

No. 1-18-1370

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

<i>In re</i> Deo. C., Des. C., Dar. C., and Dav. C., Minors	)	Appeal from the
	)	Circuit Court of
	)	Cook County.
(THE PEOPLE OF THE STATE OF ILLINOIS,)	
	)	Nos. 13 JA 232
Petitioner-Appellee,	)	13 JA 233
	)	13 JA 234
v.	)	14 JA 578
)	
TIFFANY B.,)	
)	
Respondent-Appellant,)	
)	
Francisco C.,)	
)	
and,	)	Honorable
	)	Kimberly D. Lewis,
Respondent).	)	Judge Presiding.

JUSTICE HOWSE delivered the judgment of the court.
Justices Ellis and Cobbs concurred in the judgment.

ORDER

¶ 1. *Held:* The judgment of the circuit court of Cook County terminating the parental rights of respondent and appointing a guardian with authority to consent to adoption is affirmed; the trial court's finding that it is in the best interests of the children to terminate respondent's parental rights was not against the manifest weight of the evidence or an abuse of discretion.

¶ 2. BACKGROUND

¶ 3. General History

¶ 4. This case involves four minor boys, Deo. and Des., twins born October 2010; Dar., born May 2012; and Dav., born April 2014. All four boys have developmental delays and medical needs that require consistent attention.

¶ 5. Respondent, Tiffany B., is the biological mother of all four boys and Francisco C. (F.C.) is their biological father. In addition to the four boys born to respondent and F.C., respondent has one other minor child who is not in her custody. F.C. has five other minor children who are not in his custody. The parties' other children are not a part of these proceedings. F.C. is not a party to this appeal.

¶ 6. In August 2011, the Illinois Department of Children and Family Services (DCFS) became involved with the family after the then nine-month old twins were brought by respondent to a medical clinic for a check-up. The twins were found to be severely underweight, lethargic, and unable to sit up independently. Respondent refused to take the twins to the hospital for evaluation as instructed by the clinic and also failed to return to the clinic with the twins for a second appointment. An indicated report was made by DCFS against respondent for failure to thrive and malnutrition. The twins were removed from respondent's and F.C.'s care and placed with Lydia Safe Families for Children from August 2011 until May 2012 when they were returned to respondent and F.C.

¶ 7. On June 5, 2012, DCFS was advised that respondent had given birth to Dar. in May 2012. Dar. was born premature and remained in hospital care through August 2012.

¶ 8. On March 13, 2013, the State filed Petitions for Adjudication of Wardship stating that Deo., Des. and Dar. were neglected due to an injurious environment and abused due to exposure

to a substantial risk of physical injury. The State also filed motions for temporary custody of Deo., Des. and Dar. On January 24, 2014, all three boys were adjudicated abused and neglected and made wards of the court. Respondent and F.C. were found unable to parent the boys.

¶ 9. Dar. was originally placed in foster care with Kiana B. from May 3, 2013 until February 2016. In September 2015, Kiana issued a 14-day notice of removal; however, Dar. remained in her care until April 2016.

¶ 10. Approximately three months after the three boys were adjudicated wards of the court, Dav. was born. Dav. was born four months premature and remained in the hospital until July 2014.

¶ 11. On June 2, 2014, the State filed a Petition for Adjudication of Wardship and Motion for Temporary Custody for Dav. Support for these pleadings included (1) the prior indicated report against respondent, (2) the January 2014 findings of abuse and neglect relating to the other three boys and their placement in DCFS custody, (3) respondent's and F.C.'s noncompliance with completing a psychiatric evaluation, (4) F.C.'s noncompliance with parent coaching and random urine drops, (5) respondent's borderline intellectual functioning and depressive disorder diagnoses, and (6) respondent and F.C. residing together. An affidavit documenting DCFS' efforts further noted that the family was noncompliant with some of the services, the family struggled with stable housing, and respondent and F.C. were unemployed.

¶ 12. On June 18, 2014, Dav. was placed in the temporary custody of DCFS. Upon his release from the hospital in July 2014, Dav. was placed with his current foster mother, Danielle M. Dav. has remained in Danielle's care since that date without interruption.

