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Carla Bender
4th District Appellate
Court, IL

2018 IL App (4th) 170655-U

NOS. 4-17-0655, 4-17-0657, 4-17-0658, 4-17-0659 cons.

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re Ta. E., a Minor (The People of the State of Illinois, Petitioner-Appellee, v. (No. 4-17-0659) Willie Evans, Respondent-Appellant).	Appeal from Circuit Court of Sangamon County No. 15JA105
In re K.E., a Minor (The People of the State of Illinois, Petitioner-Appellee, v. (No. 4-17-0658) Willie Evans, Respondent-Appellant).	No. 15JA106
In re B.E., a Minor (The People of the State of Illinois, Petitioner-Appellee, v. (No. 4-17-0657) Willie Evans, Respondent-Appellant).	No. 15JA107
In re Tr. E., a Minor (The People of the State of Illinois, Petitioner-Appellee, v. (No. 4-17-0655) Willie Evans, Respondent-Appellant).	No. 15JA108 Honorable Karen S. Tharp, Judge Presiding.

JUSTICE DeARMOND delivered the judgment of the court.
Presiding Justice Harris and Justice Knecht concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, finding the trial court did not err in terminating respondent's parental rights.

¶ 2 In June 2015, the State filed petitions for adjudication of wardship with respect to Ta. E., K.E., B.E., and Tr. E., the minor children of respondent, Willie Evans, and Nichole Evans. In March 2016, the trial court made the minors wards of the court and placed custody and guardianship with the Department of Children and Family Services (DCFS). In April 2017, the State filed motions to terminate respondent's parental rights. In August 2017, the court found respondent unfit. The next month, the court determined it was in the minors' best interests that respondent's parental rights be terminated.

¶ 3 On appeal, respondent argues the trial court erred in terminating his parental rights. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In June 2015, the State filed a petition for adjudication of wardship in case No. 15-JA-105 with respect to Ta. E., born in 2014, the minor child of respondent and Nichole. The State alleged the minor was neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (705 ILCS 405/2-3(1)(b) (West 2014)) because she was not receiving the proper care and supervision necessary for her well-being, including medical treatment and supervision recommended for her well-being. The State also alleged Ta. E. was neglected due to her not receiving the proper care and supervision necessary for her well-being in that respondent and Nichole failed to make a proper care plan for her.

¶ 6 At the same time, the State filed petitions for adjudication of wardship in case No. 15-JA-106 with respect to K.E., born in 2010; in case No. 15-JA-107 with respect to B.E., born in 2012; and in case No. 15-JA-108 with respect to Tr. E., born in 2013. Therein, the State alleged the minors were neglected based on an injurious environment in that they were at substantial risk of harm, as evidenced by the lack of medical care for their sibling, and because they were not receiving the proper care and supervision necessary for their well-being in that respondent and Nichole failed to make a proper care plan for the minors.

¶ 7 Following a shelter-care hearing, the trial court found probable cause to believe the minors were neglected. Finding an immediate and urgent necessity to place the minors in shelter care, the court entered an order granting temporary custody and guardianship to DCFS.

¶ 8 A February 2016 status report indicated no services had been implemented for respondent because he was incarcerated. At a February 2016 hearing, respondent stipulated to the State's allegation that the minors were not receiving the proper care and supervision necessary for their well-being because he failed to make a proper care plan for them. The State's factual basis indicated the minors had been left with their paternal grandmother after respondent had been incarcerated, and Nichole's whereabouts were unknown. The minors' grandmother did not know the medical diagnosis of one of the minors or where another minor attended school. The trial court accepted respondent's stipulation and found the minors were neglected.

