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2012 IL App (3d) 110736-U

Order filed February 15, 2012

IN THE
APPELLATE COURT OF ILLINOIS
THIRD JUDICIAL DISTRICT

A.D., 2012

<i>In re</i> M.F.,)	Appeal from the Circuit Court
)	of the 14th Judicial Circuit,
Minor,)	Whiteside County, Illinois,
)	
(The People of the State of Illinois,)	
)	Appeal No. 3-11-0736
Petitioner-Appellee,)	Circuit No. 08-JA-49
)	
v.)	
)	
Malaurie F.,)	Honorable
)	Michael R. Albert,
Respondent-Appellant).)	Judge Presiding.

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

ORDER

¶ 1 *Held:* The court's findings that mother was unfit at the hearing on the State's petition to terminate mother's parental rights were not against the manifest weight of the evidence. The child was born with illegal substances in his body and mother did not complete any of the court-ordered tasks to address her drug addiction or provide a safe environment to allow the child to be placed in her custody.

¶ 2 On January 14, 2011, the State filed a “Petition for Termination of Parental Rights” on behalf of the child, M.F., who was born with illegal drugs in his body on May 3, 2008, alleging mother was an unfit parent because she did not maintain a reasonable degree of interest, concern, or responsibility regarding the welfare of the child; and mother did not make reasonable efforts toward correcting the conditions that were the basis of the removal of the child from mother’s care. On July 22, 2011, the court found the State proved two counts of the unfitness allegations against mother and, on September 9, 2011, the court entered an order terminating mother’s parental rights to M.F.

¶ 3 Mother appeals the court’s findings that the State proved that she was an unfit parent. We affirm.

¶ 4 **BACKGROUND**

¶ 5 Respondent-appellant Malaurie F. is the mother of M.F., a male child born on May 3, 2008. M.F. was born prematurely and tested positive for cocaine and marijuana in his body. On July 23, 2008, the date M.F. was to be released from the hospital, the State filed a neglect petition based upon the drugs found in M.F.’s body at birth, and the court entered a shelter care order placing M.F. under the temporary care of the Department of Children and Family Services (DCFS).

¶ 6 On March 26, 2009, the court found M.F. was neglected. On May 1, 2009, the court held a dispositional hearing and named DCFS the guardian of the child. In the dispositional order, the court ordered mother to complete certain tasks, to: attend, participate in, and complete substance abuse treatment; to submit to random drug testing; attend weekly “NA” meetings; attend, participate in, and complete individual counseling; maintain a safe and sanitary home; provide

proof of income and change of address to caseworkers; attend all of her own scheduled doctors appointments; and attend supervised visits with M.R.

¶ 7 On January 14, 2011, the State filed a petition for termination of parental rights on behalf of M.F., requesting the court to terminate mother’s parental rights.¹ This petition alleged mother was an unfit parent, under section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2010)), as follows:

“a. She has failed to maintain a reasonable degree of interest, concern, or responsibility as to the welfare of the minor.

b. She has failed to make reasonable efforts to correct the conditions which were the basis for the removal of the minor.

c. She has failed to make reasonable progress toward the return of the minor during any 9 month period after the end of the initial 9 month period following the adjudication of neglect, specifically the 9 month period from April 1, 2010[,] through January 1, 2011.”

¶ 8 The court held the “unfitness hearing” on the petition to terminate parental rights on July 12, 2011. At this hearing, Kahla Meador, a caseworker from Lutheran Social Services of Illinois (LSSI), testified that she was the family’s caseworker from July 2008 through February of 2009. Meador said that she prepared a client service plan to assist mother and monitor compliance with the court’s orders. Ms. Meador stated that she personally explained the court-ordered tasks to mother.

¹ Throughout the proceedings, there was no named putative father for M.F., nor had paternity been established.

