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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

<i>In re</i> LAYLA S., a Minor,)	
)	Appeal from the Circuit Court
(The People Of The State Of Illinois,)	of Cook County.
)	
Petitioner-Appellee,)	No. 13 JA 938
)	
v.)	
)	
M.S.,)	The Honorable
)	Andrea M. Buford,
Respondent-Appellant.))	Judge, presiding.

PRESIDING JUSTICE HYMAN delivered the judgment of the court.
Justices Pierce and Mason concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court's finding that it was in the child's best interests to terminate the mother's parental rights was not against the manifest weight of the evidence.

¶ 2 M.S., the mother of Layla S., appeals the trial court's decision to terminate M.S.'s parental rights. M.S. alleges that there was insufficient evidence that this decision was in Layla's best interest. Our review of the record shows that the trial court's decision was not against the manifest weight of the evidence, so we affirm.

¶ 3 BACKGROUND

¶ 4 In October 2012, M.S. gave birth to Layla's younger sister, who tested positive for methadone at birth. M.S. tested positive for cocaine. Someone called the Department of Children and Family Services hotline when M.S. was found to be under the influence of drugs while caring for Layla. In April 2013, Layla began residing with relatives under a safety plan. Social worker Kathye Sellers was assigned to the case.

¶ 5 In October 2013, the State petitioned for an adjudication of wardship for then-five-year-old Layla. The petition alleged that M.S. had provided an environment injurious to Layla's welfare and created a substantial risk of physical injury due to M.S.'s abuse of opiates. M.S. had two other children who were being cared for by others. M.S. minimized her substance abuse, though she had tested positive for illegal substances multiple times in the previous six months. M.S. had been referred to multiple substance abuse programs but was noncompliant with treatment, inconsistent in participating in random drug tests, and refused to complete a mental health assessment. The trial court found probable cause to believe that Layla was abused or neglected by M.S., and limited visitation between Layla and M.S.

¶ 6 M.S. entered inpatient treatment, but was discharged in December 2013 because she refused to abide by rules or submit to drug testing when the program suspected she was using drugs. M.S. displayed anger towards the staff, did not accept responsibility for her own actions, and blamed others.

¶ 7 In 2014, M.S. did not attend intake appointments at several different drug treatment centers, and when she did begin treatment she attended inconsistently. She missed random drug tests in January, February, and March of 2014, and tested positive for drugs in May, June, July, and August 2014. She was discharged from a drug treatment program in November 2014 for noncompliance. Sellers noted that M.S. had not been honest with the social workers about her

drug treatment, tried to manipulate social workers, treatment providers, and her family members, and “gives the appearance that she does not feel she has a problem with drugs.”

¶ 8 Meanwhile, Layla and her younger sister had been placed with Layla’s godparents. Layla was declared a ward of the court in April 2014.

¶ 9 M.S. was “sporadic” in maintaining visitation with Layla. She would schedule visits through the foster parents but then not appear; later, she would not schedule supervised visits with Layla because of travel problems (though Sellers offered her Metra tickets). M.S. gave Layla “mixed messages” about when Layla could return home, and though Layla was fond of M.S., she began “acting out” after visits. Layla was referred for individual counseling to deal with her separation from M.S. Layla became attached to her foster parents and referred to them as “mom” and “dad.”

¶ 10 In January 2015, M.S. was arrested for drug possession and driving on a suspended license. M.S. volunteered to stay in the Cook County Jail for ninety days so that she could receive inpatient drug treatment.

¶ 11 In August 2015, the State petitioned for appointment of a guardian with the right to consent to Layla’s adoption. The petition alleged that M.S. remained an unfit parent, and Layla’s foster parents (with whom she had been living since March 2014) wanted to adopt her.

¶ 12 M.S. entered individual counseling at Family Guidance Centers following her release from jail in August 2015. The FGC report assessed her as being at “low risk of relapse.” But M.S. tested positive for cocaine in February 2016, and blamed it on taking an unknown prescription medication. She tested positive for cocaine and opiates again in May 2016, admitted using drugs, but blamed it on feeling stressed.

¶ 13 M.S.'s last visit with Layla occurred in November 2015. At this visit, Layla hugged M.S. and seemed happy to see her. After that, Layla began telling Sellers that she did not want to visit with or talk to M.S. Layla's therapist suggested that, to reestablish the relationship, M.S. should write Layla letters. But M.S. did not receive any response to her first letter so she stopped writing.

¶ 14 The trial court found M.S. unfit, finding that M.S. had failed to maintain a reasonable degree of interest, failed to make reasonable efforts to correct the conditions that led to Layla's removal, and failed to make reasonable progress towards Layla's return home within the nine month period immediately after the adjudication. The court proceeded immediately to a hearing on termination of M.S.'s parental rights.