¶ 13. On January 16, 2015, the trial court entered a modified disposition order finding respondent and F.C. fit, willing and able to parent the twins. An order of protective supervision

was entered that same day. The twins were returned to respondent and F.C. in January 2015. On March 24, 2015, Dav. was adjudicated abused and neglected on the same grounds as his brothers, Deo., Des., and Dar. Dav. was made a ward of the court. In October or November 2015, while Deo. and Des. were in their care, respondent and F.C. were evicted from their home and began living with the children in a garage. There was also an incident where DCFS was called after Des. arrived at school with red marks on his neck. On May 12, 2016, the court entered a modified disposition order finding respondent unable to parent the twins, the protective supervision order was vacated as to respondent, and the twins were returned to DCFS guardianship. F.C. had earlier lost custodial rights in December 2015 after testing positive for drug use.

¶ 14. In April 2016, after Kiana gave her 14-day notice, Dar. was placed with Tamika B., respondent's sister, where he stayed for approximately one month. In May 2016, Dar. was placed with his current foster father, Jeffrey B. With the exception of a brief removal, Dar. has remained in Jeffrey's care since that date.

¶ 15. On July 1, 2016, after being removed from respondent's custody, the twins were placed in foster care with Lasandra O. The twins have remained in Lasandra's care since that date without interruption.

¶ 16. On August 30, 2016, the State filed a Motion for the Appointment of a Guardian with the Right to Consent to Adoption seeking to terminate parental rights ("TPR petition") as to Dav. On October 26, 2016, the State filed TPR petitions for Deo., Des., and Dar.

¶ 17. The State alleged that respondent was unfit as defined by section 50/1(D) of the Illinois Adoption Act ("Adoption Act") (750 ILCS 50/1 *et seq.* (West 2016)), specifically, subsections (b) – failure to maintain a reasonable degree of interest, concern, or responsibility as to the

child's welfare; (m) – failure to make reasonable progress during the nine month period; and (p) – inability to discharge parental responsibilities because of mental impairment, illness, retardation, or a developmental disability ("Grounds B, M and P"). The State alleged that F.C. was unfit pursuant to the Adoption Act section 50/1(D), subsections (b), (m), (p), and (k) – addiction to drugs ("Grounds B, M, P and K"). The State later withdrew Grounds P and K. The State also alleged that it was in the best interests of all four boys that parental rights be terminated and the boys be adopted by their respective foster parents.

¶ 18. Two separate hearings were conducted as part of the TPR petitions. The first hearing concerned the fitness of respondent and F.C. to parent the boys ("fitness hearing"). The second hearing concerned the boys' best interests with respect to termination of respondent's and F.C.'s parental rights ("best interest hearing").

¶ 19. The fitness hearing began on September 5, 2017 and continued over multiple days in September. On November 21, 2017, the trial court found respondent unfit based on Ground M. The court also found respondent unfit based on Ground P relying largely on the Cook County Juvenile Clinic report dated April 2017 diagnosing respondent with Mild Intellectual Disability. F.C. was also found to be unfit.

¶ 20. At the conclusion of the fitness hearing the trial court made various findings in support of her ruling that respondent and F.C. are unfit. The court stated that strong consideration was given to the testimony, corroborating evidence, and the court took into account the history of the case.

¶ 21. The trial court acknowledged that respondent had participated in or completed most of her services. Despite having satisfied the minimal prerequisites, respondent's inability to execute what was learned from the services in real life remained a problem.

¶ 22. The Juvenile Court Clinic Report of April 2017 was cited by the trial court, including respondent's diagnosis of Mild Intellectual Disability in the extremely low range. This condition was noted as a non-changing, lifelong condition that would not improve with increased educational training or time.

¶ 23. The trial court referenced testimony from clinicians indicating that respondent struggled to appropriately apply parenting skills despite having received three times the normal amount of parenting coaching. Due to her intellectual or adaptive deficits, respondent is unable to address the children's needs and behavioral issues effectively. There were also issues with getting the children to school on time and ensuring they received timely medical care. With parenting classes and coaching over four years, respondent was able to address the children's very basic needs but still could not control or discipline the boys, particularly the older three.

¶ 24. It was noted that respondent continues to struggle in therapy and had made as much progress as she is capable. It was also noted that respondent would have issues keeping herself healthy and safe, being employed, and cannot live independently, creating a situation where the boys could easily become neglected.

¶ 25. The trial court referenced the period during which the twins were placed back in respondent's care but were removed shortly thereafter in mid 2016 after Des. arrived at school with a red mark on his neck, which he reported as having resulted from Deo. choking him with a belt.