¶ 9 Meador testified that mother initially completed a substance abuse evaluation, but mother did not follow through on the recommendations from that evaluation. Consequently, mother repeatedly tested positive on drug tests showing that she continued to use illegal substances. Meador said mother did not complete a psychological evaluation because she did not comply with the threshold requirement to remain drug-free for six months before beginning this psychological evaluation. Meador testified that mother had also missed 30 out of 70 scheduled visits with M.F. from July 2008 through February of 2009. Meador explained that mother missed some of those visits because mother gave birth to a second child who required extended hospitalization after being born prematurely with illegal substances in the infant's system. Additionally, mother did not follow through with substance abuse counseling, individual counseling, or group counseling. According to Meador, mother's progress in completing the court-ordered tasks was unsatisfactory during the period Meador supervised the case.

¶ 10 Angela Pasternak next testified that she was a caseworker for LSSI and was the family's caseworker from March of 2010 until August of 2010. Regarding mother's housing, Pasternak testified that mother had an appropriate apartment the first month of Pasternak's supervision of the case, but mother said she fell behind in rent and was "kicked out." Pasternak stated that mother had consistently attended supervised visits with M.F. during the time she supervised the family.

Pasternak stated that mother voluntarily initiated inpatient drug treatment on April 27, 2010, at "Riverside" in Rock Island, Illinois, but was unsuccessfully discharged a few days later after refusing to participate in therapeutic groups, becoming aggressive, and displaying a poor attitude. Pasternak arranged for mother to attend a program at Rosecrance, in Rockford, Illinois.

According to these arrangements, mother had to begin the program within two weeks. Due to mother's arrest and incarceration, mother did not comply with the admission to Rosecrance.

¶ 11 Pasternak testified that mother sometimes refused to provide urine samples for drug testing and self-reported the tests would reveal that mother had used both marijuana and cocaine. Pasternak said that, even though mother reported attending NA/ AA meetings, she did not provide the Pasternak with proof of attendance. According to this caseworker, mother had not attended recommended counseling sessions at LSSI in Sterling, Illinois, claiming she first needed in-patient treatment because she was still using illegal drugs.

¶ 12 According to this caseworker, mother had attended a few parenting classes in December of 2009, but she chose to discontinue those classes. Pasternak testified that mother had a second child who died in early February of 2010, and mother seemed to “spiral out of control” following the death of that child. Mother was also incarcerated from June 16, 2010, until early August 2010. Mother was hospitalized a couple of times while Pasternak supervised the case. Pasternak said she was willing to provide transportation to mother’s doctor’s appointments, but mother’s attendance at those doctor’s appointments was sporadic.

¶ 13 Jill Blair, a LSSI caseworker, testified that she was assigned to this case from August 18, 2010, until January 14, 2011. Blair stated she monitored visitation between mother and M.F., made referrals for the family, and monitored mother’s attendance at various programs.

According to this worker, mother attended substance abuse inpatient treatment at Proctor Hospital in Peoria, Illinois, from September 8, 2010, to October 8, 2010, during the time mother was released on bond for pending felony charges. Proctor Hospital recommended that mother go

to a halfway house near Chicago for continued substance abuse treatment, but mother refused due to the distance from Peoria.

¶ 14 Blair testified that mother did not provide her with any documentation or proof of attending any individual counseling sessions. Blair stated that mother told her she had completed her parenting classes. When Blair contacted the agency for verification, the agency told her that mother had not completed parenting classes. Thereafter, mother began parenting classes, but did not complete them while Blair was involved with the case. During this period, Blair stated that mother did not personally keep her apprised of mother's whereabouts or contact numbers, but sometimes had family members relay this information to Blair. Mother did not allow Blair to visit her at her residence, while she lived with her grandfather, claiming that her grandfather did not want the caseworker at the house. Accordingly, Ms. Blair could not assess whether mother was maintaining a safe or sanitary home environment as previously court ordered.

¶ 15 Blair also testified that mother claimed to be cooperating with the medical doctors but refused to sign releases. Blair stated that mother submitted to drug testing with the Whiteside County Court Services, from August of 2010 through January of 2011, while released on bond. During that time period, Ms. Blair said mother tested positive for a prescription drug in August, but did not test positive for cocaine or marijuana during this time period.

¶ 16 Next, mother testified that she understood the court-ordered tasks that she needed to complete. Mother stated that she received social security disability benefits for approximately three years. She said she stopped using illegal substances on June 16, 2010. She said her daughter passed away in February of 2010, and June 16 was the day mother was arrested for the felony offense still pending in Morrison, Illinois. Mother stated that she consumed alcohol on

the day of her arrest after being released from the hospital. She testified that the last time she ingested marijuana or cocaine was a week before that date. Mother said she was released from the Whiteside County jail on August 2, 2010.