¶ 9 The dispositional report stated respondent had been the primary caregiver to the minors, with assistance from his 78-year-old mother. Ta. E. had missed doctor's appointments since March 2015 and had poor weight gain and developmental delays due to prematurity. In April 2015, respondent forced Nichole into a car and discharged a firearm. He was jailed on charges relating to aggravated assault. The four minors were left with their paternal

grandmother, who was unaware of all of their needs and did not have transportation. In its March 2016 dispositional order, the trial court found respondent unfit, unable, or unwilling for some reason other than financial circumstances alone to care for, protect, train, educate, supervise, or discipline the minors. The court made the minors wards of the court and placed custody and guardianship with DCFS.

¶ 10 In March 2017, Nichole agreed to surrender her parental rights to the four minors and consented to their adoption. The next month, the State filed motions to terminate respondent's parental rights. The State alleged respondent was unfit because he (1) failed to maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare (750 ILCS 50/1(D)(b) (West 2016)); (2) failed to make reasonable efforts to correct the conditions that were the basis for the minors' removal (750 ILCS 50/1(D)(m)(i) (West 2016)); (3) failed to make reasonable progress toward the return of the minors to him within nine months after the adjudication of neglect (February 17, 2016, to November 17, 2016) (750 ILCS 50/1(D)(m)(ii) (West 2016)); and (4) was incarcerated as a result of a criminal conviction at the time, prior to his incarceration he had little to no contact with the minors, he provided little to no support for the minors, and his incarceration would prevent him from discharging his parental responsibilities for the minors for a period in excess of two years after the filing of the motions (750 ILCS 50/1(D)(r) (West 2016)).

¶ 11 In July 2017, the trial court conducted a hearing on the State's motions. Michelle Tremain, a child welfare specialist with DCFS, testified she was assigned to the minors' cases in April 2016. The minors were initially brought into care due to allegations of medical neglect while in respondent's custody. At the time Tremain sent respondent a service plan, he resided in prison. The service plan required respondent to cooperate with DCFS, undergo domestic-

violence counseling and general counseling, and take lifestyle-redirection classes. Tremain stated respondent was unable to complete the services because classes were not offered in prison or he was put on a waiting list. Thus, respondent received an unsatisfactory rating in November 2016 due to lack of progress on his services. Tremain stated respondent contacted her "quite often at the beginning" and sent a card to Tr. E. in April 2017 and one to Ta. E. in July 2017. Respondent had a total of nine visits with his children. Tremain stated reports of the visits indicated respondent was "engaged," "affectionate," and "appropriate" with his children. Respondent received an unsatisfactory rating in April 2017 due to his lack of progress toward his services. Tremain stated she was never close to returning any of the minors to respondent's custody and guardianship because he was in prison for home invasion until April 2019.

¶ 12 Respondent testified he and Nichole had been the caregivers for the minors since their birth. He declined visits at the McLean County jail because he was not allowed contact with the minors, and he "didn't want to see them cry." In contrast, he had "full contact" with the children during prison visits. Respondent stated he was willing to take any classes available, but domestic-violence classes were not offered and he was put on a waiting list for other classes. Respondent wrote to Tremain "as much as [he] could" and asked about the welfare of the children. At the time of the hearing, respondent was taking substance-abuse classes. His scheduled parole date is April 8, 2019.

¶ 13 The trial court found respondent unfit for failing to make reasonable progress in completing the tasks set forth in his service plan. Citing *In re J.L.*, 236 Ill. 2d 329, 341, 924 N.E.2d 961, 967 (2010), the court noted the reasonable-progress ground does not have an exception for incarcerated parents. Moreover, neither the court nor Tremain were close to being able to return the minors to respondent's care. The court, however, found the State failed to meet

its burden as to the other allegations against respondent. The court stated respondent "wrote letters to the caseworker as often as he could and inquired about the well-being of the children," he was appropriate during visits, and he signed up for classes that were available to him while in prison.

