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2017 IL App (3d) 160596-U

Order filed January 27, 2017

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

2017

<i>In re Z.W.,</i>	)	Appeal from the Circuit Court
	)	of the 10th Judicial Circuit,
a Minor,	)	Peoria County, Illinois,
	)	
(The People of the State of Illinois,	)	
	)	
Petitioner-Appellee,	)	Appeal No. 3-16-0596
	)	Circuit No. 12-JA-81
v.	)	
	)	
Heather W.,	)	Honorable
	)	Timothy J. Cusack,
Respondent-Appellant).	)	Judge, Presiding.

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JUSTICE WRIGHT delivered the judgment of the court.  
Presiding Justice Holdridge and Justice Schmidt concurred in the judgment.

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**ORDER**

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

¶ 2 On June 18, 2015, the State filed a petition to terminate mother's parental rights.

Following a finding of unfitness and a best interest hearing on September 1, 2016, the trial court

terminated mother's parental rights. Mother appeals the trial court's finding that it was in the minor's best interests to terminate her parental rights.

¶ 3

### FACTS

¶ 4

On April 24, 2012, the State filed a juvenile petition alleging mother neglected her then four-year-old daughter, Z.W. The petition alleged police were dispatched to a residence to resolve an argument. Law enforcement observed Z.W. under the supervision of mother who appeared to be under the influence of both alcohol and drugs. The petition also alleged mother tested positive for cocaine and had an extensive criminal history.

¶ 5

On August 28, 2012, the trial conducted a hearing and entered a dispositional order finding Z.W. to be neglected and mother unfit. On the same date, the court ordered mother to complete services, including, but not limited to obtaining a psychiatric examination, drug and alcohol assessment, and successfully completing any course of recommended treatment following those tasks. The court also ordered mother to provide random drug drops two times per month, and to participate in one NA/AA meeting per week.

¶ 6

Nearly three years later, on June 18, 2015, the State filed a petition to terminate mother's parental rights. The petition alleged mother failed to make reasonable progress toward the return of the minor during the nine-month period from July 25, 2014, to April 25, 2015.

¶ 7

On June 19, 2015, during a permanency review hearing in this case, mother appeared to be incoherent. Consequently, mother received emergency treatment at the hospital resulting from an overdose of prescription medication.<sup>1</sup>

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<sup>1</sup>This incident was documented in court records and the Permanency Review Hearing Report dated January 8, 2016.

¶ 8 The January 2016 Permanency Review Hearing Report informed the court of mother's: failure to cooperate with DCFS, failure to participate in recommended inpatient services for drug and alcohol addiction, failure to submit to drug drops, and sporadic visitation pattern with Z.W.

¶ 9 On June 30, 2016, the hearing on the termination petition took place. Following the hearing, the trial court found mother unfit based on her failure to make reasonable progress toward the return of Z.W. under 750 ILCS 50/1(D)(m)(ii). The court set the matter over for a best interest hearing.

¶ 10 The court received a best interest report filed by FamilyCore on July 7, 2016. The best interest report revealed mother: was not cooperative with DCFS on multiple occasions, was sporadic with respect to visitation with Z.W., failed to attend scheduled treatment plan appointments and pre-arranged DCFS assessments, failed to show up for drug drops, failed to attend counseling, had inadequate housing, and engaged in inappropriate physical contact with Z.W., *inter alia*. The report also revealed mother's January 29, 2014, diagnosis, following a psychological assessment, of PTSD, Persistent Depressive Disorder, Moderate Alcohol Use Disorder, Moderate Stimulant-Related Disorder-cocaine, and Specific Learning Disorder.

¶ 11 In addition, the best interest report documented Z.W.'s strong and loving relationship with her foster parents. According to the best interest report, Z.W. refers to her foster parents as mom and dad. Z.W. attends camps, plays sports, and has developed friendships in her neighborhood. The foster family resided in the same home for many years. Z.W.'s foster parents are also willing and able to adopt her.

¶ 12 On September 1, 2016, the trial court held a best interest hearing. In addition to the information contained in the best interest report, the State presented the court with documents revealing mother passed out in a courtroom on June 19, 2015, resulting in a visit to the Intensive

Care Unit of Peoria Methodist Hospital. Further, a psychiatric consultation that occurred on June 20, 2015, revealed mother intentionally caused an overdose by consuming Klonopin, along with a diagnosis of depression NOS, bipolar II disorder, PTSD, and borderline personality disorder. One month later, on July 15, 2015, mother's drug test revealed a positive result for benzodiazepines, methadone, and opiates.

¶ 13 During the best interest hearing, Mother testified that alcohol was her drug of choice and that she currently participated in a methadone program. In addition, mother denied using opiates in the past three years.

¶ 14 Mother stated she receives treatment at OSF Medical Group about once a month for degenerative disk disease, arthritis, asthma, and restless leg syndrome, *inter alia*. According to her testimony, mother began counseling at Rose Medical Association with Elena Willis in June of 2013. Mother attends these appointments and both AA and NA meetings once per week. In addition, she reported to the court that she attends counseling with Amika Johnson at the South Side Office of Concern. Mother explained her income is limited to \$733 each month from Social Security. However, she pays \$300 per month for services at Rose.

