

NOTICE

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2018 IL App (4th) 170896-U

NO. 4-17-0896

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

March 27, 2018

Carla Bender

4th District Appellate

Court, IL

<i>In re</i> Sy. P., Sa. P., Se. P., and L.P., Minors)	Appeal from
)	Circuit Court of
(The People of the State of Illinois,)	McLean County
Petitioner-Appellee,)	No. 16JA44
v.)	
Christina Neal,)	Honorable
Respondent-Appellant).)	Kevin P. Fitzgerald,
)	Judge Presiding.

JUSTICE HOLDER WHITE delivered the judgment of the court.
Justices Steigmann and Knecht concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, concluding the trial court’s best-interest finding was not against the manifest weight of the evidence.

¶ 2 In August 2017, the State filed a motion to terminate the parental rights of respondent, Christina Neal, as to her children: Sy. P. (born February 1, 2015), Sa. P. (born December 23, 2011), Se. P. (born May 4, 2010), and L.P. (born September 30, 2007). Following a fitness hearing, the trial court found respondent unfit. In November 2017, the court found it was in the children's best interest to terminate respondent's parental rights.

¶ 3 Respondent appeals, asserting the trial court's best-interest finding was against the manifest weight of the evidence. We affirm.

¶ 4 I. BACKGROUND

¶ 5 A. Petition for the Adjudication of Wardship

¶ 6 In June 2016, the Department of Children and Family Service (DCFS) received a hotline report that respondent and her paramour, Santana Powell, left respondent's four children at home alone in the middle of the night while they purchased cigarettes and gambled. Powell is the father of some of the children, but he is not a party to this appeal. While the two were walking home, Powell was shot by an unknown shooter and transported to the hospital. During the investigation, police learned respondent had an outstanding warrant, and she was taken to the police station for processing. The children were taken into temporary custody.

¶ 7 The State filed a petition for the adjudication of wardship, alleging the minors were neglected in that respondent and Powell (1) subjected the children to an injurious environment due to their unresolved issues of anger management and domestic violence (705 ILCS 405/2-3(1)(b) (West 2016)); and (2) left the children unsupervised prior to midnight on June 12, 2016, until after 2 a.m. on June 13, 2016, without regard for their mental or physical health, safety, or welfare (705 ILCS 405/2-3(1)(d) (West 2016)).

¶ 8 In August 2016, the trial court entered an adjudicatory order finding the children neglected on the ground that respondent left the children unsupervised (705 ILCS 405/2-3(1)(d) (West 2016)). At a dispositional hearing the following month, the court heard evidence regarding ongoing domestic-violence issues between respondent and Powell. The court thereafter (1) found respondent was unfit to care for minors, (2) made the children wards of the court, and (3) granted custody and guardianship of the children to DCFS.

¶ 9 **B. Termination Proceedings**

¶ 10 In August 2017, the State filed a petition to terminate respondent's parental rights. Therein, the State alleged respondent failed to (1) maintain a reasonable degree of interest, concern, or responsibility for the children's welfare (750 ILCS 50/1(D)(b) (West 2016)); and (2)

make reasonable progress toward the return home of the children during any nine-month period following the adjudication of neglect, specifically between November 4, 2016, and August 4, 2017 (750 ILCS 50/1(D)(m)(ii) (West 2016)).

¶ 11 *1. Fitness Hearing*

¶ 12 In October 2017, the trial court held a fitness hearing. As the fitness hearing is not at issue on appeal, we will summarize only the facts necessary for a comprehensive understanding of the case.

¶ 13 As part of her service plan, respondent was to complete several services. She completed parenting classes and demonstrated appropriate parenting skills during her supervised visitation with the children. However, the visits still had not progressed beyond supervised visitation. Respondent was engaged in domestic-violence counseling; but, due to ongoing domestic-violence issues and her lack of participation in group therapy, she was transitioning to individual counseling. Additionally, respondent was unable to obtain stable housing, and she was secretive about her current living situation.

¶ 14 Additionally, respondent's sporadic relationship with Powell continued to impede her progress. Throughout the case, police responded to disputes between respondent and Powell on numerous occasions: September 2016, October 2016, November 2016, February 2017, April 2017, and August 2017. Respondent pleaded guilty to misdemeanor battery following the April 2017 altercation (McLean County Case No. 17-CM-382). According to respondent, she was no longer in a relationship with Powell.

