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2012 IL App (4th) 111002-U

Filed 4/6/12

NOS. 4-11-1002, 4-11-1011, 4-11-1017, 4-11-1018

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: Sa. H., a Minor, )  
THE PEOPLE OF THE STATE OF ILLINOIS, ) Appeal from  
Petitioner-Appellee, ) Circuit Court of  
v. (No. 4-11-1002) ) Macon County  
SARA HOLMES and SAMUEL HOLMES, Sr., ) No. 07JA26  
Respondents-Appellants. )  
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In re: S.B., a Minor, ) No. 07JA25  
THE PEOPLE OF THE STATE OF ILLINOIS, )  
Petitioner-Appellee, )  
v. (No. 4-11-1011) )  
SARA HOLMES, )  
Respondent-Appellant. )  
)  
)

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In re: Sl. H., a Minor, ) No. 07JA27  
THE PEOPLE OF THE STATE OF ILLINOIS, )  
Petitioner-Appellee )  
v. (No. 4-11-1017) )  
SARA HOLMES and SAMUEL HOLMES, Sr., )  
Respondents-Appellants. )  
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In re: Sh. H., a Minor. ) No. 07JA28  
THE PEOPLE OF THE STATE OF ILLINOIS, )  
Petitioner-Appellee )  
v. (No. 4-11-1018) ) Honorable  
SARA HOLMES and SAMUEL HOLMES, ) Thomas E. Little,  
Respondents-Appellants. ) Judge Presiding.

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JUSTICE STEIGMANN delivered the judgment of the court.  
Justice McCullough and Justice Cook concurred in the judgment.

## ORDER

¶ 1 *Held:* In these consolidated cases, the appellate court affirmed the trial court's fitness and best-interest findings as to four minors, where (1) the respondents failed to make reasonable progress toward the return of their respective children and (2) terminating the respondents' parental rights was in the children's best interest.

¶ 2 On June 25, 2010, the State filed separate petitions seeking to terminate the parental rights of respondents, Sara and Samuel Holmes, Sr., as to (1) Sa. H. (born January 10, 1999) in Macon County case No. 07-JA-26, (2) Sl. H. (born December 4, 2001) in Macon County case No. 07-JA-27, and (3) Sh. H. (born December 4, 2004) in Macon County case No. 07-JA-28. That same day, the State filed an additional petition seeking to terminate Sara's parental rights as to S.B. (born September 11, 2005) in Macon County case No. 07-JA-25. Having consolidated the children's cases, the trial court found Sara and Samuel unfit, and later terminated their respective parental rights.

¶ 3 In Nos. 4-11-1002, 4-11-1017, and 4-11-1018, Sara and Samuel appeal, arguing that the trial court erred by (1) finding them unfit and (2) terminating their parental rights as to Sa. H., Sl. H., and Sh. H. In No. 4-11-1011, Sara separately appeals, arguing that the court erred by (1) finding her unfit and (2) terminating her parental rights as to S.B. We disagree and affirm the court's findings as to all four children.

¶ 4 I. BACKGROUND

¶ 5 A. The State's Petitions

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

¶ 7 On February 23, 2007, the State filed a petition for adjudication of wardship as to Sa. H., alleging that Sa. H. was (1) neglected (705 ILCS 405/2-3(1)(a), (b) (West

2006)), in that (a) Sara failed to protect her from exposure to sexual abuse by Samuel and (b) Sa. H.'s environment was injurious to her welfare due to sexual abuse, and (2) abused (705 ILCS 405/2-3(2)(ii), (iii) (West 2006)), in that (a) Samuel created a substantial risk of injury as to Sa. H. and (b) Sara allowed sexual abuse to be perpetrated in her household. (At some point shortly thereafter, the State filed separate petitions for adjudication of wardship as to Sl. H. and Sh. H., but those petitions were not included in the record presented to this court. It appears from the totality of the record, however, that those two additional petitions included the same allegations of neglect and abuse that the State included in Sa. H.'s petition.) That same day, the State filed a separate petition for adjudication of wardship as to S.B., alleging that S.B. was (1) neglected (705 ILCS 405/2-3(1)(a), (b) (West 2006)), in that (a) Sara failed to protect her from being sexually abused by Samuel and (b) S.B.'s environment was injurious to her welfare due to that sexual abuse, and (2) abused (705 ILCS 405/2-3(2)(iii) (West 2006)), in that Sara allowed the sexual abuse to be perpetrated against S.B. Following a hearing held shortly thereafter, the court adjudicated Sa. H., Sl. H., Sh. H., and S.B. wards of the court and appointed the Department of Children and Family Services (DCFS) as their guardian.

