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2012 IL App (3d) 120551-U

Order filed November 27, 2012

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2012

<i>In re</i> K.B.,)	Appeal from the Circuit Court
)	of the 14th Judicial Circuit,
a Minor)	Rock Island County, Illinois
)	
(THE PEOPLE OF THE STATE OF)	
ILLINOIS,)	Appeal No. 3-12-0551
)	Circuit No. 10-JA-196
Petitioner-Appellee,)	
)	
v.)	
)	
COURTNEY B.,)	Honorable
)	Raymond J. Conklin,
Respondent-Appellant).)	Judge, Presiding.

JUSTICE HOLDRIDGE delivered the judgment of the court.

Justices Lytton and McDade concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court's determination, by clear and convincing evidence, that the respondent was an unfit parent was not against the manifest weight of the evidence. The trial court's determination, by a preponderance of the evidence, to terminate the respondent's parental rights as being in the best interest of the minor was not against the manifest weight of the evidence.

¶ 2 On October 28, 2010, the State filed a juvenile petition alleging that K.B. was a neglected minor. The child was placed in temporary shelter care the following day. On January 21, 2011, the minor was adjudicated neglected, and the circuit court entered a dispositional order finding the respondent to be unfit and ordering her to complete certain tasks before the minor could be returned to her custody. On January 23, 2012, the State filed a petition to terminate the respondent's paternal rights, alleging that the respondent had: (1) failed to make reasonable efforts to correct the conditions that were the basis for the removal of the minor from her custody; and (2) failed to make reasonable progress toward the return of the minor during a nine-month period from January 21, 2011, to October 21, 2011.

¶ 3 Following a hearing on May 1, 2012, the trial court found that the State had proven the allegations of the petition to find the respondent unfit by clear and convincing evidence. A best interest hearing was held on July 25, 2012, after which the circuit court found that it was in the best interest of the minor that the respondent's parental rights should be terminated. The respondent appeals both the order finding her to be an unfit parent and the order terminating her parental rights.

¶ 4 **BACKGROUND**

¶ 5 The minor, K.B., was born on May 21, 2010. The respondent was 24 years of age at the time. On or about October 11, 2010, the respondent's parental rights to her other children were terminated, and the petition alleging that the respondent was an unfit parent for K.B. was filed. Initially, K.B. was placed in the custody of the child's godmother. On November 3, 2010, Lutheran Social Services relocated the minor to a licensed foster home. Two weeks later, at the

request of K.B.'s biological aunt and uncle, the minor was moved a third time on November 15, 2010.

¶ 6 On December 7, 2010, the court entered an adjudicatory order finding the minor to be neglected based upon the respondent's stipulation to the State's petition that the child was a neglected minor. On January 21, 2011, a dispositional order was entered requiring the respondent to complete certain tasks in order for the minor to be returned: (1) cooperate fully with the Department of Children and Family Services (DCFS) or its designee; (2) obtain substance abuse assessment and successfully complete any course of treatment recommended; (3) perform random drug testing as required; (4) submit to psychological examination and follow any resulting recommendations; (5) participate in and fully complete any recommended counseling; (6) refrain from criminal activity; (7) attempt to find gainful employment; and (8) obtain and maintain appropriate housing.

¶ 7 On January 23, 2012, a petition to terminate parental rights was filed. At the hearing on the petition, Caitlin Leeney testified that she was the respondent's caseworker from January 21, 2011, until August of 2011. Leeney testified that during the seven months she was the respondent's caseworker, the respondent: (1) failed to obtain housing that was appropriate for the minor; (2) attended scheduled weekly visitation with the child only four times in the first six months, only once in July, and had no visitation in August; (3) failed to attend scheduled appointments with Leeney and allowed large periods of time to pass (February 12, 2011, to May 5, 2011) without any contacts with Leeney; (4) complied with only one random drug test (May 11, 2011) and tested positive for illegal substances; (5) did not refrain from engaging in criminal activity, having been arrested and incarcerated for theft in July; (6) failed to make any attempt at

finding gainful employment; and (7) did not attend any scheduled individual counseling sessions that had been arranged by Leeney with several providers. Leeney testified that the respondent reported that she was in an abusive relationship with a man named Carlo who would not let her contact her caseworker.

