

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).

2017 IL App (3d) 170500-U

Order filed December 21, 2017

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2017

<i>In re</i> K.G., N.G., D.G., and D.S.G.,	)	Appeal from the Circuit Court
	)	of the 10th Judicial Circuit,
Minors,	)	Peoria County, Illinois,
)	
(The People of the State of Illinois,	)	Appeal Nos. 3-17-0500, 3-17-0506,
	)	3-17-0507, and 3-17-0508
Petitioner-Appellee,	)	(Consolidated)
	)	Circuit Nos. 14-JA-326, 14-JA-333,
v.	)	14-JA-334, and 14-JA-335
)	
Shanna T.,)	
	)	Honorable Katherine Gorman Hubler,
Respondent-Appellant).	)	Judge, Presiding.

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

ORDER

- ¶ 1 *Held:* The trial court's finding that it was in the minors' best interests to terminate mother's parental rights was not against the manifest weight of the evidence.
- ¶ 2 On July 12, 2017, the trial court found that it was in the best interest of the minors, K.G., N.G., D.G., and D.S.G., to terminate the parental rights of their mother, Shanna T. (mother). Mother appeals the trial court's best interest determination regarding each of the four minors.

FACTS

¶ 3

¶ 4

On April 16, 2014, the State filed four separate five-count petitions alleging each minor to be neglected and seeking an adjudication of wardship in Vermilion County, later transferred to Peoria County, pertaining to mother's four minor children: K.G., born on October 19, 2011, (Vermilion County case No. 14-JA-56, Peoria County case No. 14-JA-326); N.G., born on December 13, 2012, (Vermilion County case No. 14-JA-57, Peoria County case No. 14-JA-333); D.G., born on April 6, 2010, (Vermilion County case No. 14-JA-55, Peoria County case No. 14-JA-334); and D.S.G., born on September 12, 2013, (Vermilion County case No. 14-JA-58, Peoria County case No. 14-JA-335). Count III of each of the separate petitions alleged that the minors were neglected pursuant to subsection 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Act) (705 ILCS 405/2-3(1)(b) (West 2014)) because mother left the minors with an inadequate care provider.

¶ 5

The record indicates that the Department of Children & Family Services (DCFS) became involved following a report on April 14, 2014, indicating three of the children, K.G., N.G., and D.G, were found alone in an apartment wearing no clothing. The apartment door was ajar and the apartment was observed to be "filthy, with garbage, dirt, and bugs present." The children had reportedly been alone for two and a half days. The record indicates that the fourth child, D.S.G., was not present in the apartment and "was previously taken by a cousin (8 years old) to his/her home because the cousin allegedly observed [D.S.G.] hanging out of a window." In addition, on April 15, 2014, DCFS received another report that the children had been left unsupervised for four or five days before arriving at a hospital in Danville, Illinois. Upon arrival at the hospital in Danville, Illinois, the children were dirty and dehydrated.

¶ 6 On September 24, 2014, mother appeared in Vermilion County and admitted to the allegations set forth in count III of each separate petition. Following this admission, the State dismissed all other counts of the respective petitions. The trial court filed adjudicatory orders in all four cases finding that the minors were neglected because the minors' environment was injurious to the minors' welfare under section 2-3(1)(b) of the Juvenile Act (705 ILCS 405/2-3(1)(b) (West 2014)) on the ground that mother left the minors with an inappropriate caregiver.

¶ 7 On October 30, 2014, the trial court held a consolidated dispositional hearing on all four cases. On November 4, 2014, the trial court filed dispositional orders finding mother to be unfit and ordering custody and guardianship of the four minors to remain with DCFS. The court admonished mother that she must comply with the terms of the DCFS service plan and correct the conditions that required the minors to be in the care of DCFS or mother risked termination of her parental rights. The court also ordered mother to continue random drug testing. The court ordered Vermilion County case Nos. 14-JA-55, 14-JA-56, 14-JA-57, and 14-JA-58 to be transferred to Peoria County. After the cases were transferred to Peoria County, the cases were assigned new Peoria County case numbers as set forth above.

¶ 8 On July 22, 2016, the State filed a petition for termination of mother's parental rights in each case. Count I of each termination petition alleged mother was unfit pursuant to section 1(D)(m)(ii) of the Adoption Act (750 ILCS 50/1(D)(m)(ii) (West 2016)) because she failed to make reasonable progress toward the return of her children during the nine-month period from September 2, 2015, through June 2, 2016.

