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No. 3–10–0394

Order filed April 5, 2011

IN THE
APPELLATE COURT OF ILLINOIS
THIRD JUDICIAL DISTRICT

A.D., 2011

<i>In re</i> L.D.,)	Appeal from the Circuit Court
)	of the 10th Judicial Circuit,
Minor,)	Peoria County, Illinois,
)	
(The People of the State of Illinois,)	
)	
Petitioner-Appellee,)	No. 10 JA 42
)	
v.)	
)	
Demetra D.,)	Honorable
)	Richard D. McCoy,
Respondent-Appellant.))	Judge Presiding.

JUSTICE WRIGHT delivered the judgment of the court.
Justices Holdridge and McDade concurred in the judgment.

ORDER

Held: The court's order finding mother dispositionally unfit to care for the minor, L.D., who was placed in the temporary custody of DCFS since her birth, was not against the manifest weight of the evidence where mother's parental rights were previously terminated for three older children, mother presently had two additional older children who were living in foster homes under the care of DCFS, mother had not yet completed all of the tasks necessary to have the two older children returned to her care, mother had stipulated to the facts alleged in L.D.'s petition alleging L.D.'s environment was injurious to her welfare, and the caseworkers and mental

health care providers recommended that mother maintain stability and attend counseling sessions for a period before the court return L.D. to mother's care and custody.

Respondent-appellant Demetra D. is the mother of the minor child, L.D., who was born on February 4, 2010. On February 9, 2010, the State filed a petition against Demetra D. (mother) alleging she neglected L.D. by providing an injurious environment for the minor because the court previously found mother dispositionally unfit to care for two older minors, in a 2007 and a 2009 case, and mother had not completed services necessary to be found fit to have the older minors returned to her care. In L.D.'s case, the court placed L.D. with the Department of Children and Family Services (DCFS) through a shelter care order and mother stipulated to the facts in L.D.'s petition. After a dispositional hearing, held on May 4, 2010, the court made the minor a ward of the court, found mother dispositionally unfit to care for the minor, named DCFS the minor's guardian, and set the case for a permanency hearing. Mother challenges the court's finding that she was unfit at the dispositional hearing. We affirm.

BACKGROUND

Respondent-appellant Demetra D. gave birth to L.D. on February 4, 2010. On February 9, 2010, the State filed a juvenile petition in Peoria County Case No. 10 JA 42 alleging mother neglected the minor, L.D. by providing an injurious environment for the minor because the court previously found mother dispositionally unfit to care for older minors in Peoria case Nos. 07-JA-210 and 09-JA-11 and mother had not completed required services for her to have the older minors returned to her care.

The court entered a temporary shelter care order, on February 10, 2010, placing the minor

under the temporary care of DCFS. On March 17, 2010, mother filed an answer to the petition and stipulated to the facts alleged in the petition. The court then continued the cause for entry of an adjudicatory order and set the dispositional hearing for May 4, 2010.

On April 27, 2010, Ms. Susan Lucas, for the State, proffered the evidence to prove its petition based upon mother's stipulation. If the case went to trial, Ms. Lucas stated she would present certified copies of Peoria County case Nos. 07-JA-210 and 09-JA-11 with regard to mother's two other children.¹ As to the 2007 case, Ms. Lucas proffered that the court entered a written order finding mother dispositionally unfit on February 3, 2009, and Lucas read into the record the basis for the court's fitness finding in that case. Ms. Lucas stated:

“The basis was, quote, prior denial of relationship with Joseph Keeton (caseworker and in court). Frustrated caseworker's ability to do background check on Mr. Keeton who has a history of domestic violence with other women. Became pregnant by Mr. Keeton and hid the pregnancy until the day before the child's birth. Violated the Court's 8/12/08 order the next day regarding no man in home without prior DCFS approval.

Failed to attend numerous visits. Failed to attend numerous counseling sessions. Bragged to caseworker on 1/8/09 about having lied to her and to the Court. No meaningful counseling because when attended she lied to the counselor.”

Regarding the 2009 case, Ms. Lucas told the court that, on March 10, 2009, the court found mother unfit under the same basis.

¹ Neither these files nor copies of documents contained in those files are included in the appellate record in the instant case.

Additionally, Ms. Lucas proffered facts that the court held a permanency review hearing on July 21, 2009, where the court found mother's efforts were "mixed." According to Lucas, the court found that mother was engaged in some services at that time, but that she was evasive in her testimony, mother lied to her caseworker about her involvement with Mr. Keeton, and continued to lie until she was caught. Lucas further stated, the court found mother failed to make reasonable efforts due to continuing dishonesty at a permanency review hearing on January 12, 2010.

In the instant case, the court found that the State proved the current petition in its entirety based upon the State's proffer and set the matter for entry of an adjudicatory order. On that next date, the court set the dispositional hearing for May 4, 2010.

