

NOTICE
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2013 IL App (4th) 130048-U

NO. 4-13-0048

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
May 13, 2013
Carla Bender
4th District Appellate
Court, IL

In re: C.G., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Champaign County
v.)	No. 11JA46
CONSTANCE CHAPPLE,)	
Respondent-Appellant.)	Honorable
)	Richard P. Klaus,
)	Judge Presiding.

JUSTICE TURNER delivered the judgment of the court.
Justices Appleton and Pope concurred in the judgment.

ORDER

¶ 1 *Held:* Where the State proved respondent unfit by clear and convincing evidence, the trial court's findings of unfitness were not against the manifest weight of the evidence.

¶ 2 In September 2011, the State filed a petition for adjudication of wardship with respect to C.G., the minor child of respondent, Constance Chapple. The trial court adjudicated the minor a ward of the court and placed custody and guardianship with the minor's relative. In September 2012, the State filed a motion to terminate respondent's parental rights. In December 2012, the court found respondent unfit. In January 2013, the court determined it was in the minor's best interest that respondent's parental rights be terminated.

¶ 3 On appeal, respondent argues the State failed to prove her unfit. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In September 2011, the State filed a petition for adjudication of neglect with respect to C.G., born in August 2004, the minor child of respondent. The petition alleged C.G. was neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (705 ILCS 405/2-3(1)(b) (West 2010)) in that her environment was injurious to her welfare when she resided with respondent as it exposed her to the risk of physical harm, substance abuse, and inadequate supervision. The trial court found probable cause to believe the minor was neglected and placed temporary custody of C.G. with Emerald Chapple, the minor's step-sister.

¶ 6 In October 2011, the trial court found the minor was neglected based on an injurious environment. In its November 2011 dispositional order, the court found respondent unfit. The court noted respondent had been charged with obstructing justice and concealing a homicide and continued to deny the minor's presence during the homicide despite the minor's statements. Also, respondent continued to deny substance-abuse issues, which the court found not credible, and she had not started any services. The court found it in the minor's best interest that C.G. be made a ward of the court and placed custody and guardianship of her with Emerald Chapple, a suitable relative.

¶ 7 In September 2012, the State filed a third motion to terminate respondent's parental rights. The State alleged respondent was unfit because she (1) failed to make reasonable efforts to correct the conditions that were the basis for the minor's removal from her (count I) (750 ILCS 50/1(D)(m)(i) (West 2010)); (2) failed to make reasonable progress toward the minor's return within the initial nine months after the adjudication of neglect (count II) (750 ILCS 50/1(D)(m)(ii) (West 2010)); (3) failed to maintain a reasonable degree of interest, concern, or responsibility as to the minor's welfare (count III) (750 ILCS 50/1(D)(b) (West 2010)); and (4)

was deprived (count IV) (750 ILCS 50/1(D)(i) (West 2010)).

¶ 8 In December 2012, the trial court conducted the hearing on unfitness. Dr. William Koehn, a psychologist, testified he received a referral from the Department of Children and Family Services (DCFS) to evaluate respondent in July 2012. Respondent stated she was upset at having C.G. removed from her but otherwise felt normal. Respondent informed him that she occasionally used alcohol and stopped using marijuana in September 2011. When asked about her conviction for driving under the influence, respondent stated she was not intoxicated but was "just upset." Respondent indicated her relationship with Sylvester Gill, C.G.'s father, involved domestic violence. Respondent thought she was a good parent and only needed to work on her choice of people she associated with. Based on his interview with respondent and her test results, Dr. Koehn diagnosed her with "adjustment disorder with depressed mood" and alcohol and cannabis abuse in "early full remission." Dr. Koehn recommended she undergo individual counseling, obtain substance-abuse treatment, and maintain employment and an adequate residence.

¶ 9 Edward King, an addiction counselor, testified respondent was referred to treatment after being assessed as being dependent on alcohol and cannabis. King stated respondent missed several individual and group appointments. She also tested positive for alcohol in June 2012. King stated she was unsuccessfully discharged from treatment based on her lack of attendance.