¶ 15 Mother lives in an efficiency apartment in the New Hope Apartments. However, upon return of Z.W., mother believes larger apartments are available. Mother explained that lately she visited Z.W. once per month, but failed to be consistent with visitation on prior occasions citing physical and emotional reasons. Mother believes her visits with Z.W. go well and Z.W. calls her "Mommy." Mother stated she would not have help raising Z.W. other than "within the community."

¶ 16 Jill Bachman, a caseworker, testified that she believed it would be in the best interest of Z.W. to terminate mother's parental rights. Bachman described how mother brought food and

candy for Z.W. that smelled of smoke. In addition, Z.W. had dental issues that were not well served by the consumption of sweets. Bachman expressed her concerns that mother could not provide stability for Z.W. According to Bachman, mother's tendency to blankly stare at Z.W. made Z.W. uncomfortable during visits. Bachman believed there were concerns about the quality of the mother/daughter relationship.

¶ 17 Louis Natonek, Z.W.'s guardian *ad litem*, stated on the record that Z.W. had been with her foster parents for four years. Z.W. really likes it there and wants to live with them. Z.W.'s foster parents have seven children and Z.W. is the youngest. Z.W.'s older brothers and sisters take care of her, play with her, and help her with homework. Z.W. likes her school and says she likes to see her mother. Z.W.'s foster parents indicated that when Z.W. first came to them her teeth and hair looked very bad, her health was bad, and she lacked nutrition. In fact, Z.W. looked worse than children they previously adopted from third-world countries.

¶ 18 Lindsay Delicath, a case aid at FamilyCore, testified that she supervised two visits between mother and Z.W. On August 8, 2016, mother brought her adult daughter, J.W.<sup>2</sup> to a visit with Z.W. At the time, mother knew a court order existed barring J.W. from seeing Z.W.

¶ 19 Following the hearing, the trial court entered an order terminating mother's parental rights. Mother filed a timely notice of appeal on September 30, 2016.

¶ 20 ANALYSIS

¶ 21 On appeal, mother challenges the trial court's finding that it was in Z.W.'s best interest to terminate mother's parental rights by claiming this finding was against the manifest weight of the evidence. Conversely, the State asserts the trial court's finding was not against the manifest weight of the evidence.

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<sup>2</sup>J.W. has substance abuse issues.

¶ 22 A challenge to the sufficiency of the evidence presented at the termination hearing is subject to a manifest weight standard. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1072 (2006). The trial court's determination will be found to be against the manifest weight of the evidence only when the opposite conclusion is clearly evident or the trial court's determination is unreasonable, arbitrary, or not based on the evidence presented. *In re D.F.*, 201 Ill. 2d 476, 498 (2002).

¶ 23 At the best interest hearing, the parent's interest in maintaining the parent-child relationship must yield to the child's best interest in a stable, loving home life. *In re D.T.*, 212 Ill. 2d 347, 364 (2004); *In re S.D.*, 2011 IL App (3d) 110184, ¶ 34. When making a best interest determination the trial court's considerations should include: (1) the physical safety and welfare of the child, including food, shelter, clothing, and health; (2) the development of the child's identity; (3) the child's background and ties, including familial, cultural, and religious; (4) the child's sense of attachments; (5) the child's wishes and long-term goals; (6) the child's community ties, including church, school, and friends; (7) the child's need for permanence; (8) the uniqueness of every family and child; (9) the risks attendant to entering and being in substitute care; and (10) the preference of the persons available to care for the child, *inter alia*. 705 ILCS 405/1-3(4.05) (West 2012); *In re A.F.*, 2012 IL App (2d) 111079, ¶ 45.

¶ 24 At the time of the best interest hearing on August 1, 2016, Z.W. was 9 years of age and had lived with her foster parents for nearly four and one-half years, or half of her life. The court received evidence that Z.W. has a good relationship with her foster parents and wants to live with them on a permanent basis. Her foster parents have seven children and Z.W. is the youngest. Z.W. enjoys positive relationships with her foster siblings. Z.W.'s older brothers and sisters take care of her, play with her, and help her with homework. Z.W. has lived in the same

home since coming to her foster parents, likes her school, has friends in the neighborhood, and is in good health.

¶ 25 The best interest report also indicated Z.W.'s foster parents said that when Z.W. first came to them, her teeth and hair looked very bad, her health was bad, and she had a lack of nutrition. In fact, according to the foster parents, Z.W. looked worse than children they had previously adopted from third-world countries. Z.W. is thriving in foster care and Z.W.'s foster parents are now willing and able to adopt her.

¶ 26 Based on this record, all of the best interest factors, with the exception of mother's wishes, lean heavily in favor of terminating mother's parental rights. Therefore, the trial court did not err because it was in the best interests of Z.W. to terminate mother's parental rights.

¶ 27 **CONCLUSION**

¶ 28 The judgment of the circuit court of Peoria County is affirmed.

¶ 29 Affirmed.