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

¶ 9 On June 25, 2010, the State filed amended petitions seeking to terminate the parental rights of Sara and Samuel as to Sa. H., Sl. H., and Sh. H. The State's petitions alleged that Sara and Samuel were unfit in that they (1) abandoned the children (750 ILCS 50/1(D)(a) (West 2008)); (2) failed to maintain a reasonable degree of interest, concern, or responsibility as to the children's welfare (750 ILCS 50/1(D)(b) (West 2008)); (3) deserted the children for more than three months prior to the fitness proceedings (750 ILCS 50/1(D)(c) (West 2008)); (4) failed

to protect the children from conditions that were injurious to their welfare (750 ILCS 50/1(D)(g) (West 2008)); (5) failed to make reasonable progress toward the return of the children within nine months after adjudication of neglect or abuse (November 30, 2007, through August 30, 2008) (750 ILCS 50/1(D)(m)(ii) (West 2008)); and (6) failed to make reasonable progress toward the return of the children during any nine months after the end of the nine-month period following an adjudication of neglect or abuse (750 ILCS 50/1(D)(m)(iii) (West 2008)). The State further alleged that Sara was individually unfit due to her inability to discharge her parental responsibilities in light of mental illness or impairment (750 ILCS 50/1(D)(p) (West 2008)).

¶ 10 That same day, the State filed an additional petition seeking to terminate the parental rights of Sara and S.B.'s biological father, Brian Cliff, as to S.B. The State's petition alleged that (1) Sara and Brian (a) had abandoned S.B. (750 ILCS 50/1(D)(a) (West 2008)), (b) failed to maintain a reasonable degree of interest, concern, or responsibility as to S.B. (750 ILCS 50/1(D)(b) (West 2008)), (c) deserted S.B. for more than three months prior to the unfitness proceedings (750 ILCS 50/1(D)(c) (West 2008)), and (d) failed to protect S.B. from conditions that were injurious to her welfare (750 ILCS 50/1(D)(g) (West 2008)); (2) Cliff was (a) deprived in that he had been convicted of six felonies (750 ILCS 50/1(D)(i) (West 2008)), (b) incarcerated, which prevented him from discharging his parental responsibilities for a period in excess of two years (750 ILCS 50/1(D)(r) (West 2008)), and (c) engaged in repeated incarceration, which prevented him from discharging his parental responsibilities (750 ILCS 50/1(D)(s) (West 2008)); and (3) Sara evidenced an inability to discharge her parental responsibilities due to mental illness or impairment (750 ILCS 50/1(D)(p) (West 2008)). (Cliff failed to appear at the hearings in this case and is not a party to this appeal.)

¶ 11

## B. The Parental Fitness Hearing

¶ 12 Having consolidated the cases involving Sa. H., Sl. H., Sh. H., and S.B., the trial court conducted a fitness hearing on their respective cases. At that hearing, Doreen Phillips testified that she had been the children's caseworker since they came into the State's care in February 2007. Phillips explained that she recommended to Samuel that he complete parenting classes and sex-offender counseling, as well as maintain housing and employment. Although Samuel completed his courses, he failed to maintain stable housing or employment for four years. Phillips added that during visitations, Samuel had very little interaction with the children and had not improved his parenting skills. In short, Samuel's client-service plans were rated unsatisfactory.

¶ 13 Phillips testified further that Sara had completed her parenting classes and mental-health assessments, but her parenting skills persisted as unsatisfactory. Phillips added that Sara was "demeaning to the children" and that her visits with the children were not "very good for them at all." Phillips indicated that Sara had not (1) had stable housing or (2) held consistent employment.

