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2018 IL App (3d) 180050-U

Order filed May 14, 2018

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

2018

<i>In re C.V.</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. 3-18-0050
	)	Circuit No. 17-JA-42
v.	)	
	)	
Justin N.,	)	Honorable
	)	Katherine Hubler Gorman,
Respondent-Appellant).	)	Judge, Presiding.
	)	

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

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**ORDER**

¶ 1 *Held:* The termination of a father's parental rights was affirmed because the trial court's finding that the State proved by a preponderance of the evidence that termination was in the minor's best interest was not against the manifest weight of the evidence where the father had been in prison for most of the minor's life and had no contact or bond with the minor.

¶ 2 Respondent father, Justin N., appealed from a circuit court order terminating his parental rights.

¶ 3 FACTS

¶ 4 The trial court adjudged the minor, C.V., to be neglected because of an environment injurious to his welfare under section 2-3 of the Juvenile Court Act of 1987 (the Act) (705 ILCS 405/2-3 (West 2012)). At the dispositional hearing, the trial court found the mother of the minor to be fit but found the father of the minor, the respondent, to be unfit. The State filed a petition to terminate the father’s parental rights. The petition alleged that the father was unfit and a deprived person as defined by section 1D of the Adoption Act (750 ILCS 50/1D(i) (West 2016)), based upon his multiple felony convictions. At the best interest hearing, the State introduced certified records of the father’s eight felony and two misdemeanor convictions. Relying on the felony convictions, the best interest report prepared by Lutheran Social Services, the father’s testimony, and arguments, the trial court found it was in the best interest of the minor to terminate the father’s parental rights. The father appealed, challenging the termination of his parental rights.

¶ 5 ANALYSIS

¶ 6 The termination of parental rights involves a two-step process. The trial court must first determine whether a parent is unfit. 705 ILCS 405/2-29(2), (4) (West 2016); 750 ILCS 50/1D (West 2016); *In re D.T.*, 2017 IL App (3d) 170120, ¶ 16. The Adoption Act allows for a parent to be found unfit on the grounds of depravity if repeatedly convicted of crimes; if a parent has been convicted of at least three felonies, and at least one of the convictions took place within five years of the filing of the petition, there is a rebuttable presumption that the parent is deprived. 750 ILCS 50/1D(i) (West 2016). The presumption is rebuttable, so a parent can present evidence

showing that, despite his convictions, he is not depraved. *In re A.M.*, 358 Ill. App. 3d 247, 253 (2005). In the instant case, the State presented certified copies of the father's eight felony convictions, at least one of which was within five years of the filing of the termination petition. The father did not rebut the presumption of depravity, and the father was found unfit. The father does not challenge this finding.

¶ 7 Once a parent is found to be unfit, all considerations must yield to the best interest of the child and the focus shifts to the child; 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). When making a best interest determination, the court considers the following factors, in the context of the child's age and developmental needs: (1) the child's physical safety and welfare, including food, shelter, health and clothing; (2) development of the child's identity; (3) the child's background and ties; (4) the child's sense of attachments; (5) the child's wishes and long-term goals; (6) community ties of the child; (7) the child's need for permanence, including stability and continuity of relationships; (8) every family and child's uniqueness; (9) risks attendant to entering and staying in substitute care; and (10) the preferences of people available to care for the child. 705 ILCS 405/1-3(4.05) (West 2016). 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 was against the manifest weight of the evidence. *In re T.A.*, 359 Ill. App. 3d 953, 961 (2005).

¶ 8 In the instant case, the trial court found that all of the statutory factors, other than the father's wishes, weighed in favor of termination. The father argues that the trial court did not fully explore all of the factors. Specifically, the father argues that the trial court did not consider the minor's wishes, did not explore whether the minor's mother wanted to shut the father out of

the minor's life, did not find that the father was a safety risk to the minor, and did not consider other alternatives for permanence for the minor.

¶ 9 We find that the trial court's determination that it was in the best interest of the minor to terminate the father's parental rights was not against the manifest weight of the evidence. The best interest report indicated that the father had no contact with the minor since April 2013 and limited contact before that. Other than a few months in 2015, the father had been incarcerated since April 2013. The minor had lived with his mother since birth and his basic needs were met by the mother and the mother's fiancé. The minor has a strong relationship with the mother's fiancé, refers to him as dad, and does not refer to his biological father as dad. The trial court's conclusion that the statutory factors weighed in favor of termination was supported by the evidence.

¶ 10 CONCLUSION

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

¶ 12 Affirmed.