

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).

2016 IL App (3d) 160096-U

Order filed July 6, 2016

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2016

In re S.J., J.G., and J.N., Minors,	)	Appeal from the Circuit Court
	)	of the 14th Judicial Circuit,
(The People of the State of Illinois,	)	Rock Island County, Illinois.
)	
Petitioner-Appellee	)	Appeal Nos. 3-16-0096
	)	3-16-0097
v.	)	3-16-0098
	)	Circuit Nos. 12-JA-50
Sandra C.,	)	12-JA-51
	)	12-JA-91
Respondent-Appellant).)	
	)	Honorable
	)	Raymond J. Conklin
	)	Peter W. Church
	)	Theodore G. Kutsunis
	)	Judges, Presiding.

PRESIDING JUSTICE O'BRIEN delivered the judgment of the court.
Justices Lytton and Schmidt concurred in the judgment.

ORDER

¶ 1 *Held:* Trial court did not err when it found it was in the children's best interest that their mother's parental rights be terminated where children were together in a stable environment with an uncle and aunt, who were committed to providing permanency for the children.

¶ 2 Petitioner, the State of Illinois, sought termination of the parental rights of respondent Sandra C. to her three children, S.J., J.G. and J.N. The trial court found Sandra was unfit and that it was in the children's best interest that her parental rights be terminated. She appealed the trial court's best interest finding. We affirm.

¶ 3 **FACTS**

¶ 4 The State sought wardship of respondent Sandra C.'s three children. It petitioned in May 2012 regarding S.J., who was born February 14, 2004, and J.G., born on February 3, 2006; and in October 2012, for J.N., born January 3, 2006. The first petition alleged that S.J. and J.G. were neglected and dependent. Sandra had brought them to a Department of Children and Family Services (DCFS) office because she was unable to care for them. In May 2012, S.J. and J.G. were placed with their maternal grandmother, with whom J.N. was also living. The second petition, filed in October 2012, alleged that Sandra was in jail and had left J.N. with her brother, who left him with a friend who was under DCFS investigation.

¶ 5 The children were moved to their godmother's house in June 2012 on their grandmother's request. In June 2014, the godmother was no longer able to care for the children and they were placed in separate traditional foster homes. The DCFS caseworker reports submitted to the trial court indicated that the children were able to adjust to their foster placements and adapted positively to family structure, rules and stability. In fall 2014, the children's maternal uncle and his wife, Juan and Martha C., offered to foster and adopt all three children. They began to spend time with the children. Their house was determined to be too small to house all three children, along with their own six children. S.J. and J.G. were able to be placed there in October 2015, but J.N. remained in his traditional foster home. Juan and Martha moved to a larger home and J.N. later joined his siblings there.

¶ 6 In November 2014, the State filed a petition to terminate Sandra’s parental rights to all three children. The petition alleged that Sandra was unfit for failing:

(1) to maintain a reasonable degree on interest, concern or responsibility as to the children’s welfare (750 ILCS 50/1D(b) (West 2012));

(2) to make reasonable efforts to correct the conditions that were the basis for the removal of the children from the parent during any nine-month period following adjudication of neglected and dependent, including three nine-month periods running from July 17, 2012, though October 17, 2014 (750 ILCS 50/1D(m)(i) (West 2012)); and

(3) to make reasonable progress toward the return of the children during any nine-month period after the neglected and dependent adjudication as stated above (750 ILCS 50/1D(m)(ii) (West 2012)).

¶ 7 Following a hearing, the trial court found Sandra unfit based on the allegations in the petition and the proceedings moved to the best interest stage. The caseworker reports stated all three children were thriving in their foster placements and responding positively to a stable environment. S.J. and J.N. were doing well in school and in counseling. J.G. was developmentally on track. Both S.J. and J.G. were attached to their aunt and uncle and adjusted well to the move to their home. J.N. moved into Juan and Martha’s home the weekend before the best interest hearing. The caseworker did not document his adjustment to the move but her reports indicated that J.N. was involved with Juan and Martha and spent considerable time with them, their children, and his siblings as a family. The caseworker recommended Sandra’s parental rights be terminated so that permanency could be provided for the children.

¶ 8 The GAL report indicated that S.J. liked living with her aunt and uncle and that J.G. was “an energetic and happy 4 (four) year old.” J.N. like his placement in a traditional foster home

but wanted to live with his siblings. The GAL recommended that S.J. and J.G. remain with Juan and Martha and that J.N. also be placed with his aunt and uncle.

¶ 9 A best interest hearing took place. Kathy McAdams, the caseworker assigned to the family, testified. The home of the aunt and uncle was suitable for all the children. It had five bedrooms: S.J. shared a room with her cousin of a similar age and J.G. and J.N. shared a room. Before the move, J.N. lived close by in traditional foster care and Martha and Juan would pick him up for family functions, included him in sports with their own children and J.G. and S.J., and hosted him on the weekends. Juan and Martha were meeting the children's needs, such as shelter, food and clothing and there were no concerns about their continued ability to provide for the children. The children are biracial and Juan and Martha were committed to fostering both their African-American and Hispanic heritages. Juan and Martha are willing to provided permanency for all three children and are interested in adopting them.