¶ 15 Sellers testified that Layla had initially been placed with an uncle, but moved to the foster parents' home in 2014 and had been there ever since. Layla's younger sister was also living there. Sellers visited the home monthly and noted the close bonds Layla had with both her foster parents and younger sister. The home was safe and appropriate. Layla had some hearing loss, and the foster parents had advocated for Layla at school. The family went on outings together and celebrated holidays with extended family. Layla had friends in the neighborhood and at her school. Layla had refused contact with M.S. and asked Sellers if she could stay with the foster parents; the foster parents were open to Layla having contact with M.S.

¶ 16 The foster mother testified that Layla had been living in her home since March 2013, and she and her husband wanted to adopt her. Layla referred to her as "mom," and her husband (with whom Layla built birdhouses for the backyard) as "dad." The family went camping and on outings to the park. She described Layla as "joyful" and "stubborn," and stated that Layla was an "A" student and had recently become interested in gymnastics. Layla had lots of friends in

the neighborhood and at school, and was attached to her younger sister and the family's two dogs. The foster family celebrated holidays and had parties with the extended family. Layla's younger brother (another of M.S.'s children) visited every few weeks, and the foster parents wanted to maintain that relationship. Layla had also had visits with her older brother (another of M.S.'s children), and M.S.'s father (Layla's grandfather) had attended Layla's last birthday party. Layla had asked the foster parents and Sellers when she could be adopted.

¶ 17 The foster mother stated that Layla had not talked about M.S. for two years and refused visits with her. Layla had spent two years in counseling but had recently finished. While in counseling, Layla's therapist had tried to establish a relationship with M.S. by having M.S. write letters, but Layla did not respond to these letters. If Layla wanted to see M.S. in the future, they would consult with Sellers or a counselor but would not push the issue.

¶ 18 Monica Leja, a clinical intern counselor, stated that she had been meeting with M.S. at least once a week since November 2016 for counseling, and that M.S.'s most recent drug test had been negative.

¶ 19 M.S. testified that her last visit with Layla had been in November 2015, but she had requested visits since then. M.S. was currently working full-time and had been in counseling since November 2016. She stated that she was no longer using methadone and could now be responsible and take accountability for her actions.

¶ 20 The trial court terminated M.S.'s parental rights and allowed the foster parents to adopt Layla. The trial court found that it was in Layla's best interests to terminate M.S.'s parental rights. The court noted that Layla had been living in the home since March 2013 with her younger sister, and had a close, bonded relationship with the couple and their extended family. Layla had friends in the neighborhood, and was doing well in school and extracurricular

activities. The foster parents had advocated for her at school. Layla had asked to be adopted and refused visits with her biological parents. The trial court found that adoption was the appropriate goal. M.S. filed a timely notice of appeal.

¶ 21 STANDARD OF REVIEW

¶ 22 The trial court’s finding that termination of parental rights is in the child’s best interest will not be disturbed on appeal unless it is contrary to the manifest weight of the evidence. *In re H. S.*, 2016 IL App (1st) 161589, ¶ 32.

¶ 23 ANALYSIS

¶ 24 The Juvenile Court Act and the Adoption Act define the court’s authority to involuntarily terminate parental rights through a two-step process. 705 ILCS 405/2-29(2) (West 2016). First, the trial court must find by clear and convincing evidence that the parent is unfit. *In re M.I. v. J.B.*, 2016 IL 120232, ¶¶ 19-20. Second, the court will consider the “best interest” of the child in determining whether parental rights should be terminated. *Id.* ¶ 20. The second does not flow inexorably from the first; even if the parent is unfit, it may not be in the child’s best interest to terminate parental rights. *H. S.*, 2016 IL App (1st) 161589, ¶ 32. But, once unfitness has been found, the parent’s rights must yield to the child’s best interest. *Id.* ¶ 34. On appeal, M.S. does not challenge the trial court’s finding of unfitness, only the best-interest determination.

¶ 25 A trial court must consider the following factors when determining whether the child’s best interest is served in terminating parental rights:

- (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 long-term goals;
- (f) the child's community ties, including church, school, and friends;
- (g) the child's need for permanence which includes the 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) (West 2016). The court should also consider the nature and length of the child's relationship with the current caretaker, and any effect that a change in placement would have on the child's emotional and psychological well-being. *In re S. K. B.*, 2015 IL App (1st) 151249, ¶ 48. No single factor is dispositive. *Id.*

¶ 26 After reviewing the record, we cannot say that the trial court's finding was against the manifest weight of the evidence. The statutory factors (especially Layla's attachment to her foster parents, her ties to her community, her wish to be adopted, and her need for permanence) weighed in favor of terminating M.S.'s parental rights. On appeal, M.S. merely argues that there was insufficient evidence explaining Layla's refusal to visit with M.S. and desire to be adopted by the foster parents. These points were testified to by Sellers and the foster mother, and were consistent with the documentary evidence. We will not substitute our judgment for the trial court's on issues of witness credibility, the weight to be accorded the evidence, or the inferences to be drawn from it. *H.S.*, 2016 IL App (1st) 161589, ¶ 23.

¶ 27 Affirmed.