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NOS. 4-12-0092, 4-12-0093, 4-12-0094, 4-12-0095

IN THE APPELLATE COURT
OF ILLINOIS

FOURTH DISTRICT

In re: R.H., a Minor,)
THE PEOPLE OF THE STATE OF ILLINOIS,) Appeal from
Petitioner-Appellee,) Circuit Court of
v. (No. 4-12-0092)) Logan County
DANIEL HUFFMAN,) No. 09JA2
Respondent-Appellant.)

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In re: Se. H., a Minor,) No. 09JA3
THE PEOPLE OF THE STATE OF ILLINOIS,)
Petitioner-Appellee,)
v. (4-12-0093))
DANIEL HUFFMAN,)
Respondent-Appellant.)

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In re: A.H., a Minor,) No. 09JA1
THE PEOPLE OF THE STATE OF ILLINOIS,)
Petitioner-Appellee,)
v. (No. 4-12-0094))
DANIEL HUFFMAN,)
Respondent-Appellant.)

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In re: Sa. H., a Minor,) No. 09JA16
THE PEOPLE OF THE STATE OF ILLINOIS,)
Petitioner-Appellee,)
v. (No. 4-12-0095)) Honorable
DANIEL HUFFMAN,) Charles M. Feeney,
Respondent-Appellant.) Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Presiding Justice Turner and Justice Cook concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court's finding respondent father was an unfit parent due to failure to

maintain a reasonable degree of interest, concern or responsibility as to the welfare of his minor children; failure to make reasonable efforts to correct the conditions which were the basis for the removal of the minors from him; and failure to make reasonable progress toward the return of the minors within nine months or in any subsequent nine-month period after adjudication of neglect was not against the manifest weight of the evidence. Termination of father's parental rights was also not against the manifest weight of the evidence.

¶ 2 In January 2009, the State filed three separate petitions for adjudication of wardship of R.H. (born July 31, 2002), Se.H. (born March 31, 2006) and A.H., (born January 9, 2008), the oldest minor children of respondent, Daniel Huffman and his wife, the mother of the children, Christy Huffman. The minors were found to be neglected by both parents and, on March 19, 2009, custody of the minors was placed in the Illinois Department of Children and Family Services (DCFS). In August 2009, the State filed another petition for adjudication of wardship of Sa.H. (born August 14, 2009). In September 2009, Sa.H. was made a ward of the court, guardianship was given to DCFS but custody was given to Christy. In December 2009, custody of Sa.H. was removed from Christy and placed in DCFS.

¶ 3 In June 2011, the State filed petitions to terminate respondent's parental rights to all four minors. In November 2011, the trial court found respondent to be unfit on several grounds and later terminated his parental rights in January 2012. Respondent appeals both the finding of unfitness and the termination of his parental rights. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In October 2008, police arrested respondent for domestic battery against his wife, Christy. Police arrested him again on identical charges in November 2008. On December 3, 2008, after respondent was jailed following the second offense, DCFS was notified and an intact family case was opened. DCFS provided services to Christy in taking care of the three children

she had at that time, R.H., Se.H. and A.H. Christy and the children moved from the family's roach-infested home to the trailer home of respondent's parents. Parenting instructors came to this home and noted environmental issues which needed to be addressed and found Christy was not progressing in parenting skills. Se.H. was seen eating moldy cheese from a bag in the refrigerator. A.H. and Se.H. smelled of urine and feces and the home, clothing, and bedding smelled of urine and feces. Christy and the children slept on the floor. The front door was broken, letting in cold air from the outside. Se.H. played with knives in the kitchen. R.H. was dirty, unkempt and had wax and dirt coming out of her ears. Christy did not respond to any of these conditions until prompted by the parenting workers.

¶ 6 On January 14, 2009, the State filed three separate petitions for adjudication of wardship on behalf of R.H., Se.H. and A.H. Each petition alleged the child was neglected because his/her environment was injurious to his/her welfare due to domestic violence between the mother and father in his/her presence; the minor's home was found to be in poor condition and the minor was not receiving proper or necessary remedial care as the minor and siblings were repeatedly found to be dirty, smell of urine and feces and sleeping on the floor.