The court admitted a report prepared by a caseworker for DCFS for the dispositional hearing. The dispositional report provided information that mother had been found unfit and had her parental rights terminated in regards to three older children and there were pending petitions to terminate her parental rights on two additional children, other than L.D. According to the report, mother had been employed since August of 2009, but was currently on a maternity leave and would be returning to her job on April 1, 2010. The report additionally stated that mother has completed parenting classes ordered in the earlier cases involving mother's other two children; mother has met weekly with her therapist; mother has submitted to two drug tests monthly for the last year and all were negative; mother has completed several sessions of domestic violence counseling and attended a domestic violence support group. The report noted that, in the past, mother has not always maintained consistent employment, maintained stable housing, cooperated in drug testing, or been forthright in communicating with her caseworker,

but mother has made progress in the last six months and “seems to be moving in the right direction to rectify conditions that brought her child into care.” The report recommended that, due to the short time that L.D. has been in foster care, that the goal for the minor should be to have her returned to mother’s care within 12 months if mother continued to cooperate. As to recommendations included in this report, the caseworker requested that mother maintain stable employment and show DCFS proof of employment; submit required information to the caseworker; notify the caseworker of any change of address; actively participate in and successfully complete individual therapy; and to attend and participate in the domestic violence support group and provide proof to the caseworker.

A social history report was attached to the dispositional report with additional information. According to that report, mother had been living alone in a one-bedroom apartment since February 2010 and “the apartment was clean, neat, and stylishly organized.” The caseworker who prepared the report documented that “[n]o safety concerns were noted.” Prior to that, mother lived in a YWCA homeless shelter where mother was reported as telling the caseworker that she successfully participated in their “case management services” which included “budgeting, credit counseling, food and nutrition services, CPR licensing, and classes on self esteem.” After completing that program, the YWCA recommended mother for the “Rapid Rehousing Program” which provides rental assistance for six months and case management assistance for a year. According to the social history report, mother had been consistently attending supervised visitation with L.D. for two hours per week, and one of L.D.’s siblings in DCFS care was also present for these visits.

According to this social history report, mother continued to consistently participate in

psychotherapy. Under the “Clinical Impressions” section of the report, the caseworker stated:

“[Mother] appeared to make significant gains with her mental health issues over the past year. It is apparent that she is not as emotionally detached, depressed, or as angry as she had been during her previous Integrated Assessment interviews. She has begun to identify and address issues of trauma in her life, including emotional and sexual abuse. Additionally, she has begun to accept responsibility for some of her mistakes and is not blaming others for the consequences of her own action. [Mother] is finally able to share and address experiences and emotions that have shaped her over the years and seems to have begin the healing process. It is vital that she continue her positive work in psychotherapy and maintain her goal of reunification with [L.D.]. She is demonstrating motivation to make positive changes in herself and wishes to parent [L.D.] full time.”

Additionally, the report stated mother was still struggling with a thyroid disorder that was last treated in September 2009, but mother has been unable to attend bimonthly doctor visits due to lack of health insurance. The report addressed L.D.’s current placement in a traditional foster home with two teenage children and L.D.’s two maternal siblings who were the subject of the other two juvenile petitions. Finally, in this report, the caseworker stated, “[Mother’s] most pressing issues are the need to continue to maintain stability, make positive relationship choices, and remain engaged in mental health services.”

In addition to the report, the caseworker, Donna Williams, testified at this hearing. Ms. Williams stated that mother completed the standard support group counseling but, due to mother’s history and the fact that mother had been both a victim and a perpetrator, Williams said

she told mother she wanted mother to continue meeting with the support group. Williams testified, "But she did complete it and that's fine with her not doing it anymore." Williams said that mother was not involved in any more domestic violence incidences after mother completed her support group counseling.

Regarding individual therapy, Williams stated that she would like mother to continue with individual therapy. Williams testified that mother had completed all of her other recommended services and parenting classes, but that DCFS requested the court to order mother to continue the basic requirements such as maintaining employment and housing, and cooperating with DCFS and keeping them updated with her current information.

The State then recommended that the court make the minor a ward of the court, appoint DCFS as guardian, and find mother unfit, in spite of mother's participation in services, because "it's been a long history that has also included a lot of dishonesty and bad decisions on her part." The guardian *ad litem* stated that he had "[n]othing to add." Mother's attorney asked the court to find that mother was fit to care for children because she had "already completed everything" and DCFS now recommended that mother just continue maintaining services. Mother's attorney contended that, since mother completed of all the recommended services, there is no standard remaining to determine when mother has completed enough of the continuing services to be found fit other than a caseworker's subjective opinion.

The State responded that, in this case, the court could find mother fit to have the care and custody of the minor "when in retrospect we realize that she has stopped doing stupid things and stopped lying." The State agreed, in respect to mother's cooperation, that "things are in better shape than they have ever been in terms of her participation and how things seem to be going."

The guardian *ad litem* reminded the court that, in mother's previous cases, mother had been found fit and had the children in her custody but, due to the deception and hiding information from DCFS, mother was subsequently found unfit and the children were removed from her care. The guardian *ad litem* further argued, "So, her having done everything doesn't necessarily translate into her being fit, it hasn't before and I believe we just need a little more time."

