



our decision in this case was to be filed no later than June 24, 2012. However, on February 10, 2012, the Office of the State Appellate Defender, which had been appointed to represent the respondent, moved to withdraw as appointed appellate counsel, arguing that it was precluded by statute from representing parties in parental rights termination cases. On February 23, 2012, this court granted the State Appellate Defender's motion to withdraw as appointed appellate counsel. We further remanded the case for the limited purpose of appointing substitute counsel for the respondent. Over a month later, on March 29, 2012, the circuit court had still not appointed substitute appellate counsel. This court therefore requested that the circuit court expedite the matter and appoint substitute counsel as soon as possible. The circuit court finally appointed substitute counsel on April 25, 2012. On May 22, 2012, the respondent sought an extension of time in which to file her brief. This court granted the respondent's request and ordered her to file her brief no later than June 11, 2012. The respondent filed her brief on that date, and the State filed its brief on July 2, 2012. Oral argument was held on July 12, 2012.

¶ 5 S.H., a female minor born on November 23, 2004, is the biological daughter of the respondent. On July 30, 2007, the State filed a petition for adjudication of wardship pursuant to section 2-3 of the Juvenile Court Act of 1987 (705 ILCS 405/2-3(1)(a) (West 2006)) alleging that (1) the environment was injurious to the welfare of S.H. because the respondent failed to provide adequate shelter in that there was trash and debris throughout the household, (2) the respondent failed to make sure that one of S.H.'s siblings take prescription medication, (3) the respondent failed to comply with services provided by Lutheran Social Services, and (4) the respondent failed to protect S.H. from a registered sex offender. The court entered a temporary custody order on July 31, 2007. On August 28, 2007, the court entered an adjudicatory order finding that S.H. was abused or neglected due to an environment that was injurious to her welfare. Following a dispositional hearing on

September 25, 2007, the court found that the respondent was unable, for reasons other than financial circumstances alone, to care for S.H. The Illinois Department of Children and Family Services (DCFS) obtained a guardianship over S.H. as a result of the court's finding on September 25, 2007. On March 25, 2008, the court set a permanency goal for S.H. to return home within 12 months.

¶ 6 The case proceeded for the next four years. The respondent, though sometimes substantially complying with the service plans provided by social services, failed to make any real progress with respect to being able to parent S.H. by failing to maintain a residence or employment and by failing to protect S.H. from S.H.'s paternal grandfather, a registered sex offender who had abused some of his other granddaughters. The respondent signed a directed consent to adoption on July 20, 2010, to have S.H.'s foster family adopt her. However, they did not do so. On August 24, 2011, the State filed a motion for termination of parental rights and for appointment of guardian with power to consent to adopt. On November 8, 2011, the State filed an amended motion for termination of parental rights and for appointment of guardian with power to consent to adopt alleging that the respondent was an unfit parent because she (1) failed to maintain a reasonable degree of interest, concern, or responsibility as to S.H.'s welfare, (2) failed to protect S.H. from conditions within her environment injurious to S.H.'s welfare, (3) failed to make a reasonable effort to correct the conditions that were the basis for the removal of S.H., (4) failed to make reasonable progress toward the return of S.H. to the respondent within nine months after an adjudication of neglected or abused minor under section 2-3 of the Juvenile Court Act of 1987 or dependent minor under section 2-4 of the Juvenile Court Act of 1987 (750 ILCS 50/1(D)(m)(ii) (West 2010)), and (5) failed to make reasonable progress toward the return of S.H. to the respondent during any nine-month period after the end of the initial nine-month period following the adjudication of neglected or abused minor under section 2-3 of the Juvenile

Court Act of 1987 or dependent minor under section 2-4 of the Juvenile Court Act of 1987 (750 ILCS 50/1(D)(m)(iii) (West 2010)).