¶ 10 Heidi Gulbrandson, a DCFS supervisor, testified respondent had dropped out of high school due to her pregnancy but later obtained her general equivalency diploma. Respondent "acknowledged some history" of substance-abuse problems but did not believe she had any

issues. In February 2012, Gulbrandson attempted to arrange a meeting, but respondent said she was busy "for the next couple of days." When Gulbrandson asked respondent to complete a urine test, respondent stated "she was too busy that day but could do so the next day." On other occasions when Gulbrandson asked her to take a drug test, respondent stated she was too busy or menstruating. Respondent never successfully completed substance-abuse treatment or individual counseling.

¶ 11 Michelle Buxton, a child-protection investigator with DCFS, testified she was the caseworker for C.G.'s case from February through April 2012. She stated respondent did not want to sign consents for referrals but wanted to arrange for her own services. Buxton stated respondent did not obtain a substance-abuse evaluation. Respondent did not appear to be willing to accept the recommendations from DCFS as she was unwilling to sign consents or pursue referrals. Buxton stated respondent never provided documentation that she participated in any self-selected agencies. Buxton stated respondent never completed substance-abuse treatment or individual counseling during her time as caseworker.

¶ 12 Dawn Bachtold, a DCFS caseworker, testified she was C.G.'s caseworker from April through September 2012. Respondent attended a psychological evaluation but she never completed substance-abuse treatment.

¶ 13 Respondent testified she had lived with her aunt since September 2012. She was unemployed but was "out looking for a job every day." She attended most of her urine drops but missed a few because it was "uncomfortable" with having someone "standing over you" while she urinated. She stated she completed a psychological evaluation but never attended individual counseling because no one set up an appointment for her. She testified she had four different

caseworkers in her case, which caused difficulties in staying in contact with them. Unless someone from DCFS wanted something, she did not call them. Respondent talks with C.G. on the phone and it "goes very well."

¶ 14 Following closing arguments, the trial court found respondent unfit. In January 2013, the court conducted the best-interest hearing. The best-interest report stated C.G. lived with Emerald Chapple in Jackson, Mississippi. Emerald had demonstrated her concern and love for C.G. and was "very cooperative" with DCFS. C.G. was in the second grade and is an "excellent student." C.G. had no medical concerns, and Emerald had the ability to ensure she received medical care if needed.

¶ 15 At the hearing, Emerald stated she refrains from taking calls from respondent because she made threats toward Emerald. She also indicated her desire to adopt C.G. Respondent's attorney indicated respondent had obtained employment at Taco Bell. Following closing arguments, the trial court found it in the minor's best interest that respondent's parental rights be terminated. This appeal followed.

¶ 16 II. ANALYSIS

¶ 17 Respondent argues the State failed to prove by clear and convincing evidence that she was unfit. We disagree.

¶ 18 In a proceeding to terminate a respondent's parental rights, the State must prove unfitness by clear and convincing evidence. *In re Donald A.G.*, 221 Ill. 2d 234, 244, 850 N.E.2d 172, 177 (2006). "'A determination of parental unfitness involves factual findings and credibility assessments that the trial court is in the best position to make.'" *In re Richard H.*, 376 Ill. App. 3d 162, 165, 875 N.E.2d 1198, 1201 (2007) (quoting *In re Tiffany M.*, 353 Ill. App. 3d 883,

889-90, 819 N.E.2d 813, 819 (2004)). A reviewing court accords great deference to a trial court's finding of parental unfitness, and such a finding will not be disturbed on appeal unless it is against the manifest weight of the evidence. *In re Veronica J.*, 371 Ill. App. 3d 822, 828, 867 N.E.2d 1134, 1139 (2007). "As the grounds for unfitness are independent, the trial court's judgment may be affirmed if the evidence supports the finding of unfitness on any one of the alleged statutory grounds." *In re H.D.*, 343 Ill. App. 3d 483, 493, 797 N.E.2d 1112, 1120 (2003).

¶ 19 In the case *sub judice*, the trial court found respondent unfit on all four counts, including count II based on her failure to make reasonable progress toward the return of C.G. within the initial nine months after the adjudication of neglect and count III based on her failure to maintain a reasonable degree of interest, concern, or responsibility as to C.G.'s welfare. The initial nine-month period following the adjudication of neglect ended on July 26, 2012.