¶ 26. The trial court commented about respondent's witness's testimony concerning the ability to provide more assistance to keep the minors in respondent's and F.C.'s care. The court stated that this was not demonstrated in the last four years and further noted that family was allowed to foster but there were disruptions.

¶ 27. The trial court noted that ultimately there was a refusal by respondent to cooperate relative to therapy, mental health, and to acknowledge the safety threats relative to her condition. It was felt that respondent had maximized her use of services and progress that she would probably be able to make.

¶ 28. It was noted that respondent and F.C. could not provide a stable, safe, and nurturing environment for the children even with the assistance of services and help from family. At various points in time, respondent and F.C. moved from couch to couch, placing the children in inadequate and unsafe living arrangements. Respondent and F.C. had been dishonest about their living arrangements because they knew DCFS would not approve some of their situations. The trial court specifically commented on a period when respondent and the twins were residing in a garage during which time one of the boys observed respondent and F.C. engaging in sexual acts which were subsequently emulated by the children in public.

¶ 29. The trial court commented that respondent's and F.C.'s relationship was also unstable. Various concerns regarding F.C. were also voiced. It was noted that F.C. battled marijuana addiction and refused to submit to random drug testing or tested positive. F.C. did not provide his work hours, had inconsistent employment, and his visitation when requested with one or more of the boys was inconsistent.

¶ 30. Neither respondent nor F.C. contested the trial court's findings of unfitness.

¶ 31. Best Interest Hearing

¶ 32. On March 12, 2018, the best interest hearing at issue in this appeal was commenced. The following witnesses testified during the hearing: Danielle, Dav.'s foster mother since July 2014; Jeffrey, Dar.'s foster father since May 2016; Jessica Lyman, the caseworker assigned to the family from March 2015 until February 2018; LaSandra, the foster mother of Deo. and Des.

since July 2016; Sherri Murray, the current caseworker assigned to the family since February 2018; and Kiana, Dav.'s former foster mother from May 2013 to February 2016.

¶ 33. Danielle M., Dav.'s Foster Mother

¶ 34. The State's first witness was Danielle, Dav.'s foster mother for approximately three years and eight months at the time of the best interest hearing. Dav. was born premature with medical issues requiring him to remain in the hospital until July 2014, when the child was placed in Danielle's care. While in her care, Dav. had numerous medical appointments. Danielle enrolled Dav. in a daycare program with specialized services where the child received most of his therapies. At age one, Dav. had four different therapies – occupational, physical, developmental, and speech every week. At the time of the best interest hearing, Dav. remained in two therapies, occupational and behavioral, which take place at Advocate Christ Hospital and Erikson Institute, respectively. Danielle attends all of the child's appointments and helps the child with his occupational therapy homework which includes walking up stairs, zipping his coat, tying his shoes, and putting on his clothes. She also works with Dav. on making eye contact, communicating, and making sure he knows there is an attachment, as the child had been diagnosed with attachment disorder due to his lengthy hospitalization after birth. At the time of the hearing, Dav. was about to turn four and was attending pre-school. While he has made a lot of progress, Dav. remains delayed.

¶ 35. Danielle and Dav. reside with Danielle's five-year-old biological daughter, her 25-year-old brother, who Dav. calls uncle David, and her mother, who Dav. refers to as Nana. They are a great support system and the child enjoys a strong familial relationship with them and other members of Danielle's large extended family. Dav. has friends in the community from the church they attend. Danielle described Dav. as charming, outgoing, friendly, intelligent, and

inquisitive.

¶ 36. Danielle is familiar with Dav.'s three biological brothers and communicates with their respective foster parents to schedule visits. She was open to and would encourage continuing those visits. Early on, there was some communication with respondent over the phone but it ceased after the first year or two. Respondent attended two of Dav.'s birthday parties. Danielle had provided respondent with her cellular telephone number and was open to communicating with her even after an adoption took place.

¶ 37. Danielle testified she loved Dav. and wanted to adopt him. She thought that removing Dav. from her home would be detrimental and traumatizing to the child.

¶ 38. Jeffrey B., Dar.'s Foster Father

¶ 39. The State's next witness was Jeffrey, Dar.'s foster father since May 2016, approximately one year and ten months. At the time of the hearing, Dar. was five years old.

