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2013 IL App (4th) 130168-U

NO. 4-13-0168

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
June 27, 2013
Carla Bender
4th District Appellate
Court, IL

In re: A.M., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Macon County
v.)	No. 12JA1
MYKELA MORSTATTER,)	
Respondent-Appellant.)	Honorable
)	Thomas E. Little,
)	Judge Presiding.

JUSTICE APPLETON delivered the judgment of the court.
Presiding Justice Steigmann and Justice Turner concurred in the judgment.

ORDER

- ¶ 1 *Held:* (1) The State presented sufficient evidence to support the trial court's order finding respondent was an unfit parent when she failed to successfully complete any of the required tasks set forth in her case plan.
- (2) The State presented sufficient evidence to support the trial court's order finding termination of respondent's parental rights was in the minor's best interest.
- ¶ 2 In February 2013, the trial court terminated the parental rights of respondent, Mykela Morstatter, to her daughter, A.M. Respondent struggled with mental-health and substance-abuse issues and failed to complete any of the tasks set forth in her case plan. She appeals, claiming the evidence did not support the court's findings of unfitness or that termination of her parental rights was in the minor's best interests. After our review of the record, we disagree with respondent's contentions of error and affirm the court's judgment.

¶ 3

I. BACKGROUND

¶ 4 On January 3, 2012, the State filed a petition for the adjudication of wardship, alleging the minor, A.M., born September 7, 2010, was neglected, abused, and dependent based upon respondent's "ongoing mental[-]health and substance[-]abuse issues." In December 2011, respondent experienced suicidal and homicidal thoughts, threatening the safety of the minor, her mother, and herself. She was hospitalized in Decatur, where she tested positive for cocaine. She had been previously diagnosed with paranoid schizophrenia and anxiety. The Illinois Department of Children and Family Services (DCFS) placed A.M. in relative foster care with her maternal grandmother.

¶ 5 On February 9, 2012, the trial court entered an adjudicatory order, finding A.M. dependent because she was without proper care due to respondent's physical or mental disability (705 ILCS 405/2-4(1)(b) (West 2010)). The court awarded DCFS custody and guardianship. The same day, the court entered a dispositional order, finding respondent unfit and unable to care for the minor due to "mental[-]health and substance[-]abuse issues." The court noted "the father is not involved." The court further adjudicated the minor dependent and made her a ward of the court.

¶ 6 On January 16, 2013, the State filed a petition to terminate respondent's parental rights, alleging she was unfit because she (1) failed to maintain a reasonable degree of interest, concern, or responsibility as to the minor's welfare (750 ILCS 50/1(D)(b) (West 2012)); (2) failed to protect the minor from conditions within her environment injurious to her welfare (750 ILCS 50/1(D)(g) (West 2012)); (3) failed to make reasonable efforts to correct the conditions that were the basis for the removal of the minor (750 ILCS 50/1(D)(m)(i) (West 2012)); and (4) failed to make reasonable progress toward the return of the minor within nine months of adjudication (750 ILCS 50/1(D)(m)(iii) (West 2012)). The State also alleged termination of respondent's parental rights

would be in A.M.'s best interest.

¶ 7 On February 21, 2013, the trial court conducted a fitness hearing on the State's petition. The punitive father was defaulted upon the State's oral motion. The court noted the relevant nine-month time period was February 9, 2012, through November 9, 2012. First to testify was Elizabeth McGarry, the program manager for addictions at Heritage Behavioral Health Center. McGarry said, on September 6, 2012, respondent completed a mental-health and substance-abuse psycho-social assessment. She was referred to (1) level-one substance-abuse treatment (one to eight hours per week), (2) mental-health services based on a diagnosis of schizoaffective disorder, (3) random drug screens, and (4) an appointment with a psychiatrist.

¶ 8 According to McGarry, this was respondent's fifth assessment, though only three were discussed. In a February 2012 assessment, respondent was referred to level-two substance-abuse treatment (9 to 24 hours per week), as well as the other services mentioned above. Respondent failed to engage and her case was closed in June 2012. During that time, respondent's participation was "very minimal." In August 2012, she participated in another assessment. The evaluator recommended only mental-health services. However, that case was closed within a few weeks because respondent refused treatment.