The court found mother unfit and granted DCFS the guardianship of L.D. The court ordered mother to get her counseling done and go to her support group as recommended and then the court would restore fitness to mother. The court then noted that "[t]he history's too long. We've got to establish compliance with a little – a little longer than just in this case." The court ordered mother to cooperate with DCFS and correct the conditions that required the minor to be in alternate care. The court further adopted the recommendations from the dispositional report. Finally, the court set the matter for a permanency review hearing in six months.

The court entered a written dispositional order in which the court found it in the best interests of the minor to be made a ward of the court. This order also provided basis for the court's finding that mother remains unfit as "participating in services but long history of dishonesty and poor choices." Simultaneously, the court entered a separate order detailing the tasks necessary for mother to complete to correct the conditions that led to the removal of the minor from mother. These tasks included: cooperate with DCFS; participate in and successfully complete counseling and provide DCFS with proof of completion and "be forthright with therapist;" maintain stable housing; attend supervised visitation as scheduled; maintain stable employment; and provide proof of attendance at the domestic violence support group if requested to attend by caseworker.

Mother filed a timely appeal challenging the court's finding her unfit.

ANALYSIS

On appeal, mother challenges the trial court's finding of her continued unfitness at the dispositional hearing. The State contends that the trial court's fitness finding was not against the manifest weight of the evidence.

In Illinois, “[a] dispositional hearing serves the purpose of allowing the circuit court to decide what further actions are in the best interests of a minor (705 ILCS 405/2-27(1) (West 2008)), and the hearing and ruling on whether to make a minor a ward of the court gives the parents ‘fair notice of what they must do to retain their rights to their child’ in the face of any future termination proceedings.” *In re April C.*, 326 Ill. App. 3d 225, 237 (2001); *In re D.M.*, 395 Ill. App. 3d 972, 977 (2009). The State must prove that a parent is dispositionally unfit by a preponderance of the evidence. *April C.*, 326 Ill. App. 3d at 238. On appeal, we will reverse a trial court's dispositional determination only if the findings of fact are against the manifest weight of the evidence or if the trial court abused its discretion by selecting an inappropriate dispositional order. *April C.*, 326 Ill. App. 3d at 238; *D.M.*, 395 Ill. App. 3d at 977. A finding is against the manifest weight of the evidence where a review of the record clearly demonstrates that the result opposite to that reached by the trial court was the proper result. *April C.*, 326 Ill. App. 3d at 238.

In the case at bar, we have carefully reviewed the record, including the petition, the stipulation of facts to support the petition, the testimony, and the dispositional and social history reports prepared by the caseworkers. The only facts alleged in the pleadings to support the allegation of mother providing an injurious environment for L.D. detailed mother's previous

findings of unfitness in Peoria County cases, Nos. 07– JA– 210 and 09– JA– 11, and indicated that the court had not subsequently made findings restoring mother’s fitness to care for the children in those cases, and mother had not completed the necessary services for those findings as of the date L.D.’s petition was filed on February 9, 2010. Mother stipulated to those facts alleged in L.D.’s petition.²

The court held two permanency review hearings in those cases, one in July of 2009 and one in January of 2010, and the court found mother “failed to make reasonable efforts due to her continuing dishonesty” and mother had not yet completed the several specific tasks, in those cases, to have the custody of those minors returned to her. Additionally, mother gave birth to three additional older children for which mother’s parental rights had previously been terminated.

Less than a month after the last permanency review hearing, mother gave birth to L.D. on February 4, 2010, and DCFS immediately took protective custody of L.D. based on the mother’s lengthy history and the court’s findings regarding mother’s other children. Although mother has made great strides towards the completion of her court-ordered tasks in order to re-gain the custody of her children, both the caseworker who prepared the dispositional report and the caseworker who prepared the social history investigation recommended that, based upon mother’s history, she needed to maintain stability in her employment and housing and continue counseling.

The record shows that, prior to L.D.’s birth, mother lived at the YWCA homeless shelter and completed a six-month program there to qualify for assistance in locating and financing

² The appellate record does not include the allegations in the siblings’ petitions that lead to the court’s finding that mother was unfit to care for her children in those cases.

housing. The free financing for mother's housing through this program continued for six months after securing her own housing in February 2010, and the case management assistance through this program continued for one year. Mother first obtained this housing the month L.D. was born and placed in DCFS care. Additionally, the social history report stressed that "[mother's] most pressing issues are the need to continue to maintain stability, make positive relationship choices, and remain engaged in mental health services."

Based upon our review of the record, we conclude that the trial court's determination that mother was unfit was supported by the record and was not against the manifest weight of the evidence. Accordingly, we hold that the trial court did not err in finding mother dispositionally unfit.

CONCLUSION

For the reasons set forth above, the judgment of the circuit court of Peoria County is affirmed.

Affirmed.