¶ 7 On January 15, 2009, the trial court entered a shelter care order removing the minors from the home and granting temporary custody of them to DCFS. On February 26, 2009, the court entered an adjudicatory order, finding the three minors were abused and neglected as their environment was injurious to their welfare. The court found the abuse or neglect was inflicted by the parents. The minors began to live together in the same foster home with the same foster parents.

¶ 8 On March 19, 2009, the trial court held a dispositional hearing. Respondent was

no longer in jail and was living with his parents while Christy was living elsewhere. A no-contact order with Christy was in place as a condition of respondent's bail. He also needed to report to his probation officer regularly. Respondent was working full time at Wendy's. Both Christy and respondent were found to be unfit. DCFS provided six goals for respondent in his service plan. They were (1) maintain a legal means of income; (2) obtain and maintain a constant adequate residence; (3) complete parenting classes and participate in individual parenting sessions; (4) comply with provisions of probation; (5) cooperate in domestic violence counseling; and (6) cooperate with DCFS and Catholic Charities. At that time respondent was cooperating with DCFS and Catholic Charities and attending all appointments and weekly supervised visits with the minors. The court placed custody of the minors with DCFS.

¶ 9 Sa.H. was born on August 14, 2009 and respondent admitted parentage. On August 18, 2009, the State filed a petition for adjudication of wardship for Sa.H. alleging neglect due to her siblings' adjudication of neglect and conditions not being corrected. Sa.H. was removed from Christy's custody and a shelter care order was entered. On September 3, 2009, the trial court entered an adjudicatory order finding Sa.H. was abused and neglected in that her environment was injurious to her welfare. On September 17, 2009, the court entered a dispositional order as to Sa.H., finding respondent to be unfit, and placing guardianship of Sa.H. in DCFS and custody in Christy.

¶ 10 During the fall of 2009, Christy made sufficient progress so as to receive unsupervised visitation with the three oldest minors in her trailer home with Sa.H. This home was located only a few blocks from where respondent resided with his parents in the same trailer park. It was discovered Christy was allowing respondent into her home for visitation with all of

the minors when his visitation was still required to be supervised by DCFS. Sa.H. was removed from her custody on December 10, 2009 and placed in the same foster home as her three older siblings.

¶ 11 After Sa.H. was removed from Christy's custody, respondent moved into Christy's trailer home. They continued to reside together there throughout the remainder of this case. Respondent made only fitful efforts and progress toward the goals which were presented to him in service plans throughout the case.

¶ 12 On June 20, 2011, the State sought a finding of unfitness and termination of parental rights as to each of the minors. The State's motions alleged as to R.H., Se.H. and A.H., respondent was unfit because he (1) failed to maintain a reasonable degree of interest, concern or responsibility as to the minors' welfare (750 ILCS 50/1(D)(b) (West 2010)); (2) failed to make reasonable efforts to correct the conditions that were the basis for the removal of the minors from him (750 ILCS 50/1(D)(m)(i) (West 2010)); (3) failed to make reasonable progress toward the return of the minors to him within nine months after an adjudication of neglect or abuse, specifically February 26, 2009 to November 26, 2009 (750 ILCS 50/1(D)(m)(ii) (West 2010)); (4) failed to make reasonable progress towards the return of the minors during any nine-month period, specifically November 26, 2009 to August 26, 2010 after an adjudication or neglect (750 ILCS 50/1(D)(m)(iii) (West 2010)); (5) failed to make reasonable progress towards the return of the minors during any nine-month period, specifically August 26, 2010 to May 26, 2011 after an adjudication of neglect (750 ILCS 50/1(D)(m)(iii) (West 2010)). The same allegations were made as to Sa.H. except the nine-month period dates were from September 3, 2009 to June 3, 2010 and from June 3, 2010 to March 3, 2011.