¶ 15 Following the hearing, the trial court found respondent unfit in that she failed to make reasonable progress toward the return home of the children during the nine-month period between November 4, 2016, and August 4, 2017.

¶ 16

2. Best-Interest Hearing

¶ 17 In November 2017, the trial court held a best-interest hearing, where the parties presented the following evidence.

¶ 18 Kendra Helferich, a DCFS caseworker, testified the two oldest children—L.P. and Se. P.—were placed with Laurie and Pete Norris in Ottawa, Illinois, where they had been living for over a year. The two youngest children—Sy. P. and Sa. P.—were in a temporary foster placement in Bloomington, where they could be closer to their mother. Although respondent loved her children, Helferich testified it was in the children’s best interest to terminate respondent’s parental rights.

¶ 19 The Norris family was willing to provide permanency through adoption for the oldest children. The family provided for the children’s counseling and academic needs, and the family and the children were closely bonded. Although the youngest children were in a temporary foster placement to facilitate a closer relationship with respondent, a permanent foster placement—Steven and Sarah Subat—had been recommended by the Norrises. The Norrises and Subats were close family friends, lived near one another, and attended the same church. The children had already participated in several long weekend visits with the Subats, and the Subats had already expressed a desire to adopt the children. According to Helferich, that process could take up to six months, though she hoped to speed the process along.

¶ 20 Helferich testified respondent had completed all of her services except for individual counseling, which she continued to attend. She also had unstable housing and would not say where she lived. Respondent’s relationship with Powell was an ongoing issue, as respondent had yet to demonstrate a long-term separation from him and their volatile relationship.

¶ 21 Laurie Norris reiterated her desire to adopt the two oldest children, testifying the children called her “mom” and called Pete “dad.” The children shared a room at the house, went on vacation with the Norrises, and enjoyed school. L.P. struggled academically, but Laurie maintained contact with the teacher and attended meetings regarding L.P.’s progress. Laurie testified she would continue to allow respondent contact with her children, even if respondent’s parental rights were terminated. Because the children are African-American and Laurie is Caucasian, Laurie sought to educate herself about African-American heritage and culture. She also took the children to a hairdresser who knew how to style African-American hair.

¶ 22 Laurie also vouched for the Subats, and noted that placing the youngest children with the Subats would allow all four girls to be together frequently. Pete testified he agreed with Laurie’s testimony.

¶ 23 Angie Miller, a DCFS child-protection specialist, filed a report with respect to L.P. and Se. P., who had been residing with their foster parents, Laurie and Pete Norris, for more than a year. According to Miller, the Norrises provided for the physical safety and general welfare of the children, addressed their needs for counseling and other assistance, and provided a structured environment. The family was bonded, the children enjoyed living with the Norrises, and the Norrises expressed an interest in adopting the children. Although the girls had conflicting loyalties, they expressed excitement about staying with the Norris family.

¶ 24 Sarah Subat testified her family bonded with the younger children in a short amount of time that included numerous long weekend visits since August 2017. The developing bond was strong enough that the Subats sought to adopt the girls. As an example of their bond, Sarah testified Sy. P. once clung to Sarah at the end of a weekend visit, called her “mama,” and

did not wish to leave. Sarah also expressed an interest in allowing the children to continue their relationship with respondent.

¶ 25 Steven Subat agreed with Sarah's testimony, and added that they would obtain any services the children needed.

¶ 26 ABC Counseling filed a report expressing their concerns over Sa. P. Sa. P. would benefit from speech and language services to help her understand the court process. The report highlighted Sa. P.'s need for stability and permanency as soon as possible, noting that terminating respondent's parental rights would allow for a quicker adoptive placement.

¶ 27 Beth Markwood from SPICE of Marcfirst filed a report outlining her interactions with Sy. P. She noted Sy. P. had difficulty regulating her emotional responses to fear and anger. She was fearful of new people and had a visceral reaction to seeing a belt. Sy. P. would take her anger out on her foster family's cat. Markwood noticed when Sy. P. first came into care, she ate her meals so quickly that she would gag, and always appeared to be hungry. Markwood recommended that Sy. P. receive stability and permanency through a nurturing family, but cautioned returning her home would be detrimental.

¶ 28 Respondent testified she was working full-time as a pharmacy technician and had also obtained part-time employment. Despite being employed for several months, she had not yet obtained stable housing and lived with a friend. She would not provide details about where she lived. Respondent testified she remained in individual counseling for her domestic-violence issues and would continue to participate as long as necessary. Respondent had no concerns about the Norris family, but she testified her children expressed their desire to return home to their mother.