¶ 14 Phillips recounted that when she attempted to incorporate unsupervised, weekend visitation, the children reported to her that during one of those visits, Sh. H. was tied to a bedpost with a piece of clothing placed in her mouth and whipped by Sara while Samuel held her legs. Phillips testified that a subsequent investigation indicated the incident to be "founded." When confronted with the allegation, Samuel said the children were liars and Sara called them "monsters." The unsupervised visitations were subsequently discontinued. Phillips explained that once the supervised visitation began again, the visits "just deteriorated." Sara and Samuel

were mean to the children, argumentative, and things were out of control. As for Sara's client-service plans, Phillips testified, as follows: "Every plan is marked as unsatisfactory."

¶ 15 Ruby Fear, Phillips' supervisor, testified that she attended the family's "team meetings." Fear explained that Sara appeared to enjoy pitting the kids against one another. For example, Sara would "give one of the kids a five, one of the kids a dollar and \*\*\* then the other kid gets nothing." Fear noted that the children went crazy over this, leaving the children with the impression that she loved one more than the other. Fear added that "the children's behavior [got] worse when they [were] with [Sara and Samuel]."

¶ 16 Richard Kujoth, a psychologist who evaluated Sara in November 2009, testified that Sara had a low intelligence quotient (IQ) of 87. Kujoth explained that he had diagnosed Sara with schizophrenia paranoid type and narcissistic personality disorder. Kujoth opined that Sara's conditions led her to ignore the fact that her children were involved in illegal sex and selling drugs, as well as other antisocial behavior.

¶ 17 Ali Collins, a DCFS investigator, testified that she investigated the children's allegations that Sara and Samuel had placed clothing in Sh. H.'s mouth and whipped her. Collins explained that Sara told her that she "slapped [Sh. H.] on the arm" because Sh. H. bit her but denied that the incident happened as the children had reported.

¶ 18 Three case aides also testified that, during visits, the children were "rambunctious" and "very difficult to handle," adding that the visits were "chaotic."

¶ 19 For her part, Sara testified that her children were "plotting against [her]." She explained that she had reported in 2006 that her children were (1) selling themselves sexually to their friends and (2) doing drugs. Sara added that she was living in a four-bedroom rental home

and although she was currently unemployed, she received \$600 per month in unemployment compensation. Sara reported that she had taken good care of her children and that she had above average intelligence as demonstrated by her above average indicators on her general-education diploma (GED) form.

¶ 20 Samuel testified that he was married to Sara, but that they were seeking a divorce. Samuel explained that he lived with his father but that he had lived in other places recently, noting that he had not been employed since 2008. Samuel said that he had never been charged with sexually assaulting S.B. and was willing to take care of the children even if Sara's parental rights were terminated.

¶ 21 On this evidence, the trial court found Sara and Samuel unfit. Specifically, the court found that the State proved by clear and convincing evidence that Sara and Samuel (1) failed to protect the children from conditions that were injurious to their welfare (750 ILCS 50/1(g) (West 2008)), in that Sara had serious mental illness and Samuel failed to protect the children from the effects of Sara's mental illness; (2) failed to make reasonable progress toward the return of the children within nine months after adjudication of neglect or abuse (November 30, 2007, through August 30, 2008) (750 ILCS 50/1(D)(m)(ii) (West 2008)); (3) failed to make reasonable progress toward the return of the children during any nine months after the end of the nine-month period following an adjudication of neglect or abuse (750 ILCS 50/1(D)(m)(iii) (West 2008)); and (4) Sara evidenced an inability to discharge her parental responsibilities due to mental illness or impairment (750 ILCS 50/1(D)(p) (West 2008)).

¶ 22 C. The Parental Termination Hearing

¶ 23 At the November 2010 parental termination hearing, Heather Storm, the children's

child welfare specialist, testified that the children were in adoptive placement and that it would be in their best interest to remain there. Storm explained that the children required significant emotional support that, in her opinion, Sara and Samuel were incapable of providing.