¶ 9 On March 1, 2017, following a consolidated hearing, the trial court found in each case that the State proved by clear and convincing evidence that mother was an unfit person in that she failed to make reasonable progress toward the return of the minors during the relevant

period. On June 28, 2017, the court held a consolidated best-interest hearing. The trial court considered a best interest report pertaining to all four minors, dated April 28, 2017. This report was authored by Lela Keyes, a case manager for the Center for Youth and Family Solutions. The contents of the best interest report are summarized below with respect to each minor.

¶ 10 I. K.G. and N.G.

¶ 11 At the time of the best interest report, K.G. was five and a half years old and N.G. was four years old. The best interest report documents that K.G. and N.G. have resided together with the same foster family since January 2016. The foster family is able and willing to adopt K.G. and N.G. K.G.'s and N.G.'s basic needs of food, shelter, clothing, and medical care are met by their foster parents. During visits to the home, the worker has observed the home to have adequate food, space, and to be in a good state of repair with no visible hazards. K.G. and N.G. are in good health. The worker observed K.G.'s and N.G.'s shared bedroom and the children have more than adequate clothing, toys, and learning materials to meet their basic needs.

¶ 12 K.G. is enrolled in kindergarten and N.G. is enrolled in pre-kindergarten. The foster parents have provided the children with all of the necessary school supplies. Both children are doing well in school. The foster mother is very involved and stays in contact with K.G.'s and N.G.'s teachers regarding their progress. K.G. and N.G. are both developmentally on target except in speech. K.G. and N.G. each have an Individualized Education Program (IEP) for speech. K.G.'s speech has improved greatly since beginning school. In regards to N.G., the foster mother is advocating for N.G. to have an increase in speech therapy time. N.G. was not very social, but has opened up more and become more talkative.

¶ 13 K.G. and N.G. refer to their foster parents as "mom" and "dad." K.G. and N.G. refer to their foster parents' extended family as their own. There are other children living in the foster

family's home. K.G. and N.G. play with the other children in the home and see them as their siblings. K.G. and N.G. have made fun memories with their foster family.

¶ 14 K.G. and N.G. have had visitation with their mother since coming into foster care, which was sporadic or inconsistent at times. K.G. does not really know who his biological mother is. N.G. does not recognize her biological mother as "mom." Because N.G. was only one and a half years old when she was removed from her mother's care, N.G. does not have an understanding of her current situation. K.G. and N.G. have positive visits with their biological mother and have expressed affection and love toward their biological mother by giving their biological mother a hug or a kiss.

¶ 15 According to the best interest report, the foster parents provide for K.G. and N.G. as if the minors were their own children. K.G. and N.G. reported that they made new friends in school, church, and through their foster parents' extended family. K.G. and N.G. have also developed peer relationships where they live and participate in other church and social groups.

¶ 16

II. D.G.

¶ 17 On the date of the best interest report, D.G. was seven years old. D.G.'s current foster parent is willing and able to adopt D.G. D.G. has lived in the same home with her foster parent since January 2016. During visits to the home, the worker has observed the home to have adequate food, space, and to be in a good state of repair with no visible hazards. D.G. is in good health. The worker observed D.G.'s room in the house and she has more than adequate clothing, toys, and learning materials to meet her basic needs.

¶ 18 D.G. is enrolled in the first grade and her foster parent has provided her with all of the school supplies she needs. D.G.'s teacher reports that she is doing well in school. D.G.'s foster parent is very involved and stays in contact with the teacher regarding D.G.'s progress. D.G.'s

foster parent will continue to be able to provide D.G. with advocacy and assistance throughout her school years. D.G. refers to her foster parent as “mom,” but also refers to her biological mother as “mom.” D.G. refers to her foster parent’s extended family as aunt, uncle, grandma, and cousin. D.G. has developed a strong relationship with her foster parent and her foster parent’s family.

¶ 19 D.G. has had visitation with her mother since coming into foster care, which at times was sporadic or inconsistent. When the visits occur, they are positive. D.G. questions things in her relationship with her mother due to inconsistencies that have occurred throughout the case. D.G. has expressed that she loves her biological mother. D.G. expressed she wanted to visit her mother but did not want to live with her.