¶ 40. Jeffrey is a social worker with 19 years of experience dealing with the juvenile court system including issues involving children in foster care. Things were rocky when Dar. first came to Jeffrey's home. Dar. lacked structure, manners, and common discipline. Dar had not been in a school setting, and when Jeffrey put the child in daycare, Dar. had problems adjusting. Dar. also had tantrums, which have decreased. Jeffrey made attempts to get services for Dar. but was unsuccessful until November 2016 when Jeffrey placed Dar. in trauma therapy. However, sessions were missed due to illness and were terminated after February 2017. In September 2017, Jeffrey found a new therapist who continues to see Dar. on a weekly basis. The therapist works with Dar. on behavioral issues as well as teaching him to work on his limits and tantrums. Dar. also sees a psychiatrist and was diagnosed with impulse disorder for which he takes daily prescription medication. Jeffrey is working with the caseworker to find a place for Dar. to do

occupational therapy on weekends.

¶ 41. Dar. has difficulty getting ready in the morning and is often late to school. Dar. attends a regular school. He is too young for an IEP but Jeffrey is working with the school to see if other services are available to Dar. Dar. has difficulty with focus and staying on task as well as his handwriting. Notwithstanding, Jeffrey describes Dar. as a very smart child.

¶ 42. Jeffrey and Dar. reside with Jeffrey's 14-year-old adopted son Steven, who has been with Jeffrey for ten years. Steven and Dar. get along like oil and water and antagonize each other but Dar. loves Steven and relates to him as a little brother to a big brother. Dar. has friends at daycare and church where he is a junior usher.

¶ 43. Jeffrey schedules sibling visits with the other foster parents and is open to continuing this contact if he is allowed to adopt Dar. He would be open to visits with respondent and F.C. if all of the siblings were also present.

¶ 44. Jeffrey wants to adopt Dar. and testified that Dar. is in his heart and needs to be in a good home which Jeffrey can provide. Dar. is attached to everybody in Jeffrey's family and has strong connections in the community.

¶ 45. Lasandra O., the Twins' Foster Mother

¶ 46. The state also called Lasandra, the twins' foster mother since July 1, 2016, one year and nine months. When the twins first came to Lasandra their behavior was out of control. They did not have boundaries or respect, one child used bad language with a case worker, they lied, they stole on a couple of occasions, and they had behavior problems. The boys would throw tantrums. The twins are currently in individual therapy and family counseling. Lasandra participates in the family counseling. There has been a complete turnaround in the twins' behavior since they have been in Lasandra's care.

¶ 47. The children are in first grade and both have 504 plans at their school. Deo. is struggling in school and may have dyslexia. Des. is very smart and helps Deo. with his schoolwork.

Lasandra planed on getting Deo. a tutor two to three times a week so he is ready for second grade. Both children take two prescription medications.

¶ 48. The children have close relationships at school and within Lasandra's extended family including Lasandra's niece.

¶ 49. While the twins were with Lasandra, there were DCFS investigations involving allegations that Lasandra had used corporal punishment to discipline the twins. The investigations were unfounded. The twins have never been removed from Lasandra's care since their placement.

¶ 50. Lasandra facilitates sibling visits which she arranges with the other foster parents. Lasandra testified that she would continue the sibling visits if allowed to adopt the twins. Lasandra would also be willing to facilitate visitation with respondent and F.C. provided the other siblings were also present. Lasandra indicated that she did not know what she would do if the twins asked to see respondent and F.C. independent of their siblings but stated she would consider it at that time. Lasandra expressed concern about allowing the twins to see respondent and F.C. individually after an adoption because one of the biological parents had discussed the twins returning home to them during an agency visit which she described as confusing for the boys and giving them false hope. Lasandra later stated that if the boys came to her and said they wanted to see their biological parents individually she would let them. She would also permit conversations with the biological parents over speakerphone and would allow the twins to accept cards and gifts from the biological parents; however, she had concerns about gifts because the twins had been promised gifts in the past and were disappointed when respondent and F.C. did

not follow through.

¶ 51. Respondent and F.C. attended the twins' kindergarten graduation in June 2017 on Lasandra's invitation. Neither respondent nor F.C. acknowledged Lasandra at the event. Lasandra knew they were there because the boys appeared to be smiling at them in the audience.

¶ 52. Recently the twins expressed that they wished to stay with Lasandra. Des. has even stated that he would run away if he was taken away from Lasandra. Lasandra wishes to adopt the twins because she fell in love with them. In discussing why she believed the twins would be okay if they did not see their biological parents, Lasandra testified that the twins stated that they love her, and while they love their biological parents, respondent and F.C. did not do what they were supposed to do and the twins are tired of going back and forth and wish to remain with Lasandra.