¶ 14 In September 2017, the trial court conducted the best-interests hearing. Tremain testified two-year-old Ta. E. was in a specialized placement due to her developmental delays and medical issues. Her foster parents are "very vigilant" to her needs, and she makes it to all of her medical appointments. Ta. E. attends day care and participates in church activities. Tremain stated Ta. E. is making progress, and her foster parents are willing to provide permanency through adoption. The foster parents expressed a willingness to allow respondent to send cards and letters to Ta. E., and they "weren't against having visits" once respondent leaves prison. Tremain opined there would be no harm to Ta. E. if respondent's parental rights were terminated because she was taken into custody "at a very young age" and respondent has been incarcerated most of her life.

¶ 15 Tremain testified K.E. and Tr. E. have both been in the same placement for almost three years. The minors are making progress based on their "structured living environment." They "do well in school," participate in community activities, and are "very involved with other peers." Their foster mother has kept both boys current on their immunizations, and she has expressed a willingness a provide permanency for them. K.E. expressed an interest in staying with his foster mother, and Tr. E. stated his desire to remain with his brother. The boys' foster mother expressed her willingness to allow them to visit respondent while he is incarcerated and receive letters from him. Tremain did not believe the minors would be harmed by terminating

respondent's parental rights because "they've been in care almost three years," they are "very stable in their placements," and they "deserve permanency."

¶ 16 Erin Helmholz, a case manager at Camelot Care Centers, testified she has been B.E.'s caseworker since September 2016. B.E. resides in a specialized placement due to his diagnoses of reactive detachment disorder, post-traumatic stress disorder, and attention deficit/hyperactivity disorder. Helmholz stated B.E. has made "significant progress" in the placement. B.E.'s foster father provides for all his medical needs and is "very attentive" to his educational needs. B.E.'s foster father indicated his willingness to provide permanency through adoption. Helmholz believed there would be no harm to B.E. if respondent's parental rights were terminated because he is "flourishing in his placement" and "incredibly bonded" to his foster father. Moreover, she stated B.E. has not asked to visit respondent, "and achieving permanency is the most important thing for him."

¶ 17 Beth Hartman testified she supervises visits of children in DCFS care. While in prison, respondent never declined a visitation with the minors. During the visits, respondent was appropriate and affectionate with the children.

¶ 18 Respondent testified a bond still existed between him and his children, although it had "weakened" because of the length of time between prison visits. His projected parole date is 2019, but he can advance that date by taking classes. If he successfully completes substance-abuse counseling and obtains his general equivalency diploma, respondent stated he "will be home [in] 2018." Respondent believed terminating his parental rights would harm the children "in the long run." Once released from prison, he plans to stay with his brother.

¶ 19 The trial court found a bond existed between respondent and the children, but "the benefits to the children outweigh[ed] the potential harm to them of severing that tie." The

court concluded it was in the minors' best interests that respondent's parental rights be terminated. Respondent appealed, and this court consolidated the cases.

¶ 20 II. ANALYSIS

¶ 21 A. Unfitness Finding

¶ 22 Respondent argues the trial court's finding of unfitness was against the manifest weight of the evidence. We find this issue forfeited.

¶ 23 In a proceeding to terminate a respondent's parental rights, the State must prove unfitness by clear and convincing evidence. *In re Donald A.G.*, 221 Ill. 2d 234, 244, 850 N.E.2d 172, 177 (2006). A reviewing court accords great deference to a trial court's finding of parental unfitness, and such a finding will not be disturbed on appeal unless it is against the manifest weight of the evidence. *In re N.T.*, 2015 IL App (1st) 142391, ¶ 27, 31 N.E.3d 254. " 'A court's decision regarding a parent's fitness is against the manifest weight of the evidence only where the opposite conclusion is clearly apparent.' " *In re M.I.*, 2016 IL 120232, ¶ 21, 77 N.E.3d 69 (quoting *In re Gwynne P.*, 215 Ill. 2d 340, 354, 830 N.E.2d 508, 517 (2005)).

¶ 24 In the case *sub judice*, the trial court found respondent unfit for failing to make reasonable progress toward the return of the minors to him within nine months after the adjudication of neglect. The court did not find respondent unfit on the grounds involving a reasonable degree of interest, concern, or responsibility; reasonable efforts; or his incarceration. On appeal, respondent argues the court erred in finding him unfit, claiming he "did demonstrate [a] reasonable degree of care and concern, kept in touch with the caseworker, and was appropriate in visits."