¶ 29 The trial court found most of the best-interest factors were neutral, and neither favored nor disfavored termination. The court then highlighted several factors that weighed in favor of one side or the other. First, the court found the development of the children’s identity favored respondent, as she was in the best position to further that identity. See 705 ILCS 405/1-3(4.05)(b) (West 2016). However, the need to protect the physical safety and welfare of the children, including food, shelter, and clothing, favored termination, as respondent was not in a position to provide stable housing. 705 ILCS 405/1-3(4.05)(a) (West 2016). The court also found the children’s need for permanence and stability supported termination, as respondent would not be in a position to provide that permanence in the foreseeable future, as she needed to finish her counseling and demonstrate she had internalized the skills to avoid volatile relationships in the future. 705 ILCS 405/1-3(4.05)(g) (West 2016). The court therefore found it was in the children’s best interest to terminate respondent’s parental rights.

¶ 30 This appeal followed.

¶ 31 II. ANALYSIS

¶ 32 On appeal, respondent asserts the trial court's best-interest finding was against the manifest weight of the evidence.

¶ 33 Once the trial court determines a parent to be unfit, the next stage is to determine whether it is in the best interest of the minor to terminate parental rights. *In re Jaron Z.*, 348 Ill. App. 3d 239, 261, 810 N.E.2d 108, 126 (2004). The petitioner must prove by a preponderance of the evidence that termination is in the best interest of the minor. *Id.* The court’s finding will not be overturned unless it is against the manifest weight of the evidence. *Id.* at 261-62.

¶ 34 The focus of the best-interest hearing is determining the best interest of the child, not the parent. 705 ILCS 405/1-3(4.05) (West 2016). The trial court must consider the

following factors, in the context of the child’s age and developmental needs, in determining whether to terminate parental rights:

“(a) the physical safety and welfare of the child, including food, shelter, health, and clothing;

(b) the development of the child’s identity;

(c) the child’s background and ties, including familial, cultural, and religious;

(d) the child’s sense of attachments ***[;]

* * *

(e) the child’s wishes and long-term goals;

(f) the child’s community ties, including church, school, and friends;

(g) the child’s need for permanence which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives;

(h) the uniqueness of every family and child;

(i) the risks attendant to entering and being in substitute care; and

(j) the preferences of the persons available to care for the child.” *Id.*

¶ 35 With respect to the older children—L.P. and Se. P.—the Norrises provided a safe, stable environment and expressed a desire to adopt. The family had developed a close bond and

the children were thriving in their care. The Norrises ensured the children received the necessary services and pledged to maintain contact with respondent.

¶ 36 Conversely, respondent was in no position to provide permanence. She lacked stable housing and was secretive about her current living arrangements. She was still engaged in individual counseling to address her domestic-violence issues, and those domestic-violence issues arose throughout the pendency of the case. Moreover, respondent's relationship with Powell was still in question, as she was often secretive about their interactions. Although she claimed they were no longer in a relationship, their last altercation occurred only months before—in August 2017—suggesting she needed more time in counseling and away from Powell.

¶ 37 Thus, as it relates to the older children, the trial court's decision to terminate respondent's parental rights was not against the manifest weight of the evidence.

¶ 38 The situation with the younger children—Sy. P. and Sa. P.—is more complicated, as they are not yet living with their adoptive placement because DCFS sought to keep them closer to their mother. However, the Subats spent several long weekend visits with the children and had bonded to the extent that the Subats sought adoption. As the trial court noted, a particularly poignant example of the attachment was the instance in which Sy. P. clutched Sarah at the end of the visit, called her “mama,” and did not wish to leave. Placing the children with the Subats will allow all four children to maintain a close relationship, and the Subats also agreed to maintain a relationship with respondent. Despite a possible six-month delay, the children would be placed with the Subats in anticipation of finalizing the adoption, thus providing the children with permanence and stability. Even if given six more months, Helferich did not believe respondent would be in a position to provide permanency, as she had not yet completed

individual counseling or demonstrated she had internalized that counseling. She was also struggling to find stable housing, which was an ongoing issue throughout the case. We therefore conclude the trial court's decision with respect to the younger children was also not against the manifest weight of the evidence.

¶ 39

III. CONCLUSION

¶ 40

Based on the foregoing, we affirm the trial court's judgment.

¶ 41

Affirmed.