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NOS. 4-11-0248, 4-11-0249, 4-11-0250 cons.

IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

In re: T.S., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Sangamon County
v. (No. 4-11-0248))	No. 08JA46
LAVONE WASHINGTON,)	
Respondent-Appellant.)	
_____)	
)	
In re: T.W., a Minor,)	No. 08JA47
THE PEOPLE OF THE STATE OF ILLINOIS,)	
Petitioner-Appellee,)	
v. (No. 4-11-0249))	
LAVONE WASHINGTON,)	
Respondent-Appellant.)	
_____)	
)	
In re: L.W., a Minor,)	No. 08JA48
THE PEOPLE OF THE STATE OF ILLINOIS,)	
Petitioner-Appellee,)	
v. (No. 4-11-0250))	Honorable
LAVONE WASHINGTON,)	Esteban F. Sanchez,
Respondent-Appellant.)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.
Presiding Justice Knecht and Justice Appleton concurred in the judgment.

ORDER

- ¶ 1 *Held:* In this consolidated case, the appellate court affirmed the trial court's fitness and best-interest findings as to three minors, where their mother (1) failed to cooperate with her client-service plan coordinators and (2) showed no signs of doing so in the near future.
- ¶ 2 In September 2010, the State filed separate petitions to terminate the parental

T.S., T.W., and L.W. out of the residence and authorities could not locate respondent, the children were taken into protective custody. (Terry's parental rights were later terminated, but he is not a party to this appeal.)

¶ 8 A. The State's Petitions

¶ 9 1. *The State's Petitions for Adjudication of Wardship*

¶ 10 On March 20, 2008, the State filed three separate petitions for adjudication of wardship as to T.S., T.W., and L.W., alleging, in each respective petition, that the child was neglected (705 ILCS 405/2-3(1)(b) (West 2008)), in that his or her environment was injurious to his or her welfare "as evidenced by the unsanitary condition of their home." Following a hearing held shortly thereafter, the trial court adjudicated T.S., T.W., and L.W. wards of the court and appointed DCFS as their guardian.

¶ 11 2. *The State's Petitions To Terminate Parental Rights*

¶ 12 In September 2010, the State filed three separate petitions to terminate respondent's parental rights as to T.S., T.W., and L.W. The State's petitions alleged that respondent was unfit in that she failed to (1) maintain a reasonable degree of interest, concern, or responsibility as to the children's welfare (750 ILCS 50/1(D)(b) (West 2008)); (2) make reasonable efforts to correct the conditions that were the basis for the children's removal (750 ILCS 50/1(D)(m)(i) (West 2008)); (3) make reasonable progress toward the return of the children within 9 months after adjudication of neglect (February 5, 2009, through November 5, 2009) (750 ILCS 50/1(D)(m)(ii) (West 2008)); and (4) make reasonable progress toward the return of the children within 9 months after adjudication of neglect (November 5, 2009, through August 5, 2010) (750 ILCS 50/1(D)(m)(ii) (West 2008)).

¶ 13

B. The Parental Fitness Hearing

¶ 14

At a December 2010 fitness hearing on the State's petition to terminate, Taylor Sincavage, the children's foster-care caseworker (March 2009 through September 2009), testified that the children had been taken into foster care because they were inadequately supervised and in a neglectful environment. Sincavage explained that respondent was assigned a client-service plan, which (1) included parenting classes, and (2) required a thorough house cleaning, proof of adequate income, counseling, and contact with her caseworkers. Sincavage added that respondent satisfactorily completed parenting classes, held a steady job, and visited with the children, but was rated "unsatisfactory" overall because respondent failed to cooperate with her caseworkers as to the requirement to remediate the mold and cockroach problem in her home.

¶ 15

Tara Geving, the children's caseworker (September 2009 through March 2010), testified that respondent's client-service plan remained the same as it had been since March 2009. Geving added that respondent completed many of her plan objectives but that her interactions with the children during her visitation were "poor." Geving explained that respondent would not cooperate with her, even avoiding her at times.

"I would try to talk to [respondent] when she was in the office, but sometimes she did not want to talk to me. I sent certified mail trying to get a hold of her to schedule home visits[,] and I went to the home, I believe June 2010, and knocked on the door[,] and I could hear people in the home but no one would answer the door.

* * *

[T]he case came to DCFS due to environmental neglect and

*** I needed to see the home to make sure all of the issues ***
were corrected, and I was never able to go inside the home and
check out the situation."

¶ 16 For her part, respondent elected not to testify.

¶ 17 On this evidence, the trial court found that the State had proved by clear and
convincing evidence that respondent was an unfit parent because respondent "failed to make
reasonable progress towards the return of the children to her within the nine month period ***
February 3, 2009[,] to November 5, 2009, and the period of time from November 5, 2009[,] to
August 5, 2010 ***. "

¶ 18 C. The Parental Termination Hearing

¶ 19 At the March 2011 parental termination hearing, Geving testified that T.S. and
L.W. had been placed in foster care and were "well adjusted" and had "bonded" with their
respective foster families, whom (1) they call "mom" and "dad" and (2) planned to adopt them.
Geving added that T.S. had special needs that her foster family was meeting. Geving explained
that the foster families had made arrangements for the children to visit each other as well,
opining that it would be in the children's best interest to have respondent's parental rights
terminated.