¶ 8 Julie Ramirez testified that she became the respondent's caseworker on September 5, 2011, and remained her caseworker until the relevant nine-month period ended on October 21, 2011. Ramirez testified that she first met with the respondent on August 31, 2011, while the respondent was incarcerated in the Rock Island County Correctional Facility. Ramirez testified that she believed that the respondent remained incarcerated until sometime in September of that year. Ramirez also testified that the respondent: (1) failed to complete a scheduled psychological evaluation; (2) failed to obtain suitable housing upon her release from incarceration; (3) missed all scheduled visitations with the minor in September and October; and (4) failed to keep in contact with her caseworker, including refusing to tell Ramirez where she was staying after she was released from incarceration.

¶ 9 The circuit court determined that the State had proven by clear and convincing evidence that the respondent was unfit, finding that she had failed to make reasonable efforts toward the return of the minor and that she had failed to make reasonable progress toward the child's return during the nine-month period from January 21, 2011, to October 21, 2011.

¶ 10 The matter proceeded thereafter to a best interest hearing. At that hearing, the State submitted into evidence the best interest report authored by Ramirez. The best interest report indicated that K.B. was two years old at the time of the hearing and had been in relative placement foster care since the age of six months. The report further indicated that K.B. was

thriving in his current environment, attends a licenced daycare center while both foster parents work, is well-adjusted, healthy and happy, and has bonded well with his foster parents and their extended family. The report concluded with the recommendation that it was in the best interest of the minor that the respondent's parental rights be terminated so that K.B. could be adopted by his current foster parents.

¶ 11 Ramirez also testified at the best interest hearing. She stated that the foster parents were willing to adopt K.B. and that their natural children all got along well with K.B. Ramirez testified that, although K.B. had only recently begun speaking, he referred to his foster mother as "mom."

¶ 12 Following the best interest hearing, the circuit court terminated the respondent's parental rights finding that doing so was in the child's best interest.

¶ 13 ANALYSIS

¶ 14 On appeal, the respondent maintains that the circuit court's determination that she was an unfit parent was against the manifest weight of the evidence. Parental rights may be involuntarily terminated where: (1) the State proves, by clear and convincing evidence, that a parent is unfit pursuant to any grounds set forth in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2008)); and (2) the circuit court finds that termination is in the child's best interest. *In re Donald A.G.*, 221 Ill. 2d 234, 244 (2006). On review, the findings of the circuit court's will be given great deference. *In re K.H.*, 346 Ill. App. 3d 443, 456 (2004). Ultimately, the court's determination regarding the respondent's fitness will not be disturbed unless it is against the manifest weight of the evidence. *In re M.R.*, 393 Ill. App. 3d 609, 613 (2009). A

court's fitness determination is against the manifest weight of the evidence it the opposite conclusion is clearly apparent. *Id.*

¶ 15 In the instant matter, the circuit court found two independent bases upon which it found that the respondent was unfit: (1) failure to make reasonable efforts to correct the conditions that were the basis for removal of the child (750 ILCS 50/1(D)(m)(i) (West 2008)); and (2) failure to make reasonable progress toward the return of the child within nine months after the child had been adjudicated to be abused or neglected. 750 ILCS 50/1(D)(m)(ii) (West 2008). It is well settled that when multiple allegations of unfitness are made, a finding that any one allegation has been proven is sufficient for a finding of parental unfitness. *In re Interest of D.J.S.*, 308 Ill. App. 3d 291, 295 (1999).

¶ 16 Regarding the circuit court's finding that the respondent had failed to make reasonable progress toward the return of the child during the nine-month period from January 21, 2011, to October 21, 2011, we find that the circuit court's determination was not against the manifest weight of the evidence. Failure to make reasonable progress includes the parent's failure to substantially fulfill his or her obligations under the service plan and correct the conditions that brought the child into care during the relevant nine-month period. *In re D.J.S.*, 308 Ill. App. 3d at 295.

¶ 17 Here, the evidence presented showed that the respondent failed to comply with several components of her service plan during the relevant nine-month period. With the exception of obtaining a substance abuse evaluation, the respondent did not complete any of the tasks required of her by the plan. Moreover, the respondent never kept in contact with her caseworkers, was absent for months at a time, failed to attend any but a few sporadic visitations with K.B., failed to

make any efforts to secure suitable housing, and committed a theft during the nine-month period for which she was incarcerated for approximately two of the relevant nine months. The respondent argued that she had made reasonable progress during the relevant time period, particularly after her release from jail.