¶ 9 Since her September 2012 assessment, respondent has participated in substance-abuse group therapy only sporadically. Therefore, according to McGarry, respondent has not been successful. She has not addressed mental-health issues because she failed to cooperate with scheduling an appointment to see a psychiatrist.

¶ 10 Respondent last attended a group session on January 17, 2013. She left the group agitated. Prior to that, she attended on January 3, 2013, though she was required to attend three

hours per week. She failed to attend treatment-plan meetings on February 1 and 18, 2013. Currently, respondent was not participating at all.

¶ 11 McGarry also testified respondent failed to participate in eight random drug screens between February 2012 and February 2013. She had two positive results on February 28, 2012, and April 13, 2012, and two negative results on November 19, 2012, and January 7, 2013.

¶ 12 Next to testify for the State was Virginia Karl, the parenting instructor at Webster-Cantrell Hall. Karl testified respondent did not complete the parenting course. She missed 1 of the 16 required sessions. Respondent was given the opportunity to make up the missed class, but she failed to take advantage of that opportunity, and she failed to take the test at the end of the course. Karl said respondent *did* participate in the sessions she attended and respondent was aware that she had not completed all of the requirements.

¶ 13 Amanda Gant-Taylor, respondent's caseworker at Webster-Cantrell Hall, testified she worked with respondent until June 2012. Gant-Taylor assisted with the preparation of respondent's initial case plan, which required respondent to (1) successfully complete a parenting course, (2) participate in substance-abuse treatment, (3) participate in mental-health assessments, both psychological and psychiatric, (4) follow all recommendations for mental-health treatment, including counseling, and (5) attend domestic-violence counseling. She said respondent did not complete any of the required services.

¶ 14 Gant-Taylor said respondent "interacted very well" with the minor during visits, though she did not engage in "too much play with her." However, respondent would often reportedly "space out" during visits. Gant-Taylor described respondent as physically present, but mentally absent. She rated respondent's progress on her case plan as "unsuccessful."

¶ 15 Whitney Welch, respondent's caseworker from October 2012 to present, testified she took over for another caseworker, who was no longer with the agency. Welch said respondent had the same goals throughout the life of the case, but she had not successfully completed any of them. Welch also testified, like Gant-Taylor, that respondent did not engage in play with the minor and that she would often "space out" during visits. Respondent had stopped taking her medication and had last visited a psychiatrist in March 2012. Welch said she also received anonymous reports that respondent was still using illegal substances, but Welch was unable to confirm those reports.

¶ 16 The State presented no further witnesses and respondent presented no evidence. After considering closing arguments, the trial court found the State had proven by clear and convincing evidence that respondent was unfit on each of the grounds stated in the petition. The court proceeded immediately to a best-interest hearing.

¶ 17 Lindsey Sites, the foster care supervisor at Webster-Cantrell, testified that the foster mother, the minor's maternal grandmother, was a potential adoptive placement. Sites testified that a return of the minor to respondent's care would "take a lengthy amount of time." The minor was doing well and was bonded to her grandmother. Sites had no concerns with the placement or with the relationship. The minor was happy and safe.

¶ 18 No further evidence was presented. The trial court found the State had proved by a preponderance of the evidence that it was in the minor's best interest that respondent's parental rights be terminated. This appeal followed.

¶ 19 II. ANALYSIS

¶ 20 Respondent contends, *inter alia*, the trial court's finding of unfitness based on section 1(D)(b) of the Adoption Act (750 ILCS 50/1(D)(b) (West 2012)) was against the manifest weight

of the evidence. Specifically, respondent argues that her ability to maintain interest, concern, and responsibility for the minor should be judged by her reasonable efforts to do so, not on her success.

