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2018 IL App (3d) 180504-U

Order filed December 19, 2018

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

2018

<i>In re</i> T.Y., J.Y., and D.K.,	)	Appeal from the Circuit Court
	)	of the 10th Judicial Circuit,
Minors	)	Peoria County, Illinois,
	)	
(The People of the State of Illinois,	)	Appeal Nos. 3-18-0504
	)	3-18-0505
	)	3-18-0506
Petitioner-Appellee,	)	Circuit Nos. 14-JA-253
	)	15-JA-103
v.	)	16-JA-232
	)	
Latoya R.Y.,	)	
	)	Honorable
	)	David A. Brown,
Respondent-Appellant).	)	Judge, Presiding.

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

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**ORDER**

¶ 1 *Held:* The trial court's determination that T.Y., J.Y., and D.K.'s best interest favored terminating the respondent's parental rights was not against the manifest weight of the evidence.

¶ 2 In July 2018, the trial court found that T.Y., J.Y., and D.K.'s best interest favored

terminating the parental rights of the respondent, Latoya R.Y. The respondent appeals.

¶ 3

### FACTS

¶ 4

In October 2014, the Department of Children and Family Services (DCFS) filed a petition alleging that T.Y. (born July 2012) was neglected in Peoria County case No. 14-JA-253. DCFS alleged that T.Y. was neglected in that his environment was injurious to his welfare on the basis that (1) the respondent was found unfit in Peoria County Case Nos. 10-JA-265, 10-JA-266, 10-JA-267, 10-JA-268, 10-JA-269, and 11-JA-179 wherein the court terminated her parental rights and there was no subsequent finding of fitness; (2) the respondent failed to complete services that would result in a finding of fitness; (3) T.Y. was placed under the guardianship of his aunt Shaniqua Y. in Case No. 13-P-449; (4) Shaniqua allowed the respondent and her husband Jackie C. to take T.Y. out of the state for a number of months despite knowing (a) of the respondent's prior findings of unfitness and termination of her parental rights and (b) Jackie knocked out two of the respondent's front teeth; (5) a DCFS investigation revealed that Shaniqua's home had only some child's clothing in grocery bags, no toddler bed or crib, minimal food with no milk or juice, and no toys in the home; (6) Shaniqua was aware that the respondent only gave T.Y. back to her to avoid DCFS removing him; (7) the respondent had a 2003 possession of a stolen vehicle conviction; and (8) Jackie had convictions for a 2005 aggravated battery, 2006 burglary, 2006 criminal trespass to property, 2010 domestic battery, and 2010 trespass to property.

¶ 5

In April 2015, DCFS filed a petition alleging that J.Y. (born March 2015) was neglected in Peoria County Case No. 15-JA-103. DCFS alleged that J.Y. was neglected in that her environment was injurious to her welfare on the basis that (1) the respondent was found unfit in a number of other cases and her parental rights were terminated where there were no subsequent finding of fitness; (2) the respondent failed to complete services that would result in a finding of

fitness; (3) Jackie was currently pending disposition in Case No. 14-JA-253 regarding T.Y. and was not cooperating with DCFS; (4) Jackie had a criminal history; (5) the respondent gave birth to J.Y. out of the state and returned to Peoria with her, but refused to tell DCFS where J.Y. was located; and (6) in February 2015, the respondent was in the hospital and her paramour, Darryl K., took \$800 from her, which she reported to police and stated that he would use the money to buy cannabis and he was on parole for a gun charge.

¶ 6 In September 2016, DCFS filed a petition alleging that D.K. (born January 2016) was neglected in Peoria County Case No. 16-JA-232. DCFS alleged that D.K. was neglected in that his environment was injurious to his welfare on the basis that (1) the respondent was found unfit in a number of other cases and her parental rights were terminated where there was no subsequent finding of fitness; (2) DCFS visited the respondent's home and found an unknown male in the home along with three dogs and the respondent refused to give the male's name; (3) DCFS later discovered that the man was Shadrick Johnson and D.K.'s sibling confirmed that Shadrick "Beater" Johnson and three dogs resided in the home; (4) the respondent said (a) she knew Shadrick could not reside in the home due to unfitness and his criminal history and (b) the man DCFS saw in her home was her brother; (5) DCFS visited the respondent's home the day after and found men's clothing and shoes next to the respondent's bed; (6) the respondent refused to tell DCFS who owned the three dogs; (7) Shadrick was found unfit in two Peoria County cases; (8) Shadrick had a criminal history with various convictions that included possession of cannabis, domestic battery, possession of a weapon by a felon, and reckless conduct; and (9) the respondent's criminal history included a 2003 possession of a stolen vehicle conviction and a 2007 disorderly home conviction.