¶ 7 A fitness hearing was held on November 8, 2011. At that hearing, the respondent asked for different counsel to be appointed because she alleged that her current counsel did not adequately represent her. She argued that her counsel should have called several witnesses to corroborate her testimony. However, she could only vaguely identify one witness whom she wanted to have testify, a Lutheran Social Services worker, and could not give the court the worker's name. The court denied her request for new counsel, reasoning that the respondent did not complain about her counsel until that day and the case had been going on for four years, which indicated that she was not actually displeased with the representation her counsel had provided her. After testimony from the DCFS worker and the respondent, the circuit court found the respondent to be unfit because she had been inconsistent with any progress.

¶ 8 A best-interest hearing was held on January 3, 2012. S.H.'s foster mother testified that S.H.'s previous behavioral issues, including highly sexualized behavior, were no longer an issue. She further testified that she had been S.H.'s foster mother for four years and that S.H. had adjusted well to living with her and her family. The respondent testified and admitted that she had not scheduled any visits with S.H. nor had she participated in mental health treatment since she signed the directed consent to adoption a year prior. The court terminated the respondent's parental rights, finding that S.H. needed permanency, the respondent had not made any real progress, and the case had gone on for four years.

¶ 9 ANALYSIS

¶ 10 The respondent argues that her counsel was ineffective in his representation of her. We apply the same standard used in criminal ineffective assistance proceedings to determine whether counsel was ineffective in juvenile proceedings. *In re S.G.*, 347 Ill. App. 3d 476,

479 (2004). A party arguing ineffective assistance must overcome a strong presumption that trial counsel's action or inaction was the result of trial strategy. *People v. Sanders*, 2012 IL App (1st) 102040, ¶ 31. The two-prong test for an ineffective assistance claim set forth in *Strickland v. Washington*, 466 U.S. 668 (1984), was adopted by the Illinois Supreme Court in *People v. Albanese*, 104 Ill. 2d 504, 526-27 (1984). To establish that counsel was ineffective, one must show both that her counsel's representation fell below an objective standard of reasonableness and that a reasonable probability exists that, but for such representation, the result of the proceedings would have been different. *Strickland*, 466 U.S. at 687-95. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *In re A.R.*, 295 Ill. App. 3d 527, 531 (1998). *Strickland* requires actual prejudice and not mere speculation that the outcome of the proceeding would have been different had counsel taken different action. *People v. Olinger*, 176 Ill. 2d 326, 363 (1997).

¶ 11 Here, the respondent fails to show that her trial counsel was ineffective. The respondent argues that her attorney should have called more than just herself to testify at the termination hearing. When the court pressed the respondent as to whom else she would have called, all she could say was that there was an unnamed social worker from Lutheran Social Services who could corroborate that the initial allegations giving rise to the termination proceedings were unfounded. The record is replete with instances of the respondent's failure to make any kind of progress with being able to care and provide for S.H. The transcripts from the proceedings show that the respondent's counsel conducted thorough cross-examinations of the State's witness as well as a thorough direct examination of the respondent. The supposed testimony of an unnamed social worker is wholly speculative and conjectural, and, as noted above, *Strickland* requires more than just speculation about a potential witness. The respondent has failed to show prejudice such that the result of the proceedings would have been different.

¶ 12 The respondent asks this court to remand the case so that a full evidentiary hearing may be conducted to determine whether her counsel was ineffective, per *In re Ch. W.*, 408 Ill. App. 3d 541, 542 (2011). In that case, the respondent claimed that his counsel was ineffective while representing him in adjudication of wardship proceedings. He alleged specific, actual instances where his counsel had failed to adequately represent him. The court remanded the case for a full evidentiary hearing to develop a record with respect to the respondent's claims.

¶ 13 Here, we find that the respondent has an adequate postjudgment remedy in section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401 (West 2010)), and we do not find that remanding the case for an evidentiary hearing is necessary. Section 2-1401 provides a method by which one may challenge final orders and judgments in both criminal and civil proceedings more than 30 days after their entry. 735 ILCS 5/2-1401 (West 2010). We find this to be an adequate postjudgment remedy by which the respondent may collaterally attack the findings of the circuit court.

¶ 14 **CONCLUSION**

¶ 15 For the foregoing reasons, the judgment of the circuit court of Saline County is affirmed.

¶ 16 Affirmed.