and developmental needs." 705 ILCS 405/1-3(4.05) (West 2012). These include the following:

"(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 and ties; (4) the child's sense of attachments, including love, security, familiarity, continuity of affection, and the least[-] disruptive placement alternative; (5) the child's wishes and long-term goals; (6) the child's community ties; (7) the child's need for permanence, including the need for stability and continuity of relationships with parent figures and siblings; (8) the uniqueness of every family and child; (9) the risks related to substitute care; and (10) the preferences of the person available to care for the child."

In re Daphnie E., 368 Ill. App. 3d 1052, 1072, 859 N.E.2d 123, 141 (2006); 705 ILCS 405/1-3 (4.05)(a) to (4.05)(j) (West 2012).

¶ 24 The trial court's finding termination of parental rights is in a child's best interest will not be reversed on appeal unless it is against the manifest weight of the evidence. *In re Anaya J.G.*, 403 Ill. App. 3d 875, 883, 932 N.E.2d 1192, 1199 (2010). A decision will be found to be against the manifest weight of the evidence "if the facts clearly demonstrate that the court should have reached the opposite conclusion." *Daphnie E.*, 368 Ill. App. 3d at 1072, 859 N.E.2d at 141.

¶ 25 In this case, the trial court's order finding termination was in M.J.'s best interest

was clearly not against the manifest weight of the evidence. M.J. had been with the same foster parents since October 2012 and was happy and thriving in the foster home. Further, the foster parents had expressed a desire to adopt M.J. M.J. had also bonded with his foster parents, with whom he had lived a majority of his life. M.J.'s mother had already surrendered her parental rights to M.J., and respondent had not had any contact with M.J. since January 2013. The evidence in this case overwhelmingly supported terminating respondent's parental rights.

¶ 26

III. CONCLUSION

¶ 27

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

¶ 28

Affirmed.