¶ 7 Following a number of hearings, the trial court found the respondent unfit because she

failed to make reasonable progress toward the return of the minors during a specific 9-month period. We need not detail these proceedings because the respondent does not challenge them or the court's fitness findings on appeal.

¶ 8 The following evidence was presented at the July 2018 best interest hearing. At the time of the best interest hearing, T.Y. was five, J.Y. was three, and D.K. was two. The trial court noted that the fathers in each of these cases defaulted. The best interest report stated that the respondent struggled throughout the case to engage in services to correct the conditions that brought the minors into care. The respondent was able to complete some services, but she did not incorporate the knowledge from these services into her daily life and parenting. However, the respondent did show that she loves her children. Nonetheless, the respondent continued to be dishonest regarding her relationships with men. The report stated that the respondent failed to make adequate progress toward returning the minors into her care and that she failed to attend drug drops, visits, and counseling.

¶ 9 The report also detailed that the minors' foster parents were meeting their basic needs for food, shelter, clothing, and medical care. T.Y. and J.Y. were doing well in school and D.K. was doing well in daycare. T.Y. had a positive relationship with the respondent and referred to her as "mom." Although T.Y. would look forward to seeing the respondent, he sometimes appeared worried during the visits and reported that he felt the safest at his foster home. Neither J.Y. nor D.K. had a strong attachment to the respondent—they did not interact with her during visits and they did not refer to her as "mom." At the end of their visits, J.Y. did not ask when she would see the respondent again and D.K. would leave without hesitation and without saying goodbye.

¶ 10 An addendum to the best interest report showed that the respondent had contact with a male she had an order of protection against, she failed to attend visits, and she was fired from her

employment with an advertising company in Peoria. The respondent claimed that she was fired because of her drug drop schedule. However, the respondent's workday ended at 3 p.m. and the drug drop site was open until 4:30 p.m. The respondent told her caseworker that she intended to move to St. Louis, but wanted to continue a relationship with the minors, even though they live in Peoria. The caseworker recommended that her parental rights be terminated as to each minor.

¶ 11 The respondent stated that she held three jobs, working both day and night shifts. The respondent claimed that she lived alone with her cat and that her relationship with Shadrick was over and she did not want him. The respondent stated that she visited the minors once each month, but wanted to visit more often. The respondent stated that she bought them "stuff" and spoke to each minor. The respondent did not ask the minors where they want to live, but believed that they knew she was their mother and thought they seemed happy to see her.

¶ 12 Heather Mooday, a caseworker, stated that the respondent was working on counseling, drug drops, and visits. Additionally, a counselor reported in June 2018 that the respondent was doing well. Mooday had concerns about the respondent's continued relationship with Shadrick, which the respondent denied. Mooday also attempted to visit the respondent's home, but the respondent was not home each time she attempted to visit. During that time, the respondent had three different jobs. Mooday noted that the respondent last completed a drug drop in April 2018, and she attempted to complete a drug drop in July 2018, but there was a computer mix-up. The respondent was supposed to complete two drug drops per month.

¶ 13 Mooday explained that the minors had been in foster care since the case opened. T.Y. and D.K. were placed with Tony and Brenda P., who either had guardianship of or adopted many of their siblings. J.Y. was placed with "the Ericksons," who were willing to adopt. When placed into care, T.Y. was two years old and J.Y. and D.K. were "a few months old." Mooday stated

that care was taken to place the minors in homes that would maintain their culture, religion, and other factors. She was satisfied that the foster parents were pursuing these factors. Mooday noted that the respondent visited with the minors once a month. T.Y. was most bonded to the respondent and looked forward to the visits. J.Y. and D.K. did not interact with the respondent at all. T.Y. reported that he felt the safest with his foster parents and wished to stay with them. T.Y. and D.K. had the same foster parents, who had eight of the respondent's children in total. J.Y. was placed with different foster parents and she called them "mom" and "dad."