¶ 10 The children felt a sense of belonging with their aunt and uncle. They were excited to see them and they especially enjoyed that Juan played with them. Juan and Martha engaged in a lot of family time and the children felt safe and welcomed in their home. The children get along well with their cousins and have fit right into the family. Neither S.J. nor J.G. had any issue transitioning to their aunt and uncle's home, and J.N. enjoyed hanging out with his older cousins during his visits there. S.J. and J.N. attend afterschool care and J.G. is enrolled in daycare with Martha and Juan's son. Juan and Martha were in the process of becoming licensed foster parents. They were not involved with the children earlier because they were living in Iowa, then after they moved to Illinois, there were issues with their first house, and then they were the subjects of an unfounded DCFS report.

¶ 11 Martha testified. She and Juan wanted all three children. She did not think it was fair to take two and not all of them. They moved to a larger house to accommodate all three children. The children get along with their cousins. They play, help each other with homework, and watch movies together. Prior to these proceedings, she and Juan had maintained contact with the children, seeing them at holidays and family gatherings. When the children were placed in the State's care, they would visit them when Juan's mother did. They then contacted the social worker and expressed their desire to adopt the children. She and Juan are both employed and Juan fixed his child support problems that had been an issue in the past. They have absorbed the children into their own family and are working at fostering both cultures.

¶ 12 Sandra testified to her progress since being released from prison in January 2015. She had been working for approximately six months and had completed an intensive outpatient drug treatment program. She had no police contacts since her release. She was living in Iowa with friends and looking to obtain suitable housing for herself and the children. She thought the children were stable at Juan and Martha's home.

¶ 13 The trial court applied the statutory best interest factors and found it was in the best interest of S.J., J.N. and J.G. that Sandra's parental rights be terminated. The court stated that the placement with Juan and Martha was "the most secure that these children have been in their life." It acknowledged Juan and Martha's willingness to take in all three children and provide a permanent home for them. The court found the children were integrated into and part of Juan and Martha's family, and that "having a large family to identify with living under one roof together is a very, very good thing." It noted the GAL report, which stated the children "feel safe and secure where they are," and stated that Sandra was unable to provide security and stability for the children. Sandra appealed.

¶ 14

ANALYSIS

¶ 15

The issue on appeal is whether the trial court erred when it found it was in the children's best interests that Sandra's parental rights be terminated. Sandra does not raise any issues regarding the trial court's unfitness finding but argues that it was not in the best interests of the children that her parental rights be terminated.

¶ 16

In determining the best interest of a child, the trial court must consider the following factors:

“(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 attachments, including:

(i) where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);

(ii) the child's sense of security;

(iii) the child's sense of familiarity;

(iv) continuity of affection for the child;

(v) the least disruptive placement alternative for the child;

(e). the child's wishes and longterm goals;

(f). the child's community ties, including church, school, and friends;

(g). the child’s need for permanence which includes child’s need for stability and continuity of relationships with parent figures and with siblings and other relatives;

(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) (a)-(j) (West 2014).

¶ 17 At the best interest hearing, the focus shifts to the child and the parent’s interest in maintaining a parent-child relationship yields to the child’s interest in a stable and loving home. *In re D.T.*, 212 Ill. 2d 347, 363-64 (2004). The State must prove termination is in the child’s best interest by a preponderance of the evidence. *In re B.B.*, 386 Ill. App. 3d. 686, 699 (2008). We will not reverse a trial court’s best interest determination unless it is against the manifest weight of the evidence. *B.B.*, 386 Ill. App. at 697.

¶ 18 The trial court’s best interest finding is not against the manifest weight of the evidence. The best interest factors support the trial court’s decision that termination was in the children’s best interests. The children’s physical safety was provided by Martha and Juan, who feed, shelter and cloth them, and attend to their health needs. Juan and Martha moved to a larger home in order have room to take all three children. The children visited with their aunt and uncle before being placed in their home and share familial, cultural and religious backgrounds and ties. Juan is the children’s biological uncle and both he and Martha expressed their commitment to fostering the children’s biracial identity. They participated as a family in activities centered on their Hispanic heritage and Martha and Juan were committed to exploring the children’s African-American heritage as well. The children are well integrated into Juan and Martha’s home and family and have formed bonds with their uncle and aunt and cousins.

¶ 19 Sandra argues that the trial court’s findings that the children are the “most secure” is against the manifest weight of the evidence, pointing to S.J. and J.G.’s short time living with Martha and Juan and J.N.’s arrival there a few days before the best interest hearing. Although the children were newly residing with their aunt and uncle, they knew their aunt and uncle prior to their entry into the foster system because they are blood relatives. Juan and Martha had made a concerted effort prior to placement to integrate the children into their family. They also brought the children into the community, involving them in sports and other activities with their own children. S.J. and J.N. are doing well in school and are involved in various sports. S.J. and J.N. both expressed their desire to live with their aunt and uncle. All three children are attached to Juan and Martha and their cousins. They are together in a home where Juan and Martha were committed to raising S.J., J.N. and J.G., along with their biological children.

¶ 20 We are mindful of Sandra’s concerted efforts during the last year, including continuous sobriety and employment. It appears she finally reached the point where she became willing to turn her life around and is making great strides in doing so. We commend her progress, however, it does not outweigh the children’s need for permanence. They have been in four homes since they entered the State’s care, more than four years ago. Sandra did not engage in the service tasks necessary to improve her life during the period she was required to do so in order to have her children returned to her care. The children are entitled to the permanency Juan and Martha are willing to provide them. Accordingly, we find the trial court did not err in finding the best interests of S.J., J.N. and J.G. were served by terminating Sandra’s parental rights.

¶ 21 The judgment of the circuit court of Rock Island County is affirmed.

¶ 22 Affirmed.