¶ 20 Sincavage testified that T.W. had been placed with a foster family that planned to
adopt him. Sincavage explained that T.W. "needs a lot of individualized attention," which he
was getting because he was the only child in that home. She added that T.W. had bonded with
his foster family and was "excited" about being adopted. Sincavage opined that it would be in

T.W.'s best interest to terminate respondent's parental rights.

¶ 21 Respondent did not testify.

¶ 22 On this evidence, the trial court terminated respondent's parental rights, finding as follows:

"[The court has] considered the evidence in this matter, particularly the best[-]interest evidence that's been presented today. These cases are difficult because these children are not babies. The oldest is almost ten, [the others are] nine and four, and there is no doubt ***, based on the testimony, that the children have fond memories of their mother, and to some extent, love their actual mother, but this case arose out of the fact that [respondent] was unable to parent these children, and throughout the case she did not accommodate the services that were required for her to have the children returned to her. [W]e are making a determination of best interest. When making a determination of best interest, [the court has] to look at the prospects of the children returning to her care, which are not good, which would mean that even if [the court does] not terminate parental rights, that the children would have to remain in foster care for years unless *** [the court is] convinced that [respondent] has obtained fitness, which based upon the past experience, is going to be a tough ro[w] to hoe and difficult proposition ***. So, during all this period of time when we tried to work

on making [respondent] a better parent, her cooperation was not very forthcoming. So [the court has] to weigh that *** as what is in the best interest of these children. So, the question is, if [the court does not] terminate the parental rights, the children will remain in limbo or foster care without permanency for an extended period of time, and that cannot be good for the children. On the other hand, if [the court] find[s] that it's in the best interest that [the court] terminate [respondent's] rights, the children will continue to progress in their homes that they are placed in and will achieve the permanency that they deserve and that the statute demands.

It's clear that their lives have improved considerably, both emotionally and physically, since they were removed from the care of their mother. They are happy. They are cared for. They are loved. Their environment is safe and healthy as to each one of the children, as opposed to the environment that they grew up in their earlier years that was *** a very bad environment because of the poor housekeeping.

So, when considering all of this evidence and what is in the best interest of the children, [the court has] to conclude that it is in their best interest [to] terminate [respondent's] parental rights *** because these children deserve to thrive and to be cared for and to be loved. ***."

¶ 23 This appeal followed.

¶ 24 II. ANALYSIS

¶ 25 Respondent argues that the trial court erred by finding her unfit and terminating her parental rights as to all three children. We address respondent's contentions in turn.

¶ 26 A. Respondent's Claim That the Trial Court Erred by Finding Her Unfit

¶ 27 Initially, we note that respondent entitled her first argument as follows: "THE TRIAL COURT'S DECISION TO TERMINATE THE PARENTAL RIGHTS OF THE RESPONDENT WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE." However, the substance of her first claim actually challenged the court's fitness finding, as follows: "[T]he trial court's finding that *** [r]espondent failed to make reasonable progress toward the return of the children within a nine month time frame *** was against the manifest weight of the evidence." Thus, despite the title respondent assigned to her first argument, we construe respondent's contention to be that the trial court erred by finding her unfit. We find support for this construction in the fact that she also entitled her second argument—which we note actually attacks the court's termination finding—as follows: "THE TRIAL COURT'S FINDING THAT IT WAS IN THE BEST INTEREST AND WELFARE OF THE MINOR CHILDREN TO TERMINATE THE PARENTAL RIGHTS OF THE RESPONDENT WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE." Having construed respondent's first argument as an attack on the court's fitness finding, we reject it.

¶ 28 1. *The Standard of Review*

¶ 29 The State must prove parental unfitness by clear and convincing evidence, and the trial court's findings must be given great deference because of its superior opportunity to observe

the witnesses and evaluate their credibility. *In re D.F.*, 201 Ill. 2d 476, 498-99, 777 N.E.2d 930, 942-43 (2002). We will not reverse a trial court's finding of parental unfitness unless it was contrary to the manifest weight of the evidence, meaning that the correctness of the opposite conclusion is clearly evident from a review of the record. *In re D.F.*, 201 Ill. 2d at 498, 777 N.E.2d at 942.

¶ 30 *2. The Pertinent Portion for the Adoption Act*

¶ 31 Section 1(D)(m)(ii) of the Adoption Act provides, in pertinent part, as follows:

"The grounds of unfitness are any *** of the following ***:

* * *

(m) Failure by a parent *** (ii) to make reasonable progress toward the return of the child to the parent within [nine] months after an adjudication of neglected or abused minor *** or dependent minor." 750 ILCS 50/1(D)(m)(ii) (West 2008).