¶ 14 Brenda stated that she and her husband were currently the foster parents of T.Y. and D.K. and she had eight of the respondent's children in her care. At the time of the hearing, Brenda had been caring for the respondent's children for 14 years and she takes them to see the respondent once a month at Popeye's restaurant. Brenda reported that the children call her "mom" and they call her husband "pops." All of the children, except D.K., are of school age. Brenda and her husband make sure that T.Y. attends school and that T.Y. and D.K. are properly fed. Brenda and her husband do nothing in particular to explain the children's culture to them; however, her husband is African-American, like the children.

¶ 15 The trial court stated that it considered the filings and evidence in this case. The court noted that the minors' physical safety and welfare, food, shelter, health care, clothing, and the development of the children's identities all weighted in favor of the present placements. The court found that the minors' background and family ties were being maintained to the best extent possible under the circumstances, cultural ties were being maintained, and there were no indications of religious conflicts. Additionally, the court found the minors' sense of attachment, security, familiarity, continuity of action, bonds with their foster parents, and the least disruptive placement favored termination. The court noted that factors pertaining to community ties, school,

church, and friends were limited due to the minors' ages.

¶ 16 The court also noted that the minors' needs for permanence, stability, and the continuity of relationships favored termination. The court explained that there was a need for the minors to have a permanent home where they could develop healthy relationships and appropriate family interactions. Though the respondent made good efforts at the time of the hearing, the case had been ongoing for four years as to T.Y. and she was no closer to having the minors returned as she was when the case first opened. Therefore, the court found that all of the best interest factors favored terminating the respondent's parental rights. The court named DCFS the guardian of the minors with the right to consent to adoption. The respondent appeals.

¶ 17 The respondent filed a motion to consolidate, which this court granted (14-JA-253 docketed as 3-18-0504; 15-JA-103 docketed as 3-18-0505; and 16-JA-232 docketed as 3-18-0506).

¶ 18 ANALYSIS

¶ 19 On appeal, the respondent argues that the trial court's best interest determination was erroneous. The State argues that the court's decision was proper. A reviewing court reviews a trial court's best interest determination under the manifest weight of the evidence standard. *In re D.T.*, 212 Ill. 2d 347, 357 (2004). A finding is against the manifest weight of the evidence when an opposite conclusion is clearly apparent or when the finding appears to be unreasonable, arbitrary, or not based on the evidence. *Vancura v. Katris*, 238 Ill. 2d 352, 374 (2010).

¶ 20 Once the trial court makes a finding of unfitness, all further considerations must yield to the child's best interest. *In re D.M.*, 298 Ill. App. 3d 574, 581 (1998). In making a best interest determination, the trial court must consider the following factors in the context of the child's age and developmental needs: the child's physical safety and welfare; development of the child's identity; the child's background; the child's attachments; the child's wishes and long-term goals;

the child's community ties; the child's needs for permanence; the uniqueness of every family and child; the risks inherent to substitute care; and the preferences of the people available to care for the child. 705 ILCS 405/1-3(4.05) (West 2016).

¶ 21 T.Y. looked forward to his visits with the respondent, but he appeared worried during the visits. T.Y. reported that he felt the safest with his foster family and wished to stay with them. The evidence demonstrated that the respondent had a history of surrounding herself with poor companions that had a history of violence. This weighed heavily against her ability to provide for the minors' physical safety and welfare. As to J.Y. and D.K.'s preferences, they were too young to vocalize their preference in this case, but their actions are telling. J.Y. and D.K. did not have a strong attachment to the respondent as evinced by the lack of interaction with her during visits and D.K. would not say goodbye. Also, they referred to their foster parents as "mom" and "dad."

¶ 22 The evidence presented at the best interest hearing demonstrated that the minors bonded with their foster families. T.Y. was two years old when he was placed into care and J.Y. and D.K. were "a few months old." The foster families provided the minors with food, shelter, health care, clothing, and a healthy and stable environment to promote the development of the children's identities. T.Y. and J.Y. were doing well in school and D.K. was doing well in daycare. Additionally, T.Y. and J.Y. were placed with a foster family that also cared for a number of their siblings. As the trial court noted, the minors' background and family ties were being maintained to the best extent possible under the circumstances. Their foster mother also stated that she would take the children about once a month to visit the respondent at a restaurant. Both foster families in this case expressed a desire and willingness to adopt.

¶ 23 Considering the evidence in this case and the best interest statutory factors, we agree with the trial court that the minors' best interest favored terminating the respondent's parental rights.

¶ 24

CONCLUSION

¶ 25

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

¶ 26

Affirmed.