"Reasonable progress" is an objective standard that "may be found when the trial court can conclude the parent's progress is sufficiently demonstrable and of such quality that the child can be returned to the parent in the near future." *In re Janine M.A.*, 342 Ill. App. 3d 1041, 1051, 796 N.E.2d 1175, 1183 (2003).

"[T]he benchmark for measuring a parent's 'progress toward the return of the child' under section 1(D)(m) of the Adoption Act encompasses the parent's compliance with the service plans and the court's directives, in light of the condition which gave rise to the removal of the child, and in light of other conditions which later become known and which would prevent the court from returning custody of the child to the parent." *In re C.N.*, 196 Ill. 2d 181, 216-

17, 752 N.E.2d 1030, 1050 (2001).

"At a minimum, reasonable progress requires measurable or demonstrable movement toward the goal of reunification." *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1067, 859 N.E.2d 123, 137 (2006).

¶ 20 On the ground pertaining to the failure to maintain a reasonable degree of interest, concern, or responsibility as to the minor's welfare, the court must "examine the parent's conduct concerning the child in the context of the circumstances in which that conduct occurred." *In re Adoption of Syck*, 138 Ill. 2d 255, 278, 562 N.E.2d 174, 185 (1990). Circumstances to consider may include the parent's difficulty in obtaining transportation to the child's residence, the parent's poverty, the actions or statements of others hindering or discouraging visitation, "and whether the parent's failure to visit the child was motivated by a need to cope with other aspects of his or her life or by true indifference to, and lack of concern for, the child." *Syck*, 138 Ill. 2d at 279, 562 N.E.2d at 185. "Completion of service plan objectives can also be considered evidence of a parent's concern, interest, and responsibility." *Daphnie E.*, 368 Ill. App. 3d at 1065, 859 N.E.2d at 135. The parent may be found unfit for failing to maintain either interest, or concern, or responsibility; proof of all three is not required. *In re Jaron Z.*, 348 Ill. App. 3d 239, 259, 810 N.E.2d 108, 124-25 (2004).

¶ 21 Respondent failed to exhibit reasonable progress in this case and also failed to maintain a reasonable degree of interest, concern, or responsibility as to C.G.'s welfare. The evidence indicated respondent missed several individual and group appointments and tested positive for alcohol in June 2012. She was discharged from treatment because of lack of attendance. She never completed substance-abuse treatment or individual counseling. She was

defensive and uncooperative with her caseworkers and was unwilling to sign consents or pursue referrals. Respondent claimed she would pursue services with self-selected agencies but failed to submit documents indicating she had done so. She failed to comply with drug drops, claiming she was too busy or menstruating.

¶ 22 Respondent argues she had four caseworkers, which made it difficult to keep in touch with them. However, the evidence shows an unwillingness on her part to comply with her service plans. The evidence also shows no measurable or demonstrable movement such that respondent and C.G. could be returned to her in the near future.

¶ 23 Respondent also argues she showed a reasonable degree of interest, concern, or responsibility as to C.G.'s welfare because their phone calls with each other go "very well." However, "a parent is not fit merely because she has demonstrated some interest or affection toward her child; rather, her interest, concern, and responsibility must be reasonable." *Jaron Z.*, 348 Ill. App. 3d at 259, 810 N.E.2d at 125 (citing *In re E.O.*, 311 Ill. App. 3d 720, 727, 724 N.E.2d 1053, 1058 (2000)). Respondent was discharged from treatment for lack of attendance and was at times "too busy" to attend meetings or submit to drug tests. Respondent's actions indicate a lack of interest, concern, and responsibility to bettering herself and thereby becoming an effective parent for C.G.'s benefit.

¶ 24 Based on the evidence in the record, we conclude the trial court's findings of unfitness on counts II and III were not against the manifest weight of the evidence. Because of our finding on these counts, we need not address the findings of unfitness on the remaining grounds. Moreover, as respondent does not contest the best-interest portion of the court's decision, we conclude the court's order terminating respondent's parental rights was appropriate.

III. CONCLUSION

¶ 25

¶ 26

For the reasons stated, we affirm the trial court's judgment.

¶ 27

Affirmed.