¶ 20 According to the best interest report, D.G. has a good relationship with her foster parent and appears to respect and listen to her foster parent. D.G.’s foster parent cares for and nurtures D.G. D.G.’s foster parent provides for D.G. as if D.G. were her own child. D.G. reports that she has made new friends in school, church, and through her foster parent’s family. D.G. is in other social groups, like Awana, an international evangelical Christian group for children, and Esther’s Girl’s Group, also a Christian girl’s group.

¶ 21 III. D.S.G.

¶ 22 On the date the best interest report was submitted, D.S.G. was three and a half years old. The best interest report indicated that D.S.G. has lived with her foster parents since January 2016. D.S.G.’s foster parents are willing and able to adopt D.S.G. D.S.G.’s basic needs of food, shelter, clothing, and medical care are met by her foster parents. The worker has observed the home to have adequate food, space, and to be in a good state of repair with no hazards. D.S.G. is in good health. The worker has observed D.S.G.’s room in the house, which she shares with her

younger sister,¹ and she has more than adequate clothing, toys, and learning materials to meet her basic needs.

¶ 23 D.S.G. is enrolled in pre-kindergarten. D.S.G.'s foster parents provide her with all of the school supplies she needs. The teacher reports D.S.G. is doing well in school. D.S.G. sometimes has issues with behavior and social interaction with her peers and adults. D.S.G.'s foster parents and the school have worked with her regarding those issues and her behavior is much better at this point. D.S.G.'s foster mother is very involved and stays in contact with the school regarding D.S.G.'s progress. D.S.G.'s foster parents are able to provide assistance throughout D.S.G.'s school years.

¶ 24 D.S.G. had just turned seven months old when she was removed from her mother's care. D.S.G. does not understand her current situation regarding her being in foster care. She does not know that Shanna T. is her mother. D.S.G. refers to both her foster mother and her biological mother as "mom." D.S.G. refers to her foster parents' extended family as her own. She also has some foster siblings that do not reside in the home, but come to visit. D.S.G. has strong attachments and bonding relationships with her foster parents and family. D.S.G. does not remember living with her biological mother. D.S.G. has had visitation with her mother since coming into foster care, which was sporadic or inconsistent at times. When the visits occur, they are positive and D.S.G. shows affection toward her mother by giving her hugs and kisses.

¶ 25 According to the best interest report, D.S.G. has a good relationship with her foster parents. D.S.G.'s foster parents provide for her as if she were their own child. D.S.G.'s foster parents care for and nurture her and continue to open their home to her. D.S.G. is comfortable around her foster parents and their extended family. She reports she has made new friends in

¹The younger sister is not subject to this appeal.

school and through her foster parents' family. D.S.G. has also developed peer relationships where she lives.

¶ 26

IV. Mother's Testimony

¶ 27

The court received and considered the bonding assessment report prepared by a licensed clinical psychologist and a licensed clinical professional counselor related to mother's bond with each child. Mother testified before the court and explained that the children behaved differently at the bonding assessment compared to how they behaved during visitations. Mother stated that during visits with her, the children run up to her excitedly and hug her, but at the bonding assessment, they went straight to play with the toys and did not show the love and affection toward her like they usually do. Mother testified that she has a bond with all of her children and loves them, and she has a particularly strong bond with the two oldest children, D.G. and K.G.

¶ 28

According to mother, all the children were ready to come home and live with mother. The children refer to mother as "mom" or "mommy." Mother stated that the minors know mother's relatives, and that mother provided the children with food and gifts for birthdays and Christmas. Mother lives in a one-bedroom apartment with her fiancé. Mother and her fiancé do not pay any rent because they are both unemployed. Mother purchases food by using a Link card. Mother did not know the names of any of the children's doctors or the children's dentists, and did not know whether the children had any upcoming medical appointments.

¶ 29

At the conclusion of the best interest hearing, the trial judge took the matter under advisement and returned to announce a ruling on July 12, 2017. On that date, the trial judge stated that he considered and weighed each of the statutory factors in reaching his decision. The trial court found it was in the best interest of each minor that mother's parental rights be terminated and guardianship be granted to DCFS with the right to consent to adoption. On

July 12, 2017, the court filed written best interest orders terminating mother's parental rights with respect to the four minors. On July 17, 2017, dispositional orders were filed formally terminating mother's parental rights with respect to all four children.