¶ 53. Kiana B. – Dar.'s Foster Mother from May 3, 2013 to February 2016

¶ 54. Dar. was placed in foster care with Kiana from May 3, 2013 until February 2016. Dar. had a relationship with Kiana's children and grandchildren. While Dar. was in her care Kiana formed a relationship with Dar.'s biological parents and facilitated visits with them as well as Dar.'s siblings.

¶ 55. At one point permanency was discussed with Kiana; however, she was not looking to adopt Dar. at the time. Kiana was willing to provide a form of permanency but the child was ultimately placed with respondent's sister, Tamika B. Kiana made it clear that she wished to remain in Dar.'s life. Kiana testified that in November 2015 she was told by a supervisor at Lutheran Social Services Illinois (LSSI) that she should submit a 14-day notice to speed up the process of moving Dar. to his aunt Tamika. Jessica Lyman, the family's LSSI caseworker, disputed this, testifying that Kiana was not instructed to give a 14-day notice. Instead, Lyman

stated that Kiana gave the notice due to her own family obligations. Kiana and her family maintained contact with Dar. while the child was placed with Tamika.

¶ 56. Jessica Lyman – LSSI Caseworker from March 2015 to February 2018

¶ 57. Lyman was a caseworker at LSSI and was assigned to the family from March 2015 to February 2018 before leaving to work at a different agency approximately one month before her testimony at the best interest hearing. Within 30 days of her leaving LSSI, Lyman had visited each of the children and had not seen any signs of abuse or neglect.

¶ 58. With respect to Dav., Lyman stated that the necessary services were in place for the child. Dav. was born premature and his foster mother, Danielle, always did what was necessary for the child. Dav. is getting all of the services he requires for his special needs. Danielle has been supportive of Dav.'s relationship with his biological parents and siblings. Lyman has no concerns about Dav. in Danielle's home. There was no reason why the court should not terminate the rights of the biological parents as to Dav. and appoint a guardian with the right to consent.

¶ 59. As to Dar., the child was initially placed in foster care with Kiana from 2013 until April 2016. After discussing a permanency plan for Dar. in September 2015, Kiana gave her 14-day notice indicating that she no longer wanted Dar. to reside in her home. Kiana, at the time, was unwilling to adopt Dar. and could not be his guardian as she was not a relative. The agency began looking for other placements for Dar., who remained with Kiana until April 2016. Neither respondent nor F.C. made LSSI aware of possible relative placement until December 2015 when they learned respondent's sister, Tamika, was a placement option. In April 2016, Dar. was placed with his aunt Tamika; however, this placement only lasted approximately one month. In May 2016, Dar. was placed with Jeffrey. The child was removed for a short period due to

allegations related to Jeffrey's employment as a social worker, which Jeffrey later testified were unfounded.

¶ 60. In July 2016, Kiana asked that Dar. be returned to her; however, LSSI did not return the child because he was forming bonds and an attachment with Jeffrey. Jeffrey is dealing with Dar.'s behavioral issues appropriately. Lyman believes that Jeffrey is open to sibling visitation going forward. LSSI has no concerns about Jeffrey caring for Dar. Lyman stated that Dar.'s relationship with Jeffrey's adopted son is a typical big brother, little brother relationship with normal bickering. Lyman also had no concerns as to Dar.'s health and safety. Lyman testified that Dar. should be freed for adoption by Jeffrey.

¶ 61. Concerning the twins, Lyman testified that Deo. and Des. were returned to respondent and F.C. from January 2015 until April or May 2016. When observed by Lyman during this period, respondent did not interact with the twins but would meet their needs when the twins asked for something. The twins were ultimately removed from respondent's and F.C.'s care. On July 1, 2016, the twins were placed with Lasandra. Lyman had no concerns about the twin's health and safety with Lasandra. Des. is specialized and both twins receive the same therapy services and medication monitoring. Lyman has seen improvements in the twins' behavior since their placements with Lasandra. There were three investigations concerning Lasandra and her care for the twins; however, all allegations were unfounded. LSSI has no concerns about Lasandra.

¶ 62. Ultimately LSSI determined that neither respondent nor F.C. were able to parent. In October 2016, the goal changed from return home to finding permanent placement for all four boys. Both biological parents participated in visits with the children; however, there were issues with F.C. attending his scheduled visits. The children know who their biological mother is, but

would rarely initiate things with her.