¶ 13 On November 17, 2011 a hearing was held on all of these motions. The evidence indicated respondent had various tasks which he was required to complete in his service plans prepared by Catholic Charities with whom DCFS had contracted. He was never rated satisfactory for all tasks at the same time. When the case began he was required to have appropriate housing for the minors, have a legal means of income, cooperate with Catholic Charities, participate in domestic violence counseling, participate in parenting classes and participate in his probation. At the first case review in July 2009, respondent was compliant with all tasks except adequate housing. Once he was out of jail, he lived with his parents. This was the same home from which the minors had been removed when they were sleeping on the floor surrounded by urine and feces and eating moldy food. Respondent's terms of probation included a no-contact order with Christy. In August 2009, Sa.H. was born and respondent acknowledged paternity. He did not abide by the no-contact order.

¶ 14 At the case review in January 2010, respondent was rated unsatisfactory for domestic violence counseling. He attended only two appointments and then stopped participating. He was rated unsatisfactory on housing as he still resided with his parents. He was rated unsatisfactory on parenting classes. Respondent had completed parenting classes, but he did not apply the lessons in his visitations with the minors. He made inappropriate comments to the minors, made promises to them he did not keep and missed visits. Respondent was rated unsatisfactory on cooperation with Catholic Charities due to his failure to continue domestic violence services, failure to attend visits and failure to meet with Catholic Charities personnel for scheduled appointments. He was also rated unsatisfactory on the employment task. He claimed to have remained employed throughout the pendency of this case, but respondent changed

employers and did not provide proof of employment for at least six months. There were also indications he violated the no-contact order again and thus was rated unsatisfactory for complying with probation.

¶ 15 At the next review in July 2010, respondent was rated unsatisfactory for domestic violence counseling due to a verbally aggressive outburst at the Catholic Charities office where he made threats to the staff and the minors' foster parents and had to be escorted from the premises. Respondent was not honest about this incident with his domestic violence counselor. He was rated unsatisfactory for cooperation with Catholic Charities. He missed appointments with them and also visits with the minors. Respondent also failed to provide documentation of employment although he claimed to be employed. Respondent was still living with his parents. The no-contact order had been lifted and he was planning to move back in with Christy, who had obtained appropriate housing.

¶ 16 The next review occurred in January 2011. Respondent was again rated unsatisfactory on domestic violence counseling. He was only attending two classes per month while he reported to his caseworker he completed the class. He never provided proof of completing the class. Respondent was rated unsatisfactory on parenting skills as he did not believe in "time outs" or other forms of discipline. If Christy disciplined the minors during their joint visits, respondent would tell the child they did not have to abide by Christy's discipline. Catholic Charities recommended a psychological evaluation for respondent but he refused to participate. Respondent did not provide proof of income.

¶ 17 Between the January and July 2011 case reviews, the trial court ordered respondent not have any contact with the minors until he cooperated with domestic violence counseling,

received a psychological evaluation and completed consent forms for setting up counseling and evaluations. At the July 2011 case review, respondent was rated unsatisfactory for housing. He and Christy were being sued for failure to pay lot rent for their trailer home and the home was without electricity. Respondent refused to allow caseworkers to enter the trailer. Respondent was rated unsatisfactory on his parenting class task as he was unable to demonstrate his parenting skills. He refused to sign consent forms or cooperate with a psychological evaluation and, thus, had no visitation with the minors. He was also rated unsatisfactory on his remaining tasks as he did not cooperate with Catholic Charities, refused entry to his home, failed to participate in appointments with his caseworker, and failed to complete a psychological evaluation. He again failed to provide proof of employment and refused to sign consent forms for his caseworker to talk to his probation officer.

¶ 18 Respondent testified on his behalf at the hearing. He refuted the unsatisfactory ratings at his case reviews and stated he was sufficiently complying with his service plans. He had completed parenting classes and engaged with domestic violence counselors. He argued he had been employed throughout the case, working long hours in the restaurant industry. He contended his employment prevented him from keeping all of his appointments. When he could not keep appointments with providers set up by Catholic Charities, he was then forced to make arrangements for his own appointments and he could not afford them. Respondent explained he had been preparing to buy and fix up a large house for his family and he and Christy were leaving the trailer so they had cut off electrical service in anticipation of moving. His outburst prior to the July 2010 case review was precipitated by reports of developmental delays for two of his children; in his opinion, the minors were misdiagnosed and Catholic Charities and DCFS had

kidnaped his children and conspired to keep the family apart. Respondent admitted he had not complied with a psychological evaluation.