¶ 30 On July 28, 2017, mother filed a timely notice of appeal in each case. On September 26, 2017, this court consolidated the four cases for purposes of this appeal.

¶ 31 ANALYSIS

¶ 32 In this appeal, mother argues that the trial court's finding that it was in the best interest of each minor to terminate her parental rights was against the manifest weight of the evidence. Conversely, the State argues that the trial court's finding was not against the manifest weight of the evidence.

¶ 33 The court's authority to terminate parental rights is derived from the Adoption Act (750 ILCS 50/0 *et seq.* (West 2016)) and the Juvenile Act (705 ILCS 405/1-1 *et seq.* (West 2016)). *In re D.T.*, 212 Ill. 2d 347, 352 (2004). The involuntary termination of parental rights involves a two-step process. First, the State must establish that the parent is an "unfit" person under one or more of the grounds set forth in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2016)); 705 ILCS 405/2-29(2) (West 2016)); *In re D.T.*, 212 Ill. 2d at 352. If the parent is found to be unfit, then the trial court determines whether it is in the best interest of the minor that the parental rights be terminated. 705 ILCS 405/2-29(2) (West 2016); *In re D.T.*, 212 Ill. 2d at 352.

¶ 34 At the best interest stage of the proceeding to terminate parental rights, the child's best interest takes precedence over any other consideration, including the parent's right to custody. *In re Tajannah O.*, 2014 IL App (1st) 133119, ¶ 18. The State has a burden of proving by a preponderance of the evidence that termination is in the child's best interest. *In re A.F.*, 2012 IL App (2d) 111079, ¶ 45. In making a best interest determination, the trial court should consider

the factors listed in subsection 1-3(4.05) of the Juvenile Act (705 ILCS 405/1-3(4.05) (West 2016)). These factors include: (1) the physical safety and welfare of the child, including food, shelter, health, and clothing; (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, 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, including church, school and friends; (7) the child's need for permanence, including the need for stability and continuity of relationships with parent figures and with siblings and other relatives; (8) the uniqueness of every family and child; (9) the risks related to entering and being in substitute care; and (10) the preferences of the persons available to care for the child. *Id.*

¶ 35 On review, we will not substitute our judgment for that of the trial court on questions concerning witnesses' credibility and the inferences to be drawn from their testimony. *In re A.F.*, 2012 IL App (2d) 111079, ¶ 45. When the sufficiency of the evidence presented at the termination hearing is challenged on appeal, we evaluate whether the trial court's decision was against the manifest weight of the evidence. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1072 (2006). The trial court's decision will be found to be against the manifest weight of the evidence only if the facts clearly demonstrate the court should have reached the opposite conclusion. *Id.*

¶ 36 In this case, the children were very young when they were removed from mother's care. Specifically, D.G. was only four years old, K.G. was only two and a half years old, N.G. was only one and a half years old, and D.S.G. was only seven months old at the time foster placement became necessary. The record reveals each minor is currently loved, nurtured, and comforted by their respective foster families and have developed strong attachments to the families they have been with for almost two years.

¶ 37 In addition, K.G. and N.G. have been living together in the same household and their foster parents are willing to adopt both children. D.S.G. lives with her younger biological sister, who is not subject to this appeal. Further, the foster families will continue to allow the children to participate in sibling visits after adoption. The minors have been enrolled in school, attended church, and participated in social groups while living with their foster families. The minors are close to their foster families' extended families. The children's sense of attachment is with the foster families. The children refer to their foster parents as "mom" and "dad" and the foster parents treat the children as if they were their own.

¶ 38 The Juvenile Act expressly recognizes that serious delay in the adjudication of neglect and abuse cases can "cause grave harm to the minor and the family." 705 ILCS 405/2-14(a) (West 2016). Courts cannot "allow children to live indefinitely with the lack of permanence inherent in foster homes." *In re C.C.*, 299 Ill. App. 3d 827, 830 (1998).

¶ 39 Here, these cases have been pending for over three years. The evidence presented to the trial court was more than sufficient to support the trial court's finding that the termination of mother's parental rights was in each minor's best interest. We conclude that continuing the children in their current placements would present the least disruptive placement alternative and provide them with the permanence that they need in their life.

¶ 40 CONCLUSION

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

¶ 42 Affirmed.