¶ 63. Lyman believes that all four children are doing well in their placements and should continue to live with their respective foster parents. Lyman is confident that the foster parents will continue to facilitate sibling visits, but acknowledged that all of the foster parents have issues with respondent's and F.C.'s visitation given their unwillingness to communicate with the foster parents. Lyman believes visits with the biological parents would negatively impact the children because respondent does not comprehend what is going on and may encourage the idea of the children returning to her care after adoption. The twins told Lyman that they love Lasandra and her family and want to stay with her. Dar. also told Lyman that he likes where he lives and feels like he could live there. Dav. was too young to articulate his thoughts.

¶ 64. Sherri Murray - LSSI Caseworker since February 12, 2018

¶ 65. Sherri Murray is the current LSSI caseworker assigned to the family since February 12, 2018. Murray has seen all four children. Since she has been involved in the case, the children are attending school regularly; their medical, dental and vision needs are all up to date; there have been no hotline calls or unusual incident reports; there were no complaints from the school or medical staff regarding the children's treatment in foster care; and the children had no complaints about their foster placement. The foster parents are complying with all of the service recommendations made by Murray. The twins and Dar. see a psychiatrist and take medications regularly. They are all in individual therapy as well. Murray is looking for occupational therapy for Dar. Murray testified that Dav. is not receiving any specialized services.

¶ 66. Murray had concerns about Lasandra coaching the twins on how to talk to Murray. There was also a concern about liquor being left out on a bar in Lasandra's home; however, this issue was resolved. Murray was also concerned that Lasandra refused to provide her adult son's

information so LSSI could do a background check on him as is required of certain visitors to the home. Murray did not find evidence of Lasandra's adult son living in the home based on looking in the twins' closet.

¶ 67. Murray has also observed respondent and F.C. with the four boys during three visits. The boys interact with the parents “okay,” but have a hard time following directives from them. F.C. interacts most with the children during the visits, while mom asks Murray questions about how the children are doing. The children love their biological parents. They have a bond with respondent and F.C. and refer to them as mom and dad. The children are excited for visits with their biological parents and siblings. At the last visit, Des. expressed concern that he would not see his biological parents again and asked F.C. how he could find him. Deo, Des., and Dar. would like to continue to see their biological parents.

¶ 68. Notwithstanding, it is LSSI's recommendation that it is in the best interest of the children that the rights of the biological parents be terminated and that a guardian be appointed with authority to consent to their adoption.

¶ 69. Trial Court's Ruling at Best Interest Hearing

¶ 70. Following the testimony, the trial court issued its ruling that it is in the best interests of the children to terminate parental rights and to appoint a guardian and to authorize that guardian to consent to an adoption of the children. The court noted its obligation to take into account the totality of the circumstances and make a determination in accordance with the children's best interests, including their safety, consistency, and access to the necessities required to move forward in life as happy and productive individuals.

¶ 71. The trial court discussed the fact that the case had gone on much longer than most with the hope that reunification with the biological parents could be accomplished. However, the

court noted that respondent and F.C. were not able to demonstrate that they could provide the children with consistency, stability, safety, and the necessities - even when they had only two of the four minors at issue in their care.

¶ 72. The trial court highlighted the un rebutted testimony that the boys are comfortable and wish to remain in their foster placements and found no concerns with any of the current foster parents.

¶ 73. In concluding, the trial court found the evidence in its totality supported the involuntary termination of respondent's and F.C.'s parental rights based on prior findings of unfitness and the best interests of the minors. The court further found that it is in the best interests of the minors to appoint a guardian with the right to consent to their adoption pursuant to the Illinois Juvenile Court Act of 1987 (Juvenile Court Act) and the Adoption Act.

¶ 74. This appeal followed.

¶ 75. ANALYSIS

¶ 76. In this appeal respondent raises the sole issue of whether the trial court's finding that it is in the best interests of the minor children to terminate her parental rights and appoint a guardian with authority to consent to their adoption is against the manifest weight of the evidence. A trial court's decision that termination of parental rights is in a child's best interest will only be reversed if the trial court's findings were contrary to the manifest weight of the evidence or if the trial court otherwise abused its discretion. *In re G.L.*, 329 Ill. App. 3d 18, 25 (2002). A trial court abuses its discretion if the trial court acts arbitrarily without conscientious judgment, exceeds the bounds of reason, or ignores recognized principles of law so that substantial prejudice results. *Id.* A decision is against the manifest weight of the evidence if the facts clearly demonstrate that the court should have reached the opposite result. *Id.* In child custody

cases, greater deference is given to the trial judge than under the familiar manifest weight of the evidence standard because of the delicacy and difficulty of the cases. *N.T.*, 2015 IL App (1st) 142391, ¶ 26.

