

**NOTICE**

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**FILED**  
May 14, 2018  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

2018 IL App (4th) 170955-U  
NOS. 4-17-0955, 4-17-0956 cons.

**IN THE APPELLATE COURT  
OF ILLINOIS  
FOURTH DISTRICT**

<i>In re</i> H.J., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Sangamon County
Petitioner-Appellee,	)	No. 15JA182
v.    (No. 4-17-0955)	)	
Joseph Johnson,	)	
Respondent-Appellant).	)	
_____	)	
<i>In re</i> L.J., a Minor	)	No. 15JA183
	)	
(The People of the State of Illinois,	)	
Petitioner-Appellee,	)	
v.    (No. 4-17-0956)	)	
Joseph Johnson,	)	Honorable
Respondent-Appellant).	)	Karen S. Tharp,
	)	Judge Presiding.

JUSTICE DeARMOND delivered the judgment of the court.  
Justices Holder White and Steigmann 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 October 2015, the State filed petitions for adjudication of wardship with respect to H.J. and L.J., the minor children of respondent, Joseph Johnson. In March 2016, the trial court entered an order making the minors wards of the court. In April 2017, the State filed motions to terminate respondent’s parental rights. In January 2018, the court found respondent unfit and concluded it was in the minors’ best interests to terminate respondent’s parental rights.

¶ 3 On appeal, respondent argues the trial court erred in finding it was in the minors' best interests to terminate his parental rights. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In October 2015, the State filed two petitions for adjudication of wardship with respect to H.J., born in 2008, and L.J., born in 2011, the minor children of respondent and respondent mother, Shaundra Johnson. The State alleged the minors were neglected pursuant to section 2-3(1) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1) (West Supp. 2015)) because the minors were not receiving the proper care and supervision for their well-being, as evidenced by respondent's drug use and his failure to make a proper care plan for the minors. At the conclusion of the shelter-care hearing, the trial court found probable cause to believe the minors were neglected and placed them under the temporary custody and guardianship of the Department of Children and Family Services (DCFS). The court ordered the respondent parents to cooperate with DCFS and comply with their service plans.

¶ 6 In February 2016, the trial court entered an order adjudicating the minors neglected due to respondent's stipulation to the allegation "the minors [were] not receiving the proper care and supervision necessary to their well being in that [respondent] failed to make a proper care plan for the minors." The children were placed in a foster home. At the dispositional hearing in March 2016, the court made the minors wards of the court with custody and guardianship placed with DCFS. In April 2016, based on the mother's cooperation and performance at the time, DCFS was given the discretion to place the children with the mother. In November 2016, the court revoked the previous order permitting DCFS the discretion to place the children with the mother. This was due not only to her drug use, but also because she had

allowed her boyfriend at the time, also a convicted felon with drug convictions, to be in the home and around the children. The minors were returned to their previous foster home placement.

¶ 7 In September 2016, respondent was arrested for driving under the influence (DUI) in Logan County. In April 2017, the State filed motions to terminate respondent's parental rights. By this time, respondent was in the custody of the Logan County Sheriff's office. The State alleged respondent was unfit because he failed to (1) maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare (750 ILCS 50/1(D)(b) (West 2016)); (2) make reasonable efforts to correct the conditions that were the basis for the removal of the minors during any nine-month period following the adjudication of neglect (750 ILCS 50/1(D)(m)(i) (West 2016)); and (3) make reasonable progress toward the return of the minors to respondent during the nine-month period of February 18, 2016, to November 18, 2016 (750 ILCS 50/1(D)(m)(ii) (West 2016)). Respondent was homeless throughout the life of the case, and though he cooperated with substance abuse services, he continued to use cocaine and eventually started missing counseling sessions and random drug drops. His participation in services dwindled to the point where by late 2016, the Addus caseworker had little, if any, contact with him. In June 2017, respondent pled guilty to a DUI charge arising from an incident in September 2016 and received 18 months of probation. Shortly afterward, respondent's probation for a prior offense of possession of a controlled substance was revoked, and he was resentenced to 68 days in the Sangamon County jail, after calculating credit for time served. The trial court found respondent unfit.

¶ 8 In December 2017, the trial court held a best-interests hearing. The State called three witnesses, Craig Monnett, Cynthia Wadsworth, and Tara Herbord. Monnett, an employee with Addus, which contracts visitation supervision with DCFS, testified respondent was allowed

visitation once a month. He said initially visitation was very emotional for the children.

However, he observed more recently a sense of detachment, and on occasion, H.J. did not want to attend.

