

**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).

2018 IL App (3d) 180004-U

Order filed May 18, 2018

---

IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

<i>In re</i> ADOPTION OF M.R.G., a Minor,	)	Appeal from the Circuit Court
	)	of the 14th Judicial Circuit,
(John C. F., III and Tracy L. F.,	)	Rock Island County, Illinois,
	)	
Petitioners-Appellees,	)	Appeal No. 3-18-0004
	)	Circuit No. 17-AD-7
v.	)	
	)	
Justin M.,	)	Honorable
	)	Peter Church,
Respondent-Appellant).	)	Judge, Presiding.

---

JUSTICE HOLDRIDGE delivered the judgment of the court.  
Justices Lytton and O'Brien concurred in the judgment.

---

**ORDER**

¶ 1 *Held:* The trial court did not err when it found that respondent biological father was an unfit parent for failing to maintain a reasonable degree of interest, concern, or responsibility during the first 30 days of newborn child's life.

¶ 2 Appellant, Justin M., appeals from a judgment of the circuit court of Rock Island County finding him to unfit to parent his biological child, M.R.G., and terminating his parental rights.

On appeal, Justin maintains that the court erred in finding that he was unfit by failing to maintain a reasonable degree of interest, concern or responsibility during the first 30 days of M.R.G's life

pursuant to section 1(D)(1) of the Adoption Act (Act). 750 ILCS 50/1(D)(1) (West 2016). On appeal, the respondent argues that the trial court's fitness determination was against the manifest weight of the evidence. We affirm.

¶ 3

#### BACKGROUND

¶ 4 M.R.G. was born on September 22, 2014. On February 22, 2017, the child's maternal grandparents filed a petition seeking to adopt M.R.G. Petitioners alleged that the child's birth-mother, Hannah F., petitioners' adopted daughter, had executed a final and irrevocable consent to allow the petitioners to adopt M.R.G. The petition further alleged that Justin M., the biological father of M.R.G., was unfit under several provisions of the Act. The petitioners subsequently amended the petition to add that Justin was unfit in that he "failed to demonstrate a reasonable degree of interest, concern, or responsibility as to the welfare of a newborn child during the first 30 days after its birth" as required by the Act. 750 ILCS 50.1(D)(1) (West 2016). On September 25, 2017, the court held a fitness hearing. Several witnesses testified for the petitioners and the respondent with a large amount of the testimony addressing events that took place well beyond the first 30 days of the child's life. In this disposition, we will address only the evidence that is relevant to the issue of Justin's conduct leading up to and during the first 30 days of after M.R.G's birth.

¶ 5 Hannah testified that she was M.R.G.'s mother and that Justin was the father. She testified that she met Justin while both were patients at a behavioral health in-patient clinic in Lake Villa, Illinois. She further testified that she had a consensual sexual encounter with Justin on December 24, 2013. Approximately two weeks later, a pregnancy test indicated that she was pregnant. It appears from the record, that Justin left the treatment facility shortly by the end of December. Hannah testified that she did not immediately inform Justin of the pregnancy, but

soon thereafter, she attempted several times to contact Justin by telephone, text, and Facebook to tell him of the pregnancy. She testified that she left messages on each medium, but with one exception, she received no response from Justin. She then testified that on September 19, 2014, the day before the child's due date, she sent Justin a text message saying "Justin, she is due tomorrow, but probably be late \*\*\* because that's what I was getting informed." Hannah testified that she received a response from Justin of "K," which she understood to be an acknowledgment that he had read the text.

¶ 6 Hannah testified that, while she was pregnant, Justin did not attend any doctor visits, inquire about the health of the child, or offer any emotional or financial support. After the child was born, she sent text and Facebook messages to Justin, but received no response. Then, approximately four months after M.R.G. was born, Hannah received a text from Justin in which he asked about the baby. Hannah testified she had sporadic contact with Justin after that text.

¶ 7 Marie Gray, Hannah's biological mother, testified that, although her parental rights had been terminated shortly after Hannah was born, she nonetheless maintained a relationship with her. She testified that Hannah would often visit her when she came to the Quad Cities from the Chicago area. Gray testified that she was present on occasion when Hannah called Justin. The call took place at a time when Hannah was three or four months pregnant. Gray testified that she recognized Justin's voice. According to Gray, Hannah told Justin that she was pregnant. Gray did not recall if Hannah told Justin that he was or might be the father.