¶ 17 Mother explained that she completed an intensive inpatient program at Proctor Hospital in Peoria, Illinois, around October 2010, and Proctor Hospital recommended that mother go to a halfway house in Chicago. Mother said she chose not to go because it was in a bad neighborhood. Mother stated that she attended parenting classes in 2010, but it was “more off and on and now it is more consistent.” Mother said she remembered attending NA meetings after she was released from Proctor Hospital “at least three times a week” in Sterling, Illinois.² Mother testified that, after her daughter passed away in February 2010, she did not attend NA meetings or parenting classes because she “just felt like everything was spiraling down, just felt like pretty much everything was not going my way and life was just crap I guess at that point in time.” Mother told the court that, when her daughter was born “extremely premature,” “[t]he only thing she had in her system was marijuana.”

¶ 18 Mother stated she started meeting weekly with the caseworker, Lisa Bramm, after August 2, 2010. Mother said she only had one drug test, since August 2, 2010, that came back positive for marijuana, but she later was re-tested at the hospital and it came back “clean.”

¶ 19 At the close of the hearing, the court noted that the State’s petition to terminate mother’s parental rights alleged three grounds for mother’s unfitness. The court found that the State proved mother unfit pursuant to paragraph A of the petition, that mother failed to maintain a reasonable degree of interest, concern or responsibility as to the welfare of the minor; and

² Mother did not provide any documentation to verify her attendance at meetings.

paragraph B, that mother has failed to make reasonable efforts to correct the conditions that were the basis for the removal of the child. The court found:

“[Mother] clearly over the course of - - or since the time of the dispositional hearing has failed to maintain a reasonable degree of interest, concern or responsibility as to the welfare of the child. She made no progress at all toward the return of the child until June 16th of 2010[,] as I indicated above and the only progress she has made since then is because of the felony pending against her based on the evidence that I heard. It wasn’t because of the fact that she was maintaining a degree of interest, concern or responsibility for the welfare of the child that she underwent the treatment that she did undergo or that she abstained from drug usage that she has abstained from. Same with paragraph B, she has failed to make reasonable efforts to correct the conditions which were the basis for removal of the child.”

The court found that the State did not prove the grounds set out in paragraph C of the petition.

¶ 20 On September 6, 2010, the court held a best interests hearing. Several witnesses testified at this hearing and the caseworkers submitted a report. The court found, at the close of this hearing, that it was in the best interests of M.F. to terminate mother’s rights and grant DCFS the power to consent to the child’s adoption. Mother filed a timely appeal.

¶ 21 ANALYSIS

¶ 22 On appeal, mother challenges the court’s findings of unfitness under sections 1(D)((b) and 1(D)(m)(i) of the Adoption Act (750 ILCS 50/1(D)(b); 50/1(D)(m)(i) West 2010)): that mother failed to maintain a reasonable degree of interest, concern, or responsibility as to the welfare of the child; and that mother failed to make reasonable efforts to correct the conditions

which were the basis for the removal of M.F. from her care. The State contends that both findings by the court were not against the manifest weight of the evidence.

¶ 23 Proceedings on a petition for termination of parental rights involve a two-step, bifurcated approach where the court first holds an “unfitness hearing” (705 ILCS 405/2-29 (West 2000)); 750 ILCS 50/1(D) (West 2010)) and, if the parent is found unfit, conducts a subsequent “best interests hearing.” 705 ILCS 405/2-29(2) (West 2010); *In re D.T.*, 212 Ill. 2d 347, 352-53 (2004). In the instant case, mother only challenges the court’s findings of unfitness at the termination hearing.

¶ 24 During termination proceedings, the court must find that the State proved the parent’s unfitness by clear and convincing evidence. *In re C.N.*, 196 Ill. 2d 181, 208 (2001). A trial court's determination of parental rights involves factual findings and credibility assessments that the trial court is in the best position to make, therefore, we will not disturb a finding of unfitness unless it is contrary to the manifest weight of the evidence and the record clearly demonstrates that the opposite result was proper. *In re Konstantinos H.*, 387 Ill. App. 3d 192, 203 (2008), (citing *In re D.D.*, 196 Ill.2d 405, 417 (2001)).