¶ 19 The trial court stated it did not believe respondent's testimony as it defied common sense. The court found respondent to be unfit on all grounds alleged by the State.

¶ 20 On January 18, 2012, the trial court held the best interest hearing. The State presented its evidence by way of the best interest report prepared by Catholic Charities. All of the minors had been in the same foster home throughout this case. They were bonded with the foster parents who were willing to provide a permanent home for them. R.H. was doing well in school and in her placement. Se.H. received speech services and occupational therapy because of learning delays. He had diagnoses of adjustment disorder with disturbances of emotion and conduct, insecure/avoidant detachment disorder, and autism. He was displaying behavioral difficulties and needed special services but he was making improvements and his foster parents had not wavered in their commitment to his needs and had remained his parents. A.H. began foster care with developmental delays and appeared to be suffering from malnutrition. He received sensory therapy focusing on touch. His growth and weight had been closely monitored and he was now within normal limits for his age. Despite behavioral difficulties and special appointments, the foster parents had not wavered in their commitment to him either. Sa.H. displayed in her infancy one leg longer than the other. Due to concerns of skeletal deformities, Sa.H. needed exercises performed daily to loosen her muscles. The foster parents performed these exercises and Sa.H. no longer displayed a difference in leg length. Sa.H. was within normal range on all of her development.

¶ 21 The foster parents were willing to serve as permanent parents to all four minors.

They owned a five-bedroom home with a large playroom. They reported feeling the children were part of their family. The minors called the foster parents mom and dad. R.H. was the only minor old enough to understand what adoption meant and had expressed a desire to stay with the foster parents. A bonding study was done and all four minors were bonded to the foster parents and comfortable in their home.

¶ 22 Respondent testified he was employed full time and was in the process of buying a four-bedroom house. He stated he was the father and had always looked out for the best interests of the minors. He stated it took so long to comply with the service plan because he lacked the finances to complete all the tasks.

¶ 23 Respondent's 19-year-old son, Daniel Barlow, testified on respondent's behalf. However, Barlow stated he never lived with respondent at any point in his life and was in foster care. He stated it was his opinion respondent's parental rights to the minors should not be terminated even though respondent was never involved in his life while growing up.

¶ 24 The trial court found it was in the best interests of the minors to terminate respondent's parental rights. The court found the minors dramatically improved since entering foster care. The court also noted respondent's reasons to not terminate his rights, "I am the father," was self-centered and the best interest phase of the proceedings was about the children's best interests. This appeal followed.

¶ 25 **II. ANALYSIS**

¶ 26 Respondent appeals both the finding of unfitness and the termination of his parental rights. A trial court's finding of unfitness in a termination of parental rights case will not be reversed unless it is against the manifest weight of the evidence. *In re M.F.*, 326 Ill. App. 3d

1110, 1114, 762 N.E.2d 701, 705 (2002). Once a court has found a parent to be unfit, whether that parent's rights should be terminated is determined by the best interest of the child and that decision also will not be reversed unless it is against the manifest weight of the evidence. *In re Jaron Z.*, 348 Ill. App. 3d 239, 259-60, 810 N.E.2d 108, 125 (2004).

¶ 27

A. Unfitness

¶ 28 When reviewing a finding of unfitness, we afford great deference to the trial court given its far superior opportunity to view and evaluate the witnesses and their testimony. *In re D.L.W.*, 226 Ill. App. 3d 805, 811, 589 N.E.2d 970, 974 (1992). In this case, the trial court found respondent to be unfit on five different grounds. However, only one ground of unfitness need be proved to find a parent unfit. *In re Gwynne P.*, 215 Ill. 2d 340, 349, 830 N.E.2d 508, 514 (2005). We believe the State proved all five grounds but we choose to focus on two.

