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2012 IL App (3d) 110739-U

Order filed February 8, 2012

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2012

<i>In re</i> A.H., a Minor,)	Appeal from the Circuit Court
)	of the 14th Judicial Circuit,
(The People of the State of Illinois,)	Rock Island County, Illinois,
)	
Petitioner-Appellee,)	Appeal No. 3-11-0739
)	Circuit No. 10-JA-131
v.)	
)	
Amy H.,)	Honorable
)	Raymond J. Conklin,
Respondent-Appellant).)	Judge, Presiding

JUSTICE O'BRIEN delivered the judgment of the court.
Justices McDade and Wright concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court did not err when it found respondent mother unfit based on her failure to maintain a reasonable degree of interest, concern or responsibility as to the minor's welfare and to make reasonable efforts to correct the conditions that resulted in the minor's removal and that termination of respondent's parental rights was in the minor's best interest.

¶ 2 On the State's petition, the trial court found respondent mother, Amy H., unfit and it was in the best interest of the minor child, A.H., that Amy's parental rights be terminated. We affirm.

¶ 3

FACTS

¶ 4 The minor child, A.H. was born on June 6, 2010. At birth, she tested positive for the presence of opiates and marijuana. On June 11, 2010, the State filed a neglect petition, in which it alleged that Amy admitted to taking Vicodin without a prescription, that she had prior indicated reports of neglect beginning in 2004, had been involved in a juvenile case with another daughter who was no longer in her custody, and had a history of domestic violence with the minor's father, D.B. The trial court found probable cause existed that A.H. was neglected based on the presence of drugs in her system at birth. The trial court also granted the State's petition for temporary custody and placed A.H. with Amy's second cousin.

¶ 5 Amy stipulated to the allegations in the petition. The court issued a neglect finding in September 2010. Bethany For Children & Families, for the Department of Children and Family Services (DCFS), presented recommendations to the trial court and a service plan was fashioned. Under the plan, in order to regain custody, Amy was required to attend and successfully complete parenting classes and domestic violence counseling; obtain a substance abuse evaluation and follow any recommendations for treatment, including random drug testing; cooperate with counseling; maintain appropriate housing and a source of income; and participate in consistent visitation with A.H. Bethany submitted an integrated assessment evaluation that revealed Amy had good parenting skills and was nurturing toward A.H. but made poor choices in her relationships with men and minimized the violence in those relationships. The report indicated that Amy had been involved in incidents of domestic violence with both A.H.'s father and the father of Amy's first child, A.B. The report indicated that A.B. was in custody of the child's paternal grandmother as the result of a juvenile court order and that Amy had consented to the adoption of her second child, who was born in August

2007.

¶ 6 Also in September 2010, A.H. was removed from foster care with Amy's cousin and placed in a traditional foster care setting. A February 2011 permanency review report stated that Amy had moved in December 2010 without notifying Bethany or leaving a forwarding address. She did not return phone calls from the case worker. According to the report, Amy participated in visitation with A.H. on October 28, November 1, and November 18, 2010. The report further indicated that on February 11, 2011, the seven-year-old son of A.H.'s father reported that A.H.'s father had beat Amy. Amy had not yet completed any tasks in her service plan and received unsatisfactory evaluations regarding all service tasks except maintaining an income, which was satisfactory. Amy continued to maintain part-time employment. She did not, however, participate in parenting or domestic violence classes or counseling and she did not attend any of A.H.'s medical appointments. In a March 2011 permanency order, the trial court found that Amy had not made "efforts or progress or shown much interest in A.H." The trial court changed the permanency goal to substitute care pending a determination on the termination of Amy's parental rights.

¶ 7 In May 2011, a supplemental petition to terminate parental rights stated that Amy had not visited A.H. since November 2010. A June 2011 service plan established that Amy had only visited A.H. one time for one-half hour since March 2011. The June report indicated that Amy had completed domestic violence and parenting classes and undergone a substance abuse evaluation. She did not follow up on the treatment recommendations. Amy's progress was rated unsatisfactory regarding the service tasks. The report noted that Amy's truck had been seen at the home of A.H.'s father and that she was apparently living with him despite their history of domestic violence and her denials that they maintained a relationship.

¶ 8 In August 2011, the trial court found that the State had proved the grounds alleged in the unfitness petition, including that Amy failed to maintain a reasonable degree of interest, concern or responsibility to A.H. and failed to make reasonable efforts to correct the conditions that resulted in removal of A.H. from Amy’s custody. The trial court found Amy unfit. A best interest hearing took place in August 2011. Evidence presented at the hearing established that A.H. had resided with her foster parents since September 2010 and developed a bond with them and their other children. The foster parents provided a safe, secure and nurturing environment for A.H., aided her progress to overcome her developmental delays, and were willing to adopt her. A.H. called her foster parents “mommy” and “daddy.” Although Amy was entitled to weekly visits with A.H., her visits with A.H. in 2011 occurred on only March 31, May 12, June 23, and June 30. The case worker stated that Amy arrived late to the half-hour visits, sometimes as much as 15 minutes late, and that A.H. had not developed a bond with Amy. The trial court noted that while Amy completed some of the service tasks, she did not begin them until the permanency goal had been changed to termination of her parental rights. The trial court stated Amy’s efforts were “too little, too late.” The trial court found that termination of Amy's parental rights was in A.H.'s best interest and granted the State's petition to terminate Amy's parental rights.