¶ 25 The State must prove by clear and convincing evidence at least one statutory ground of parental unfitness and, if there is sufficient evidence to satisfy any one statutory ground, we need not consider other findings of parental unfitness. *In re Katrina B.*, 364 Ill. App. 3d 834, 842 (2006). In the instant case, the court found the State proved two of three counts of mother’s unfitness as alleged in the State’s petition to terminate parental rights.

¶ 26 First, the court found that mother was unfit, as alleged in paragraph A, because she failed to maintain a reasonable degree of interest, concern, or responsibility for the child. 750 ILCS

50/1(D)(b) (West 2010). The language of this statute is disjunctive, therefore, proof of any one of these three elements is sufficient, as its own basis, to prove a parent unfit. *Konstantinos H.*, 387 Ill. App. 3d at 204; *In re Jaron Z.*, 348 Ill. App. 3d 239, 259 (2004). Noncompliance with an imposed service plan, infrequent or irregular visitation with the child, a continued addiction to drugs, and a repeated failure to obtain treatment for an addiction have all been held to be sufficient evidence to warrant a finding of unfitness under subsection (b). *Jaron Z.*, 348 Ill. App. 3d at 259.

¶ 27 Here, the record shows that M.F. was born with illegal substances in his system. Mother had not complied with her service plan implemented on May 1, 2009, specifically to address issues of substance abuse through counseling and NA meetings, to attend individual counseling, to maintain a safe home for M.F., to regularly attend her own medical appointments, and to attend all supervised visits with M.F. The evidence showed that mother did not show proof of attendance at any NA meetings, provide a safe environment for the child, or follow through with substance abuse treatment recommendations, and continued to use drugs until the summer of 2010, when mother was arrested for a serious felony charge. Although mother showed abstinence after she was released from jail on August 2, 2010, there is no proof that she completed any of the other tasks necessary to have the child placed in her care. Accordingly, we conclude that there was clear and convincing evidence that mother failed to maintain a reasonable degree of interest, concern, or responsibility for the child, and the trial court's finding that mother was unfit, under subsection 1(D)(b) of the Adoption Act (750 ILCS 50/1(D)(b) (West 2010)), was not against the manifest weight of the evidence.

¶ 28 Next, the court also found mother unfit under section 1(D)(m)(i) of the Adoption Act (750 ILCS 50/1(D)(m)(i) (West 2010), in that mother failed to make reasonable efforts to correct the conditions that led to the minor's placement outside of mother's care. Reasonable efforts toward the goal of correcting those conditions are decided under a subjective standard based upon the amount of effort that is reasonable for that particular person. *In re Daphne E.* 368 Ill. App. 3d 1052, 1066 (2006). Our supreme court has held that subsections 1(D)(m)(i) and (ii) of the Adoption Act are to be examined only during the first nine months after the original adjudication. *In re D.F.*, 208 Ill.2d 223, 236-38 (2003).

¶ 29 In the case at bar, M.F. was placed outside of mother's care, on July 23, 2008, upon being released from the hospital after his birth. The court adjudicated M.F. a neglected child on March 26, 2009, and entered a dispositional order on May 1, 2009. Thus, the relevant time period is from March 26, 2009, through December 26, 2009. During this period, mother used both cocaine and marijuana; failed to follow through on any of the recommendations of the treatment plan after she completed an initial substance abuse assessment; failed several urine drug tests; did not show proof that she was able to provide a safe environment for M.F.; did not attend parenting classes; and gave birth to a second child, in June of 2009, with illegal substances in the child's system. Accordingly, the court's finding that mother failed to make reasonable efforts to correct the conditions that caused M.F. to be placed outside of mother's care was not against the manifest weight of the evidence.

¶ 30 CONCLUSION

¶ 31 For the foregoing reasons, we affirm the decision of the trial court finding mother unfit under the Adoption Act under the State's petition to terminate mother's parental rights.

¶ 32 Affirmed.