¶ 29 A parent is unfit if he fails to make reasonable efforts to correct the conditions which were the basis for the removal of the children from the parent. 750 ILCS 50/1(D)(m)(i) (West 2010). "[R]easonable effort" is a subjective standard, focusing on the amount of effort that is reasonable for the particular parent whose rights are involved. *In re C.M.*, 305 Ill. App. 3d 154, 164, 711 N.E.2d 809, 815 (1999). Respondent failed to complete his domestic violence counseling and failed to maintain adequate housing, the two reasons for the removal of the children, despite having two years to do so from the time the minors were removed in January 2009, to the time of the hearing on the petition to terminate parental rights in November 2011. His outbursts at Catholic Charities showed respondent failed to demonstrate he could control his temper. He was being sued for failing to pay lot rent and was without electricity despite his claim he was employed throughout this case. He had not corrected the conditions which were the

basis for the removal of the minors, and the conditions seemed to be getting worse. Respondent was not cooperative with services and, at times, hostile to them.

¶ 30 Respondent also failed to make reasonable progress toward the return of the minors to him within nine months or in any later nine-month period after an adjudication of neglect or abuse in violation of section 1(D)(m)(ii) and (iii) of the Adoption Act (750 ILCS 50/1(D)(m)(ii), (iii) (West 2010)). Reasonable progress is an objective standard focusing on the amount of progress toward the goal of reunification under the circumstances. *C.M.*, 305 Ill. App. 3d at 164, 711 N.E.2d at 815. The standard by which progress is measured is parental compliance with the court's directives, the service plan, or both. *Id.* Reasonable progress requires, at a minimum, measurable progress or demonstrable movement of sufficient quality the trial court will be able to order the minors returned to parental custody in the near future. *In re L.L.S.*, 218 Ill. App. 3d 444, 460-61, 577 N.E.2d 1375, 1386-87 (1991).

¶ 31 Respondent rated unsatisfactory on a majority of tasks in his service plan throughout the case. He seemed to be rated unsatisfactory on more tasks the longer the case went on. Eventually, the trial court ordered respondent could have no contact with the minors until he cooperated with domestic violence counseling, received a psychological evaluation and completed consent forms. Respondent still refused to cooperate. Respondent was further away from the minors being returned to his care than when the case began. He made no objective progress. Respondent attempted to explain his failures to cooperate and comply with his service plans and court orders, but the court placed little weight on his explanations. The court specifically found respondent's testimony not credible.

¶ 32 The court's findings of unfitness as to respondent were not against the manifest

weight of the evidence.

¶ 33

B. Best Interests

¶ 34

Once parental unfitness has been found, the parent's rights must yield to the children's best interest. *In re D.T.*, 212 Ill. 2d 347, 352, 818 N.E.2d 1214, 1220 (2004). The State bears the burden of proving by a preponderance of the evidence termination is in the children's best interest. *In re T.A.*, 359 Ill. App. 3d 953, 961, 835 N.E.2d 908, 914 (2005).

Although the parent still possesses an interest in maintaining the parent-child relationship, the force of that interest is lessened by the trial court's finding the parent is unfit to raise his child. *T.A.*, 359 Ill. App. 3d at 959, 835 N.E.2d at 912.

¶ 35

In this case, the State presented evidence the minors had been living with their foster parents for over two years and were flourishing. The foster parents were addressing their medical, educational, and developmental needs and the children exhibited vast improvements.

¶ 36

Respondent testified he "was in the process" of buying an adequate home for the family but furnished no proof. He failed to finish the tasks set out for him in over two years while the minors were in foster care. The developmental and other issues faced by at least two of the minors indicated they needed attentive and task-oriented parents in order for them to be cared for adequately. This was provided by the foster parents. Finally, the minors needed permanency in their placement and would receive this by the trial court terminating respondent's parental rights so the foster parents could adopt the minors. It was not against the manifest weight of the evidence for the trial court to find it was in the minors' best interests to terminate respondent's parental rights.

¶ 37

III. CONCLUSION

¶ 38 The judgments of the trial court as to both unfitness and best interests are not against the manifest weight of the evidence. We affirm.

¶ 39 Affirmed.