¶ 77. The Juvenile Court Act (705 ILCS 405/1 *et seq.* (West 2018)) and the Adoption Act (750 ILCS 50/1 *et seq.* (West 2018)) control proceedings to terminate parental rights. Where the State seeks termination of parental rights without parental consent, the trial court must make two separate and distinct findings: (1) it has been proven by clear and convincing evidence that the parents are “unfit persons” within the meaning of section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2018)); and, (2) it has been proven by a preponderance of the evidence that it would be in the best interests of the children to terminate parental rights and to appoint a guardian and authorize that guardian to consent to an adoption. 705 ILCS 405/2–29(2) (West 2018); *In re D.T.*, 212 Ill. 2d 347, 366 (2004).

¶ 78. As to the first step, determining parental fitness, both respondent and F.C. were found to be unfit persons as defined by the Adoption Act. Specifically, respondent was found to be unfit pursuant to Ground M, lack of substantial progress, and Ground P, intellectual disability - mental impairment. Neither respondent nor F.C. challenged the trial court's parental unfitness findings.

¶ 79. As to the second step, the best interest determination, respondent contests the trial court's finding that it is in the best interests of the children to terminate her parental rights and to appoint a guardian and authorize that guardian to consent to adoption of the children.

¶ 80. Section 2-29 of the Juvenile Court Act provides for the appointment of a guardian with power to consent to adoption as follows:

"(2) If a petition or motion alleges and the court finds that it is in the best interest of the minor that parental rights be terminated and the petition or motion requests that a guardian of the person be appointed and authorized to consent to the

adoption of the minor, the court, with the consent of the parents, if living, or after finding, based upon clear and convincing evidence, that a parent is an unfit person as defined in Section 1 of the Adoption Act, may terminate parental rights and empower the guardian of the person of the minor, in the order appointing him or her as such guardian, to appear in court where any proceedings for the adoption of the minor may at any time be pending and to consent to the adoption. Such consent is sufficient to authorize the court in the adoption proceedings to enter a proper order or judgment of adoption without further notice to, or consent by, the parents of the minor. An order so empowering the guardian to consent to adoption deprives the parents of the minor of all legal rights as respects the minor and relieves them of all parental responsibility for him or her, and frees the minor from all obligations of maintenance and obedience to his or her natural parents." 705 ILCS 405/2-29 (West 2018).

¶ 81. Section 1-3(4.05) of the Juvenile Court Act is instructive as to the best interest analysis required under section 405/2-29 and states that "[w]henver a 'best interest' determination is required, the following factors shall be considered in the context of the child's age and developmental needs:

- (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, including:
 - (i) where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);
 - (ii) the child's sense of security;
 - (iii) the child's sense of familiarity;

- (iv) continuity of affection for the child;
- (v) the least disruptive placement alternative for the child;
- (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." 705 ILCS 405/1-3(4.05) (West 2018).

¶ 82. While all of the best interest factors must be considered, no one factor is dispositive (*In re S.K.B.*, 2015 IL App (1st) 151249, ¶ 48). The determination need not contain specific reference to each factor. *In re Tajannah O.*, 2014 IL App (1st) 133119, ¶ 19. In addition, consideration may also be given to “the nature and length of the child's relationship with the present caretaker” and the effect that a change of placement would have on the emotional and psychological well-being of the child. *In re N.T.*, 2015 IL App (1st) 142391, ¶ 28. A child's best interest takes precedence over any other consideration including the natural parent's right to custody. *Tajannah O.*, 2014 IL App (1st) 133119, ¶ 18.

¶ 83. As noted above, it is the State's burden to prove by a preponderance of the evidence that it would be in the best interests of the children to terminate parental rights and to appoint a guardian and authorize that guardian to consent to an adoption of the children. *D.T.*, 212 Ill. 2d at 366. Respondent argues the trial court's finding that it is in the best interests of the minor children to terminate respondent's parental rights is against the manifest weight of the evidence

because: (1) it was uncontroverted that respondent loved her children; (2) respondent made every effort to comply with services and to visit the children consistently; (3) all four children wanted to retain a relationship with respondent, which respondent argues is unlikely to continue if adoption was permitted; and (4) the children love their biological parents and enjoyed a strong bond with them. As further support for her position, respondent also references the following best interest factors: (1) the child's background and ties, including familial ties; (2) continuity of affection; and (3) the child's wishes and long-term goals.