¶ 9 Wadsworth is a licensed clinical social worker, who contracts with DCFS and counseled the minors in this case. She testified H.J. was happy and comfortable in her foster care placement and L.J. eventually settled in well. Wadsworth testified the return to their foster placement, after custody was taken away from respondent mother a second time, was the “best possible thing that could have happened to them for them to have some continuity, for them to go back to a place where they knew the rules.” She said, “in that home, they’ve learned what being in an unhealthy family is like.” She stated there were “two breaks that have been notable” due to the children being twice removed from the home of their biological parents. Wadsworth further testified, if parental rights were terminated, “there would be grief, but there would not be irreparable harm,” and it would allow the children the “permanence” they needed, since this case had been going on for over two years.

¶ 10 Having been diagnosed at “level two, cocaine and alcohol dependent, severe,” by the addictions counselor at Tazwood Mental Health, respondent was unsuccessfully discharged from treatment by May 2016 for lack of participation. Although he contacted the agency on two occasions for a reassessment to return to treatment, he failed to follow through on both occasions and never returned.

¶ 11 Tara Herbord, the minors’ DCFS caseworker, also testified respondent had been compliant at the outset of the case, but by the middle of 2016 was no longer engaged in individual or substance-abuse counseling. He was also no longer compliant with drug drops and had sought assistance to enter a detox facility in November 2016 for his continued cocaine use.

By the end of 2016, respondent had no stable housing, was attending no parenting classes, and was attending visitations only sparingly.

¶ 12 Herbord testified about the minors' placement as well. The foster home contains the two foster parents and four adopted children, as well as the two minors. The minors share a room, and the foster parents have expressed a desire to adopt the minors. Herbord testified the minors look to their foster mother for "comfort, to supply [their] needs, love, [and] affection." When asked her opinion regarding whether the minors would be harmed if respondent's parental rights were not terminated, Herbord said they would. She said when the children were removed from respondent mother's home for the last time in August 2016, they were relieved and were excited to see the other children in their foster home.

¶ 13 The trial court found it was in the best interests of the children to terminate respondent's parental rights, taking into consideration the factors listed in section 1-3(4.05) of the Juvenile Court Act (705 ILCS 405/1-3(4.05) (West 2016)). This appeal followed.

¶ 14 **II. ANALYSIS**

¶ 15 Respondent argues the trial court's finding termination of his parental rights was in the best interests of the children was against the manifest weight of the evidence. We disagree.

¶ 16 "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 must yield to the best interest of the child." *In re I.B.*, 397 Ill. App. 3d 335, 340, 921 N.E.2d 797, 801 (2009). 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).

¶ 17 A finding by the trial court 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.

¶ 18 The trial court noted a lack of any evidence to indicate respondent had addressed his substance-abuse issues. Of primary concern to the court was the issue of permanence. These

children had been in care since October 2015, and respondent had yet to complete any service or comply with the requirements of his service plan. Nothing about respondent's behavior, such as his drug use and failure to cooperate with DCFS, indicated he was any closer to reunification. Noting there was no doubt respondent and respondent mother loved their children, the court correctly pointed out this was not about what was in their best interests. "Following a finding of unfitness, however, the focus shifts to the child." *In re D.T.*, 212 Ill. 2d 347, 364, 818 N.E.2d 1214, 1227 (2004). " '[T]he child[ren]'s interest in a loving, stable[,] and safe home environment' might best be served by 'freeing [them] for adoption[.]' " *In re F.P.*, 2014 IL App (4th) 140360, ¶ 92, 19 N.E.3d 227 (quoting *D.T.*, 212 Ill. 2d at 363-64). The foster parents stated their desire to adopt the minors and were already fulfilling the minors' emotional needs for love, affection, and comfort in a safe environment, which respondent was unable to provide and did not appear able to provide any time in the foreseeable future. The trial court expressly noted its efforts, when considering the testimony, to "see whether or not there is a way to salvage, in effect, the family." The court, when considering the evidence, sought to ascertain whether the parents were any closer to reunification than they had been in November 2016 or March 2017. Of particular note to the court was the testimony of Wadsworth, the counselor for the children, who stated how sad the children were when returned to respondent mother's home temporarily, and Herbord, the caseworker, who testified about how relieved the minors were to return to their foster placement. As there was no evidence in this record to justify a different result, the court's finding was not against the manifest weight of the evidence.

¶ 19

### III. CONCLUSION

¶ 20

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

¶ 21

Affirmed.