2023 IL App (4th) 220756-U

NO. 4-22-0756

FILED
February 27, 2023
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re M.T., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Peoria County
Petitioner-Appellee,	)	No. 18JA405
v.	)	
Detre T.,	)	Honorable
Respondent-Appellant).	)	Derek G. Asbury,
	)	Judge Presiding.

JUSTICE CAVANAGH delivered the judgment of the court.
Justices Zenoff and Doherty concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed the judgment of the trial court terminating respondent's parental rights because the trial court's best-interest finding was not against the manifest weight of the evidence.

¶ 2 Respondent, Detre T., is the father of M.T. (born November 5, 2018). In July 2022, the trial court found respondent was an unfit parent under the Adoption Act (750 ILCS 50/1 *et seq.* (West 2018)), and it found termination of respondent's parental rights would be in the minor's best interest.

¶ 3 Respondent appeals, arguing the trial court's best-interest determination was against the manifest weight of the evidence. We disagree and affirm.

¶ 4 I. BACKGROUND

¶ 5 When M.T. was less than two weeks old, in November 2018, the State filed a petition for adjudication of wardship alleging M.T. was neglected in that his environment would be injurious to his welfare should he be in the care of respondent and the minor's mother, Jasmine B. (Jasmine's parental rights were also terminated in the proceedings but she is not a party to this appeal.) The State alleged the following grounds: (1) the couple had inflicted violence upon other individuals during Jasmine's pregnancy, (2) in January 2018, a court had found Jasmine to be an unfit parent in another juvenile case, (3) Jasmine tested positive for marijuana during her pregnancy, and (4) the couple had a criminal history. See 705 ILCS 405/2-3(1)(b) (West 2018).

¶ 6 On the same day the petition was filed, the trial court conducted a shelter care hearing and placed temporary guardianship and custody of M.T. with the guardianship administrator of the Illinois Department of Children and Family Services (DCFS). M.T. was placed in a traditional foster home with one of his siblings, his maternal half-brother.

¶ 7 In January 2019, the trial court entered an adjudicatory order, finding M.T. was a neglected minor. In March 2019, the court entered a dispositional order, finding respondent unfit and making M.T. a ward of the court.

¶ 8 On June 25, 2021, the State filed a petition to terminate respondent's parental rights. The State alleged respondent was an unfit parent within the meaning of the Adoption Act due to his failure to make reasonable progress toward the return of the minor during the nine-month period of September 10, 2020, to June 10, 2021. See 750 ILCS 50/1(D)(m)(ii) (West 2020).

¶ 9 On July 27, 2022, the trial court entered a written order finding respondent to be an unfit parent on the grounds set forth in the petition. The court found the State had proved the allegation "in its entirety by clear and convincing evidence." We note the record on appeal does not include a report of proceedings from the fitness hearing.

¶ 10 The trial court proceeded immediately to a best-interest hearing. The court noted it had received and reviewed the best-interest report, which recommended the termination of respondent's parental rights. The report indicated M.T., who was three years old, was doing well in his foster home and was physically on target with his developmental milestones.

¶ 11 Sarah Picken, the caseworker starting in July 2020, testified M.T. had been placed in his foster home since birth, or for three-and-a-half years. Picken testified she visited the foster home where M.T. was placed with his two siblings once a month. The foster parents provided for all of the minor's necessities: physical, emotional, and medical. According to Picken, M.T. looked to his foster parents for safety and security, as there seemed to be "a strong bond there." The foster parents supported M.T.'s background, culture, and identity. M.T. referred to the foster parents as "mom" and "dad."

¶ 12 Picken testified she had observed visitation between M.T. and respondent. Although M.T. seemed to have a bond with respondent, Picken testified M.T.'s bond with his foster parents was stronger. She said the foster parents had expressed their desire to adopt M.T. and, in Picken's opinion, adoption would be in M.T.'s best interest.