¶ 18 Reasonable progress is measured objectively in light of all relevant circumstances which would prevent a court from returning custody of the child to the parent. *In re C.N.*, 196 Ill. 2d 181, 217 (2001). The determination as to reasonable progress is based upon the amount of progress measured from the conditions existing at the time custody was taken from the parent. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1067 (2006). Given the record in this matter, we cannot say that the circuit court's determination that the respondent had failed to make reasonable progress and was, therefore, an unfit parent was against the manifest weight of the evidence. The respondent completely failed to demonstrate any cooperation with her caseworkers and counselors, going several weeks without any contact with her service providers. Her lack of cooperation was punctuated at one point by her outright refusal to disclose her current address to her caseworker. Similarly, the respondent failed to make any serious attempt to comply with her visitation schedule with K.B. The record established that the respondent attended only a sporadic few visitation session and that her visitation with K.B. was just as sporadic and unreliable during the time she was free as during her incarceration. Given this record, no reasonable person could conclude that the respondent made reasonable progress toward the return of the child. Thus, we find the circuit court's finding that the respondent was unfit was not against the manifest weight of the evidence.

¶ 19 The respondent next maintains that the circuit court erred in terminating her parental rights. At the best interest stage of the proceedings, the parent's rights must yield to the best interest of the child. *In re L.W.*, 383 Ill. App. 3d 1011, 1024 (2008). The decision to terminate parental rights as being in the best interest of the child must be supported by a preponderance of the evidence. *In re D.T.*, 212 Ill. 2d 347, 365 (2004). When reviewing the circuit court's determination that it is in the best interest of the child to terminate parental rights, we will not overturn the trial court's determination unless it is against the manifest weight of the evidence. *In re B.B.*, 386 Ill. App. 3d 686, 697 (2008). A determination is against the manifest weight of the evidence if the opposite conclusion is clearly apparent or the determination is unreasonable, arbitrary, or not based upon the evidence. *In re D.F.*, 201 Ill. 2d 476, 498 (2002).

¶ 20 The statutory factors to be considered by the circuit court prior to termination of parental rights include: (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; (4) the child's sense of attachment, including love, security, familiarity, and continuity of relationships with parental figures; (5) the child's wishes and goals; (6) community ties; (7) the child's need for permanence; (8) the uniqueness of every family and every child; (9) the risks related to substitute care; and (10) preferences of the person available to care for the child. *In re B.B.*, 386 Ill. App. 3d at 698; 705 ILCS 405/1-3(4.04) (West 2008). However, in issuing a decision, the circuit court is not required to expressly address each of these statutory factors (*In re Janira T.*, 368 Ill. App. 3d 883, 893 (2006)), nor does the circuit court need to articulate any specific rationale in support of its determination. *In re Jaron Z.*, 348 Ill. App. 3d 239, 262-63 (2004).

¶ 21 Viewing the statutory factors, we cannot say that the circuit court's decision to terminate the respondent's parental rights was against the manifest weight of the evidence. The record clearly established that, at the time of the best interest determination, the respondent had yet to address all but one of the significant problems which led to the finding that she was unfit. In addition, the record established that K.B. has been in foster care for a significant portion of his life and is currently in a safe, stable, loving environment with a foster family that is willing and able to adopt him. Moreover, the bonding assessment report indicated that K.B. had developed strong bonds with the foster family, while there was only minimal indications of any bonding between K.B. and the respondent, which was due most likely to the very sporadic visitation occurring since the child was removed from the respondent's custody. Additionally, at the time of the best interest hearing, the respondent had yet to secure safe stable housing for her or the child.

¶ 22 The respondent maintains that she had made some progress toward reunification and that she had bonded with K.B. to such a degree that the circuit court erred in terminating her parental rights without allowing her more time to reunite with K.B. We cannot agree since, as noted above, the focus of the best interest determination shifts to the child and, based upon the evidence in the instant matter, the circuit court's decision to terminate the respondent's parental rights as being in the best interest of K.B. was not against the manifest weight of the evidence.

¶ 23 CONCLUSION

¶ 24 For the foregoing reasons, we affirm the judgment of the circuit court of Rock Island County finding the respondent to be unfit and terminating her parental rights.

¶ 25 Affirmed.