¶ 21 The Juvenile Court Act of 1987 provides a bifurcated mechanism whereby parental rights may be terminated. 705 ILCS 405/2/29(2) (West 2012). Under this procedure, there must first be a showing of parental unfitness based upon clear and convincing evidence, and a subsequent showing that the best interests of the child are served by severing parental rights. *In re M.J.*, 314 Ill. App. 3d 649, 655 (2000). "A trial court's determination of parental unfitness involves factual findings and credibility assessments that the trial court is in the best position to make." *M.J.*, 314 Ill. App. 3d at 655. We will not disturb a finding of unfitness unless it is contrary to the manifest weight of the evidence and the record clearly demonstrates that the opposite result was proper. *In re D.F.*, 201 Ill. 2d 476, 498 (2002). A finding of unfitness will stand if supported by any one of the statutory grounds set forth in section 1(D) of the Adoption Act. *In re D.D.*, 196 Ill. 2d 405, 422 (2001).

¶ 22 To find a parent unfit under section 1(D)(b) of the Adoption Act, and avoid the necessity of obtaining the parent's consent for adoption, the trial court must find clear and convincing evidence that the parent failed "to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare." 750 ILCS 50/1(D)(b) (West 2012). Because this language is in the disjunctive, any of these three elements may be considered on its own as a basis for unfitness. *In re Jaron Z.*, 348 Ill. App. 3d 239, 259 (2004). We acknowledge that, in examining allegations under subsection (b), a trial court must focus on a parent's reasonable efforts rather than her success, and must consider any circumstances that may have made it difficult for her to visit, communicate with, or otherwise show interest in her child. *Jaron Z.*, 348 Ill. App. 3d at 259. However, noncompliance

with an imposed service plan may be sufficient to warrant a finding of unfitness under subsection (b). *Jaron Z.*, 348 Ill. App. 3d at 259.

¶ 23 The evidence presented at the fitness hearing demonstrated that respondent failed to successfully complete *any* of her required tasks. Though she attended 15 of the 16 required parenting sessions, she failed to attend a make-up session after being granted an opportunity to do so, and she failed to take the final examination. According to Karl, this examination was the only means by which she, as the instructor, could have determined whether respondent correctly applied the skills learned during the course. Further, respondent failed to successfully participate in counseling, mental-health treatment, substance-abuse treatment, or domestic-violence counseling. She also failed to participate in numerous random drug screens and she tested positive on several occasions when she did submit to testing.

¶ 24 The evidence in this case clearly supports the trial court's finding that respondent was unfit based on her failure to maintain a reasonable degree of interest, concern or responsibility for the minor. Respondent knew she was required to submit urine samples, attend treatment sessions, and complete parenting classes, but she failed to do so. Indeed, her signature appeared on each of the case plans indicating she understood the requirements. Nevertheless, she failed to successfully complete any one of them. Therefore, we find the trial court's finding that respondent was unfit pursuant to subsection (b) of the Adoption Act (750 ILCS 50/1(D)(b) (West 2012)) was not against the manifest weight of the evidence. Because we find the evidence was sufficient to support this ground for termination, we need not discuss the remaining grounds. *In re D.C.*, 209 Ill. 2d 287, 296 (2004) (every alleged ground need not be proven when a single alleged ground for unfitness is supported by clear and convincing evidence).

¶ 25 Likewise, we find the trial court's best-interest determination was supported by the evidence. Focusing on the child's best interests, as we are required to do upon this inquiry (see *In re T.A.*, 359 Ill. App. 3d 953, 959 (2005)), we agree with the court's decision that termination of respondent's parental rights was in the minor's best interest when the evidence suggested it would be a very long time before the State could consider returning the minor to respondent's care. The minor had been placed with her maternal grandmother since being taken into protective custody and was doing well in her care. The minor's grandmother was willing to adopt the minor to provide a safe, secure, and permanent environment for her. Based on this evidence, we affirm the court's judgment terminating respondent's parental rights.

¶ 26 III. CONCLUSION

¶ 27 For the foregoing reasons, we affirm the trial court's judgment.

¶ 28 Affirmed.