¶ 24 Fear, Phillip's supervisor, testified that it would be in the children's best interest to remain in adoptive placement. Fear explained that Sara had mental health issues that had not been fully treated and Samuel indicated to her that he "[did] not want his children."

¶ 25 Carol Steele, the children's court-appointed special advocate (CASA) volunteer, testified that based on her observations, she believed that it would be in the children's best interest to be placed for adoption. Steele added that the children had all bonded with their foster parents and had indicated to her that they wanted to stay with their foster families.

¶ 26 Sara testified that she had been seeing doctors about her mental and physical conditions. She explained that her recent visits with the children had been going well and that the children were excited to see her. Sara added that she was selling "Avon" cosmetics for extra money and was pursuing a bachelor's degree from the local community college.

¶ 27 Samuel testified that he was still living with his father. He explained that he loved his children and that although he had been out of work recently, he had held steady employment for most of his adult life. Samuel said that he had been having difficulty finding work since he was accused of sexual assault. He added that he was not paying child support for the children in this case because no one had "sent [him a] letter yet" but that he did pay support for two other children that he had with two other women.

¶ 28 On this evidence, the trial court terminated the parties' parental rights, finding as follows:

"All right. I have listened closely to the testimony of the witnesses. I've also considered the contents of the CASA report.

\*\*\* The Court finds the State has proven by a preponderance of the evidence that it is in the children's best \*\*\* interest that the parental rights of \*\*\* Cliff, Samuel \*\*\*, Sara \*\*\*, and all whom it may concern be terminated."

¶ 29 Shortly thereafter, Sara and Samuel appealed the trial court's judgment in Macon County case Nos. 07-JA-26, 07-JA-27, and 07-JA-28 (this court's case Nos. 4-11-1002, 4-11-1017, and 4-11-1018). Sara separately appealed the court's judgment in Macon County case No. 07-JA-25 (this court's case No. 4-11-1011). In December 2011, we consolidated all four appeals.

¶ 30 **II. ANALYSIS**

¶ 31 Sara and Samuel argue that the trial court erred by (1) finding them unfit and (2) terminating their parental rights as to Sa. H., Sl. H., and Sh. H. Sara separately argues that the court erred by (1) finding her unfit and (2) terminating her parental rights as to S.B. We disagree.

¶ 32 **A. The Parties' Claim That the Trial Court Erred by Finding Them Unfit**

¶ 33 **1. *The Standard of Review***

¶ 34 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, 943 (2002). We will not reverse a trial court's finding of parental unfitness unless it was contrary



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).

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

¶ 39 In this case, the State presented evidence that both Sara and Samuel failed to make reasonable progress toward the return of their children between November 30, 2007, and August 30, 2008. Specifically, the State showed that although Sara and Samuel completed most of their client-service-plan goals, they were both rated "unsatisfactory" overall because neither Sara or Samuel made sufficient progress toward (1) the return of any of the children or (2) securing stable employment or housing. Phillips, the children's caseworker, testified that Sara and Samuel were mean to the children, argumentative with them, and could not control them. Accordingly,

Phillips rated both Sara and Samuel as unsatisfactory because they persisted in their inability to exercise their parental responsibilities.

¶ 40 Given this evidence, we agree with the trial court that Sara and Samuel failed to make reasonable progress toward the return of their children. Thus, we conclude that the court's fitness findings were not contrary to the manifest weight of the evidence.

¶ 41 B. The Parties' Claim That the Trial Court Erred by Terminating Their Parental Rights

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

¶ 43 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).

¶ 44 "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.

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

¶ 46 At the time of the best-interest hearing, the children had been living with foster parents and were doing well. Indeed, the children were on track to be adopted. The evidence presented showed that the children required significant emotional support that Sara and Samuel

were incapable of providing. Moreover, Steele, the children's CASA volunteer, testified that the children had bonded with their respective foster families and had indicated to her that they did not want to leave.

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

¶ 48

### III. CONCLUSION

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

¶ 50 Case No. 4-11-1002, Affirmed.

¶ 51 Case No. 4-11-1011, Affirmed.

¶ 52 Case No. 4-11-1017, Affirmed.

¶ 53 Case No. 4-11-1018, Affirmed.