¶ 84. We disagree with respondent's position. Upon our thorough examination of the record in this cause, we cannot conclude that the trial court's decision to terminate respondent's parental rights was against the manifest weight of the evidence or was otherwise an abuse of discretion.

¶ 85. While the severing of the bond between a biological parent and a child is a drastic and permanent measure that must be handled with great care, at the best interest stage of the termination proceedings, the parents' interests in maintaining the parent-child relationship must yield to the child's interest in a healthy, safe, stable and loving home. See *Tajannah O.*, 2014 IL App (1st) 133119, ¶ 18; see also 705 ILCS 405/1-2(3)(c) (West 2018).

¶ 86. Our analysis focuses solely on the children's best interests and the statutory best interest factors, all of which support the trial court's termination of respondent's parental rights. There was substantial evidence that respondent is limited in her ability to care for herself, let alone four minor children with special needs. Beyond the ordinary day-to-day care requirements of a young child, Des., Deo., Dar., and Dav. require significant parental involvement given their developmental delays. The children are involved in various therapies; take regular medication, which requires monitoring and appointments with a psychiatrist; and have imminent future interventions including occupational therapy, tutoring and monitoring of the children's academic

needs. All of this requires tremendous parental involvement and the ability to be proactive with respect to each child's care. While respondent took advantage of the several services offered to improve her parenting, given her limitations, respondent was never able to effectively apply those skills in order to care for the children. It is certainly laudable that respondent did her best to take advantage of the services available to her as well as the regular visits with the children. However, as noted above, our concern here is with the children's best interests; and, thus, respondent's efforts cannot cause a continued parental relationship unless those efforts result in the children's ultimate best interests being achieved. This is not the case here, where respondent struggles to care for herself, while each child's foster parent has been active and instrumental in making sure that all of the children's needs are consistently met.

¶ 87. A return home goal remained in place beyond what is customary in these cases as it was the hope that termination of parental rights could be avoided. Unfortunately, it could not; and, as this case continued on, the children experienced instability - particularly Deo., Des., and Dar., who have been back and forth over the years between biological parents, family members, and different foster parents. When the twins were briefly returned to the biological parents in January 2015, there were significant issues and bad judgment displayed by respondent and F.C. Ultimately, the return home failed after Des. arrived at school with a red mark around his neck because Deo. had choked him with at belt and it was learned that the children were exposed to respondent and F.C. engaging in sex acts while they were living with the twins in a garage.

¶ 88. All four children are presently in stable, safe, and loving environments where their basic and various special needs are being met. At the time of the best interest hearing Dav. had been in Danielle's care for over three and a half years, Dar. had been in Jeffrey's care for nearly two years, and Deo. and Des. had been in Lasandra's care for over a year and a half. The children

are enrolled in school and/or day care and have ties to the foster parents' immediate and extended families as well as their communities. Each foster parent has been and remains committed to facilitating sibling visits and no foster parent completely rejected the idea of contact with the biological parents into the future despite highlighting real concerns about such visitations being potentially problematic for the boys. While the children love their biological parents and vice versa, the children wish to remain in their foster placements and each foster parent wishes to adopt their respective foster child, similarly highlighting a close and loving parent-child relationship.

¶ 89. The purpose and policy of the Juvenile Court Act specifies that a "parent's rights to custody of their child shall not prevail when the court determines that it is contrary to the health, safety, and the best interest of the child." 705 ILCS 405/1-2(3)(c) (West 2018). Such is the case here. The trial court concluded it was in the best interests of the children for respondent's parental rights to be terminated and that the children be adopted by their respective foster parents. We cannot say the opposite conclusion is clearly evident or that the trial court's ruling is unreasonable, arbitrary, or not based on the evidence presented. Therefore, the judgment of the trial court terminating respondent's parental rights with respect to Deo., Des., Dar., and Dav. and appointing a guardian with the right to consent to the adoption of the minor children is affirmed.

¶ 90. **CONCLUSION**

¶ 91. For the foregoing reasons the judgment of the circuit court of Cook County is affirmed.

¶ 92. Affirmed.