¶ 8 Justin testified that he had a "one-night stand" with Hannah on December 24, 2013, while they both were patients a residential behavioral treatment facility in the Chicago suburbs. Justin testified that he did not know that Hannah was pregnant or had a child until July 2015, when he was served with court paper requiring him to submit to paternity testing. He further testified that

the paternity test established that he was M.R.G.'s biological father. It was at that point in time that Justin began paying court ordered child support and providing toys, a car seat, and a playpen. He further testified that he had contact with M.R.G on an irregular basis from that point until the filing of the adoption petition.

¶ 9 Justin denied that Hannah ever attempted to contact him to tell him of the pregnancy or the birth of the child. He also denied knowledge of the conversation described by Marie Gray. On cross-examination, however, he acknowledged that a few days after having sex with Hannah, she told him that she had had sex with someone else about a week before, so he would not have thought that the child was his. He denied receiving the September 19, 2014, text message from Hannah and denied responding to any text from Hannah on that date. He acknowledged that prior to December 24, 2013, he had communicated with Hannah by text and Facebook. He also acknowledged that he made no attempts to contact Hannah until after July 2015. He acknowledged that he occasionally checked his Facebook account, but denied seeing any communications from Hannah on his Facebook page. He also acknowledged that he knew how to contact Hannah's Facebook page, yet he made no attempt to do so.

¶ 10 At the close of evidence, the trial court ruled that the petitioners had shown by clear and convincing evidence that Justin was unfit in that he failed to demonstrate a reasonable degree of interest, concern, or responsibility as to the welfare of a newborn child during the first 30 days after its birth. The court recognized that Justin steadfastly maintained that he had no knowledge of Hannah's pregnancy until approximately four months after M.R.G. was born. The court determined, however, that he did, in fact have knowledge of Hannah's pregnancy. In so finding, the court credited Hannah's testimony regarding the September 19, 2014, text message she sent to Justin telling him that his child was due to be born the following day, and Justin's

acknowledging receipt of that text. The court also credited Gray's testimony regarding the telephone conversation she overheard with Justin during the third or fourth month of Hannah's pregnancy informing Justin that Hannah was pregnant. In addition, the court noted that during cross-examination, Justin acknowledged that he may have been aware of Hannah's pregnancy, but he assumed that he was not the father since Hannah had had sex with other men around the same time.

¶ 11 The court held that, based upon the facts known to Justin at the time, he knew that Hannah was pregnant; that she was due to deliver on or about September 20, 2014; and that there was a strong probability that he was the father. The court found Justin unfit on that basis and proceeded immediately to a best interest determination. Justin filed a timely appeal, challenging the fitness determination.

¶ 12 ANALYSIS

¶ 13 On appeal, Justin maintains that the circuit court erred when it found him unfit based upon a failure to demonstrate a reasonable degree of interest, concern, or responsibility toward M.R.G. within the 30 days following birth. 750 ILCS 50/1(D)(1) (West 2016).

¶ 14 In an adoption case, the process for terminating a parent's rights involves a two-step process: 1) a determination as to whether the parent is unfit; and 2) whether the termination of parental rights is in the best interest of the minor. *In re Adoption of Syck*, 138 Ill. 2d 255, 276-77 (1990). Regarding parental fitness, the petitioning party must prove by clear and convincing evidence that the parent is unfit. *In re M.J.*, 314 Ill. App. 3d 649, 655 (2000). A determination of parental fitness is a question of fact and the circuit court is in the best position to weigh competing evidence and assess credibility of all witnesses. *Id.* We will defer to the circuit court's finding that a parent is unfit, unless the finding is against the manifest weight of the evidence. *Id.*

A finding that a parent is unfit is against the manifest weight of the evidence only if the opposite conclusion is clearly apparent, or the determination is unreasonable, arbitrary, or not based on the record. *Id.*