¶ 13 On cross-examination, Picken testified respondent recently had communications with M.T. only on the telephone during Jasmine's visit. (Apparently, respondent had been in prison since February 2021 and was expected to be released in 2026.) Picken said respondent was not allowed virtual visits and she was unable to take M.T. into the prison because the prison required any person who brought a child to a visit had to be vaccinated and Picken said she was not. When asked if there was anyone else in the agency who was vaccinated, Picken testified: "There is. We are short-staffed."

¶ 14 Respondent testified his bond with M.T. was "happy, joyful, and playful." He said

he has had no contact with M.T. since going to prison, not even by telephone. He also disputed Picken's testimony and said he *was* allowed virtual and in-person visits.

¶ 15 The trial court found termination of respondent's parental rights to be in M.T.'s best interest. The court stated it had considered the best-interest report and all the statutory "best interest" factors (see 705 ILCS 405/1-3(4.05) (West 2020)), noting those relative to M.T.'s age and developmental needs. The court noted M.T. had spent "all but five days of his life" with his foster parents, so they were naturally "mom" and "dad" to him. The court explained that every factor which applied to such a young child was favorable toward terminating respondent's parental rights, and thus, would allow M.T. permanency through adoption. The court found, by a preponderance of the evidence, it was in M.T.'s best interest to terminate respondent's parental rights.

¶ 16 This appeal followed.

¶ 17 II. ANALYSIS

¶ 18 We initially comment on the delay in the issuance of this order. As a matter addressing the custody of a minor, this case is subject to expedited disposition under Illinois Supreme Court Rule 311(a)(5) (eff. July 1, 2018), requiring this court to issue its decision within 150 days after the filing of a notice of appeal, except for good cause shown. Respondent filed his notice of appeal on August 26, 2022, but, due to his numerous unopposed requests for extensions of time to file the record and his brief, the case was not submitted for our review until February 8, 2023. Although every effort was made to comply with the deadline under Rule 311(a)(5), the tardiness of the record and filed briefs precluded us from doing so, and we find good cause exists for the delay.

¶ 19 Respondent appeals, arguing the trial court's best-interest determination was

against the manifest weight of the evidence. We disagree and affirm.

¶ 20 At the best-interest stage of termination proceedings, the State bears the burden of proving by a preponderance of the evidence that termination of parental rights is in the child's best interest. *In re C.P.*, 2019 IL App (4th) 190420, ¶ 71. In reaching a best-interest determination, the trial court must consider, within the context of the child's age and developmental needs, the following factors:

> "(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." (Internal quotation marks omitted.) *In re J.B.*, 2019 IL App (4th) 190537, ¶ 32.

See also 705 ILCS 405/1-3(4.05) (West 2020).

¶ 21 A reviewing court affords great deference to a trial court's best-interest finding because the trial court is in a superior position to view the witnesses and judge their credibility. *C.P.*, 2019 IL App (4th) 190420, ¶ 71. An appellate court "will not disturb the trial court's decision regarding a child's best interests *** unless it is against the manifest weight of the evidence." *Id.* ¶ 68. A best-interest determination is against the manifest weight of the evidence only when the opposite conclusion is clearly the proper result. *Id.*

¶ 22 Respondent argues the trial court erred by failing to allow time for M.T. "to reunite" with him in the form of visitation, given the undisputed bond M.T. had with his father. Respondent claims the court "did not have enough information" to support its ruling, given the "total lack of contact" between M.T. and respondent.

¶ 23 We conclude the trial court's finding that termination was in M.T.'s best interest was well supported by the record. M.T. had been in the same foster home since birth and was doing well. He did not lack for attention, affection, or security. He was placed with his siblings in a loving and stable environment. M.T.'s best interest would not be served waiting for respondent to work toward fitness because, for the foreseeable future, respondent would remain unable to parent the minor while in prison. M.T. deserves and needs stability and permanency. Given the circumstances of this case, including the young age of the minor, the court's emphasis on M.T.'s sense of permanence and stability was entirely appropriate, and we affirm its judgment terminating respondent's parental rights.

¶ 24 III. CONCLUSION

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

¶ 26 Affirmed.