Reasonable progress "is an objective review of the steps the parent has taken toward the goal of reunification." *In re B.S.*, 317 Ill. App. 3d 650, 658, 740 N.E.2d 404, 411 (2000), *overruled on other grounds by In re R.C.*, 195 Ill. 2d 291, 304, 745 N.E.2d 1233, 1241 (2001).

"[T]he benchmark for measuring a parent's 'progress toward the return of the child' under section 1(D)(m) of the [Act] encompasses the parent's compliance with the service plans and the court's directives, in light of the condition which gave rise to the removal of the child, and in light of other conditions which later become known and which would prevent the court from returning custody

of the child to the parent." *In re C.N.*, 196 Ill. 2d 181, 216-17, 752 N.E.2d 1030, 1050 (2001).

¶ 32 In *In re L.L.S.*, 218 Ill. App. 3d 444, 461, 577 N.E.2d 1375, 1387 (1991), this court discussed reasonable progress under section 1(D)(m) of the Act and held as follows:

" 'Reasonable progress' *** exists when the [trial] court *** can conclude that *** the court, in the *near future*, will be able to order the child returned to parental custody. The court will be able to order the child returned to parental custody in the near future because, at that point, the parent *will have fully complied* with the directives previously given to the parent." (Emphases in original.)

The supreme court's discussion in *C.N.* regarding the benchmark for measuring a respondent parent's progress did not alter or call into question this court's holding in *L.L.S.* For cases citing the *L.L.S.* holding approvingly, see *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1067, 859 N.E.2d 123, 137 (2006); *In re Jordan V.*, 347 Ill. App. 3d 1057, 1068, 808 N.E.2d 596, 605 (2004); *In re D.S.*, 313 Ill. App. 3d 1020, 1025, 730 N.E.2d 637, 641 (2000); *In re B.W.*, 309 Ill. App. 3d 493, 499, 721 N.E.2d 1202, 1207 (1999); *In re K.P.*, 305 Ill. App. 3d 175, 180, 711 N.E.2d 478, 482 (1999).

¶ 33 3. *The Evidence Presented in This Case and the Court's Fitness Determination*

¶ 34 In this case, the State presented evidence that respondent failed to complete her client-service plan. Specifically, the State showed that although respondent completed many of her client-service plan goals, she was rated "unsatisfactory" overall because she would not cooperate with the children's caseworkers—namely, respondent would not allow caseworkers to

determine whether she had corrected the unhealthy condition of her home, which was the original reason the children were removed from her care.

¶ 35 Given this evidence, we agree with the trial court that respondent did not make reasonable progress because it did not appear that respondent was going to be able to provide a safe environment for her children in the near future. Accordingly, we conclude that the court's fitness findings were not contrary to the manifest weight of the evidence.

¶ 36 B. Respondent's Claim That the Trial Court Erred by Terminating Her Parental Rights

¶ 37 Respondent next contends that the trial court erred by terminating her parental rights. We disagree.

¶ 38 1. *The Best-Interest Proceedings and the Standard of Review*

¶ 39 At the best-interest stage of parental 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 Jay H.*, 395 Ill. App. 3d 1063, 1071, 918 N.E.2d 284, 290-91 (2009).

Consequently, at the best-interest stage of termination proceedings, "the parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life." [Citation.]" *In re T.A.*, 359 Ill. App. 3d 953, 959, 835 N.E.2d 908, 912 (2005).

¶ 40 "We will not reverse the trial court's best-interest determination unless it was against the manifest weight of the evidence." *Jay H.*, 395 Ill. App. 3d at 1071, 918 N.E.2d at 291. A best-interest determination is against the manifest weight of the evidence only if the facts clearly demonstrate that the court should have reached the opposite result. *Jay H.*, 395 Ill. App. 3d at 1071, 918 N.E.2d at 291.

¶ 41 2. *The Best-Interest Proceedings in This Case*

¶ 42 At the time of the best-interest hearing, the children had been living with foster parents who were willing to adopt them. The evidence showed that the children (1) were "well adjusted" and had "bonded" with their respective foster families; (2) referred to their foster parents as "mom" and "dad"; and (3) where necessary, were having their special needs cared for. Meanwhile, respondent could not show that she would be fit in the near future. Indeed, as previously explained, respondent could not even demonstrate that she was willing to cooperate with the children's caseworkers to resolve the household-sanitation issues that led to the children's removal any time in the near future.

¶ 43 Accordingly, we conclude that the trial court's finding that it was in the children's best interest to terminate respondent's parental rights was not against the manifest weight of the evidence.

¶ 44 III. CONCLUSION

¶ 45 For the reasons stated, we affirm the trial court's judgment in all three cases.

¶ 46 Case No. 4-11-0248: Affirmed.

¶ 47 Case No. 4-11-0249: Affirmed.

¶ 48 Case No. 4-11-0250: Affirmed.