¶ 25 We find respondent has forfeited his argument. Illinois Supreme Court Rule 341(h)(7) (eff. Nov. 1, 2017) requires a party to support his argument with citation to authority,

and an absence of such authority forfeits the arguments. *In re Addison R.*, 2013 IL App (2d) 121318, ¶ 31, 989 N.E.2d 224. Not only did respondent fail to cite authority pertinent to the reasonable-progress ground of unfitness in this case, but he also failed to develop his argument in any meaningful way. Thus, the unfitness issue is forfeited, and we will not address it. See *Ramos v. Kewanee Hospital*, 2013 IL App (3d) 120001, ¶ 37, 992 N.E.2d 103 (stating the "failure to properly develop an argument and support it with citation to relevant authority results in forfeiture of that argument").

¶ 26 B. Best-Interests Finding

¶ 27 Respondent argues the trial court's finding that it was in the minors' best interests that his parental rights be terminated was against the manifest weight of the evidence. We disagree.

¶ 28 "Courts will not lightly terminate parental rights because of the fundamental importance inherent in those rights." *In re Veronica J.*, 371 Ill. App. 3d 822, 831, 867 N.E.2d 1134, 1142 (2007) (citing *In re M.H.*, 196 Ill. 2d 356, 362-63, 751 N.E.2d 1134, 1140 (2001)). Once the trial court finds the parent unfit, "all considerations, including the parent's rights, yield to the best interests of the child." *In re Julian K.*, 2012 IL App (1st) 112841, ¶ 80, 966 N.E.2d 1107. When considering whether termination of parental rights is in a child's best interests, the trial court must consider a number of factors within "the context of the child's age and developmental needs." 705 ILCS 405/1-3(4.05) (West 2016). These include the following:

> "(1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's familial, cultural[,] and religious background and ties; (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; (7) the child's need for permanence, including the need for stability and continuity of relationships with parent figures and siblings; (8) the uniqueness of every family and child; (9) the risks related to substitute care; and (10) the preferences of the person available to care for the child." *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1072, 859 N.E.2d 123, 141 (2006).

See also 705 ILCS 405/1-3(4.05)(a) to (j) (West 2016).

¶ 29 A trial court's finding that termination of parental rights is in a child's best interests will not be reversed on appeal unless it is against the manifest weight of the evidence. *In re Dal. D.*, 2017 IL App (4th) 160893, ¶ 53, 74 N.E.3d 1185. The court's decision will be found to be "against the manifest weight of the evidence only if the opposite conclusion is clearly apparent or the decision is unreasonable, arbitrary, or not based on the evidence." *In re Keyon R.*, 2017 IL App (2d) 160657, ¶ 16, 73 N.E.3d 616.

¶ 30 Here, the evidence indicated the minors are in good homes and their social, educational, and medical needs are being met. Moreover, their foster parents expressed a willingness to provide them with the permanency they need and deserve in their formative years. Respondent, however, has been in prison for much of his children's lives and will continue to be incarcerated until 2019. While respondent claims a bond exists between him and the minors, the children should not be required to put their lives on hold while they wait for respondent to get out of prison and complete the necessary services. See *In re A.H.*, 215 Ill. App. 3d 522, 530, 575 N.E.2d 261, 267 (1991) (stating "[c]ourts must not allow the child to live indefinitely with a lack

of permanence inherent in a foster home"). The trial court found the connection between respondent and the minors was not a very strong one, and the detriment to terminating the parent-child bond was outweighed by the benefits to the children. Considering the evidence and the best interests of the minors, we find the court's order terminating respondent's parental rights was not against the manifest weight of the evidence.

¶ 31 III. CONCLUSION

¶ 32 For the reasons stated, we affirm the trial court's judgment.

¶ 33 Affirmed.