¶ 15 Where the petitioner alleges that a parent is unfit because of his failure to demonstrate a reasonable degree of interest, concern, or responsibility toward a newborn within 30 days of its birth, fitness is determined by the efforts the person makes to communicate with or show interest in the child. *In re Adoption of A.S.V.*, 266 Ill. App. 3d 549, 557 (1994). Moreover, a parent's fitness is not determined by his or her success at establishing a relationship with the newborn, but rather by the efforts made to communicate or show interest in the child. *A.S.V.*, at 558. The test is whether the parent's efforts demonstrated a reasonable degree of interest, concern, or responsibility. *Id.* This section of the Act requires the parent to immediately recognize his or her responsibility toward the newborn and was intended by the legislature to "impose quite an exacting burden upon natural parents \*\*\* [that is] unequivocal, and requires that a parent affirmatively show a commitment to his child within 30 days of birth." *In re Adoption of J.R.G.*, 247 Ill. App. 3d 104, 110 (1993). Even extreme circumstances that impede the parent's ability to develop a relationship with the newborn will not excuse a complete lack of communication or interest in the child. *A.S.V.*, 268 Ill. App. 3d at 558. Finally, we note that each adoption case is *sui generis* and must be determined by the particular facts and circumstances of each case without comparison to other cases. *Syck*, 138 Ill. 2d at 258.

¶ 16 In the instant matter, Justin maintains that the circuit court's finding that he failed to demonstrate interest, concern, or responsibility is against the manifest weight of the evidence because he had no knowledge that Hannah was pregnant or had given birth. He argues that he

cannot be reasonably expected to demonstrate interest, concern or responsibility for a child he had no knowledge existed. Justin's argument fails for two reasons.

¶ 17 First, the circuit court determined that Justin did, in fact have contemporaneous knowledge of Hannah's pregnancy and M.R.G.'s birth. While Justin testified that he had no such knowledge, the court weighed his credibility against that of Hannah and Gray and found the clear and convincing weight of the evidence established that he was aware of the pregnancy and birth. We find nothing in the record to establish that the court's findings were against the manifest weight of the evidence.

¶ 18 Second, our courts have consistently rejected the argument that a purported lack of knowledge of a newborn's birth tolls the 30-day requirement for showing interest, concern and responsibility. *In re A.S.B.*, 293 Ill. App. 3d 836, 839 (1997); *A.S.V.*, 268 Ill. App., 3d at 558; *J.R.G.*, 247 Ill. App. 3d at 110. As we have previously noted, this section of the Act imposes a substantial burden on a natural parent to demonstrate a reasonable degree of interest, care or responsibility. *J.R.G.*, 247 Ill. App. 3d at 110. What a putative father believes in his own mind is relevant "only if he had made any effort to show interest, concern, or responsibility" toward the child. *A.S.V.*, 268 Ill. App. 3d at 558. Where, as in the instant matter, a putative father has taken no steps to show interest, concern, or responsibility toward a newborn, his subjective beliefs as to the parentage of the newborn is not relevant. *A.S.V. Id.* at 559 (respondent's knowledge that he had sexual intercourse with newborn's mother is sufficient to require him to take affirmative steps to demonstrate interest, concern, and responsibility). Here, even if Justin's assertion that he had no knowledge of M.R.G.'s birth was true, he still had a statutory responsibility to take affirmative steps to establish his rights within 30 days of the newborn's birth by demonstrating

his interest, concern and responsibility toward the child. The record clearly shows that he took no affirmative steps to determine if he had paternal rights in need of protection.

¶ 19 Justin next argues that he was not able to demonstrate a reasonable degree of interest, concern or responsibility toward M.R.G. because the child's location was not known to him until approximately four months after birth. This argument must also fail. The record established that Justin had the ability to contact Hannah or members of her family during the pregnancy and in the days after M.R.G. was born. The record established that during the 30 days after the birth of M.R.G Justin had the means to contact Hannah by Facebook or text, even if he did not know where Hannah was located at the time. Yet, as he admitted in his testimony, Justin made no attempts to contact Hannah during this time period. As the circuit court noted, Justin did not initiate contact with Hannah until several months after M.R.G. was born. He offered no explanation as to why he could not have contacted earlier.

¶ 20 Based on the record in this matter, we are satisfied that the circuit court's fitness determination was not against the manifest weight of the evidence. There is nothing in the record to indicate that the opposite conclusion was clearly apparent, or that the decision was unreasonable, arbitrary, or not based upon the evidence of record. See *M.J.*, 314 Ill. App. 3d at 655. Accordingly, we hold that the circuit court did not err when it found the respondent to be an unfit parent for failing to demonstrate a reasonable degree of interest, concern, or responsibility as to the welfare of M.R.G., a newborn child, within the first 30 days after birth.

¶ 21 Because the respondent has not challenged the circuit court's best interest determination, we need not review that portion of the court's judgment.

¶ 22 CONCLUSION

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



¶ 24 Affirmed.