¶ 9 ANALYSIS

¶ 10 On appeal, Amy argues that the trial court erred in finding her unfit and terminating her parental rights to A.H. Amy maintains that she was not unfit and was making reasonable progress to the return of A.H. by completing the tasks required for reunification.

¶ 11 We begin with a review of the trial court’s unfitness finding. Amy argues that despite numerous obstacles, she made reasonable progress toward the return of A.H. She points to her

limited financial resources, lack of transportation, instability in her home life, and the ramifications from leaving an abusive relationship as circumstances that the trial court should have considered in determining her fitness.

¶ 12 A parent is considered unfit under the Adoption Act if she fails to maintain a reasonable degree of interest, concern or responsibility for the child's welfare, to make a reasonable effort to correct the conditions that led to the child's removal, or to make reasonable progress toward return of the child within nine months of a neglect adjudication. 750 ILCS 50/1(D)(b), (m) (West 2010). Only one ground of unfitness needs to be proved to establish a parent's unfitness. *In re R.L.*, 352 Ill. App. 3d 985, 998 (2004). The "reasonable effort" standard is a subjective one and looks toward the goal of correcting the conditions that caused the child's removal. *In re R.L.*, 352 Ill. App. 3d at 998. The focus is on whether the effort is reasonable for the particular parent. *In re R.L.*, 352 Ill. App. 3d at 998. In determining fitness, the focus is on the parent in question. *In re M.B.*, 332 Ill. App. 3d 996, 1004 (2002). The State must prove a parent's unfitness by clear and convincing evidence. *In re D.D.*, 196 Ill. 2d 405, 417 (2001). A trial court's finding of unfitness will be overturned only if it is against the manifest weight of the evidence. *D.D.*, 196 2d at 417.

¶ 13 Amy's argument on appeal is that she made reasonable progress toward the return of A.H. However, the trial court did not rely on this ground in entering a finding of unfitness. The trial court concluded that Amy did not maintain a reasonable degree of interest, concern or responsibility for the welfare of A.H. and did not make reasonable efforts to correct the conditions that were the basis for A.H.'s removal. We consider that the clear and convincing evidence supports its conclusion. The record establishes that Amy maintained minimal contact with A.H. after the child was removed from the care of Amy's cousin and placed in traditional foster care in September 2010. Following one

November 2010 visit, Amy did not see A.H. again until March 2011, after the trial court changed the permanency goal to termination of her parental rights. From March to June, Amy participated in only one half-hour visit with A.H. Like the trial court, we acknowledge that by June 2011, Amy had completed several of her service tasks. She points to a lack of transportation prior to March 2011 that prevented her from engaging in the required tasks and in visiting A.H. However, even after she obtained a vehicle, she failed to visit A.H. or complete all the tasks necessary for A.H.'s return to her custody. We agree with the trial court that Amy's efforts, while substantial, were "too little, too late." Moreover, she failed to participate in the recommended substance abuse treatment, a step necessary to correct her substance abuse problems which caused the removal of A.H. The evidence suggests that Amy continued to be involved with A.H.'s father, despite their history of domestic violence and her completion of domestic violence classes. We find that the trial court's finding that Amy was unfit was not against the manifest weight of the evidence.

¶ 14 The second issue for our review is whether the trial court erred when it found it was in A.H.'s best interest that Amy's parental rights be terminated. Amy argues that she had a close bond with A.H. and that it was not in her daughter's best interest that her parental rights be terminated.

¶ 15 After a parent has been found unfit, the trial court determines whether to terminate the parent's rights based on the child's best interest. *In re D.H.*, 323 Ill. App. 3d 1, 13 (2001). In making a best interest determination, the trial court focuses on the child's welfare and whether termination would improve the child's future, including his financial, social and emotional well-being. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1071 (2006). In determining whether termination of a parent's rights is in a minor's best interest, the trial court considers the following factors: (1) the minor's physical safety and welfare; (2) development of his identity; (3) his background and ties, including familial, cultural,

and religious; (4) the minor's sense of attachments; (5) the minor's wishes; (6) the minor's ties to his community; (7) the minor's need for permanence, including the need for stability and continuity of relationships with parent figures and siblings; (8), the uniqueness of every child; (9) risks related to substitute care; and (10); the preferences of individuals available to care for the minor. 705 ILCS 405/1-3(4.05)(a) through (j) (West 2010). The State must prove by a preponderance of the evidence that termination is in the child's best interest. *In re D.T.*, 212 Ill. 2d 347, 366 (2004). We will not reverse a trial court's finding that termination of parental rights is in the child's best interest unless it is against the manifest weight of the evidence. *In re E.M.*, 328 Ill. App. 3d 633, 640 (2002).

¶ 16 The evidence presented at the best interest hearing supported the trial court's termination finding. Amy continued to maintain a relationship with A.H.'s father, despite prior incidents of domestic violence. The caseworker indicated that Amy was living with him in an environment that could be harmful to A.H.'s physical safety and welfare. A.H. had been with her foster family since a few months after her birth and had established a bond with her foster parents and siblings. A.H. was integrated into the foster family's extended family and community. By all accounts, A.H. loved her foster family and "lit up" when she was with them. She felt comforted by them when she was sick or in distress. Her foster mother worked extensively with A.H. to address her developmental delays. Aside from a temporary placement with Amy's cousin, the only home A.H. had known was with her foster family. Her foster parents were interested in adopting her and making permanent her place in their family. We find that the trial court did not err when it determined that termination of Amy's parental rights was in A.H.'s best interest.

¶ 17 For the foregoing reasons, the judgment of the circuit court of Rock Island County is affirmed.

¶ 18 Affirmed.