

NOTICE  
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2013 IL App (4th) 130187-U

NO. 4-13-0187

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED  
July 17, 2013  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

In re: K.C., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Vermilion County
v.	)	No. 11JA24
LAURA M. COX,	)	
Respondent-Appellant.	)	Honorable
	)	Claudia S. Anderson,
	)	Judge Presiding.

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

**ORDER**

¶ 1 *Held:* The appellate court affirmed, concluding the trial court's fitness and best-interest findings were not against the manifest weight of the evidence.

¶ 2 In January 2013, the State filed an amended petition to terminate the parental rights of respondent, Laura Cox, as to her minor child, K.C., on the grounds that, among other things, respondent failed to make reasonable progress toward K.C.'s return home within any nine-month period following the adjudicatory hearing. 750 ILCS 50/1(D)(m)(iii) (West 2010).

Following a February 2013 hearing, the trial court found respondent unfit and found it in the best interest of K.C. that respondent's parental rights be terminated.

¶ 3 Respondent appeals, arguing the trial court erred by finding her unfit and terminating her parental rights. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In February 2011, the State filed a petition for adjudication of wardship of K.C., alleging K.C. was neglected in that her environment was injurious to her welfare based on (1) respondent's mental health issues (count I), (2) respondent's disclosure that she had thoughts of harming K.C. (count II), and (3) respondent's drug use (count III). 705 ILCS 405/2-3(1)(b) (West 2010). Following a May 2011 hearing, the trial court adjudicated K.C. neglected, finding the State had established counts I and II of its petition.

¶ 6 Jacqueline Ward, respondent's Department of Child and Family Services (DCFS) caseworker, filed a dispositional report on June 3, 2011. The report indicated in December 2010, respondent called the Screening, Assessment and Support Services (SASS) hotline to express that she was having homicidal thoughts and wanted to suffocate K.C. Respondent had been diagnosed with bipolar disorder and had previously been psychiatrically hospitalized. Respondent's initial client service plan required respondent to (1) complete a drug and alcohol assessment and follow up with recommended treatment, (2) participate in a mental health assessment and treatment, (3) obtain housing, (4) participate in a parenting program, (5) seek employment, and (6) attend general equivalency degree (GED) classes.

¶ 7 On June 8, 2011, the parties appeared for respondent's dispositional hearing. Following the hearing, the trial court made K.C. a ward of the court. The court placed guardianship of K.C. with DCFS.

¶ 8 Respondent's November 17, 2011, service plan reported respondent had been incarcerated since June 8, 2011. While incarcerated, respondent had been attending counseling and participating in an academic program designed to earn high school credits. Per court order, respondent did not have visitation with K.C. during respondent's incarceration.

¶ 9 In January 2012, a permanency review hearing commenced. Patricia Bratton, a child welfare specialist, testified respondent had been in the Illinois Department of Juvenile Justice (DJJ) since the June 2011 dispositional hearing. According to Bratton, while respondent was incarcerated, respondent had been participating in parenting classes, individual therapy, and GED classes. Bratton testified, however, the classes and counseling in which respondent was participating would not satisfy her client service plan requirements. Bratton said respondent occasionally called K.C.'s foster mom and sent K.C. and her foster mom cards and letters. The trial court found respondent was making reasonable progress and efforts to comply with recommended services and entered a goal of return home within 12 months.

¶ 10 The next permanency hearing commenced in July 2012. Myriam Molina, a caseworker at Lutheran Social Services, testified since being released from DJJ in January 2012, respondent had not been participating in services or addressing her mental health issues. Molina testified respondent did not have money to buy her medication, and the agency did not have the funding to help respondent pay for her medicine. Respondent's application for Supplemental Security Income (SSI) had been turned down, and she testified her only source of income was \$200 a month on a Link card. Respondent further testified she had no place to live and was staying with friends. Respondent had one hour of supervised visitation each week with K.C. A court appointed special advocate (CASA) report indicated interaction during the visits was appropriate. The trial court changed respondent's goal to substitute care pending court determination of termination of parental rights, finding respondent had not made reasonable and substantial progress or reasonable efforts toward K.C.'s return home.

¶ 11 In October 2012, the parties appeared for a permanency review hearing. The

permanency review hearing report stated respondent continued to fail to engage fully in services. Respondent had not obtained housing or employment and had not participated in GED classes. Respondent had applied for prescription medication assistance and had received Depakote samples from Aunt Martha's Youth Service Center and Health Center (Aunt Martha's); however, in another DCFS case in which respondent was indicated, respondent admitted being off her medication since January 2012. Respondent continued to attend weekly visitation sessions with K.C., during which she showed affection toward K.C.

¶ 12 In January 2013, the State filed an amended petition to terminate respondent's parental rights to K.C. The petition alleged respondent (1) abandoned K.C. (750 ILCS 50/1(D)(a) (West 2010)); (2) failed to maintain a reasonable degree of interest, concern, or responsibility as to the minor's welfare (750 ILCS 50/1(D)(b) (West 2010)); (3) deserted K.C. for more than three months prior to the State's petition (750 ILCS 50/1(D)(c) (West 2010)); (4) failed to make reasonable efforts to correct the conditions that were the basis of K.C.'s removal within nine months after the adjudication of neglect (750 ILCS 50/1(D)(m)(i) (West 2010)); (5) failed to make reasonable progress toward K.C.'s return home within nine months after the adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2010)); and (6) failed to make reasonable progress toward the return of K.C. during any nine-month period after the end of the initial nine-month period (750 ILCS 50/1(D)(m)(iii) (West 2010)), February 6, 2012 to November 6, 2012.

¶ 13 A termination hearing commenced on February 27, 2013. Thomas Gilbert, a caseworker for Lutheran Social Services, testified respondent had not successfully completed any of the services in her client service plan between October 2012 and December 2012. Ward, the intact caseworker from February 2010 to May 2011, testified respondent's biggest issue was her

mental health. Respondent resisted participating in mental health treatment and was unwilling to cooperate, although Ward believed respondent had the ability to do so. Bratton, the caseworker from August 2011 to February 2012, testified by February 2012, respondent had not successfully completed any of the services in her service plan. Likewise, Molina, K.C.'s caseworker from February 2012 to October 2012, rated respondent's participation as unsatisfactory because respondent failed to engage in services. Respondent told Molina she had difficulty obtaining transportation, which Molina tried to resolve by providing bus tickets to respondent. With respect to respondent's medication, Molina testified respondent did not attend her March 28, 2012, psychiatric appointment at Aunt Martha's. Respondent later obtained a prescription for psychotropic medication in April 2012 but did not have money to buy the medication. Respondent also told Molina "she was never taking her medicines." Respondent was able to obtain free samples of her medicine in September 2012; however, Molina testified while Molina was the caseworker on respondent's case, respondent did not take psychotropic medication.

¶ 14 The trial court found the State's evidence clearly and convincingly established respondent failed to (1) maintain a reasonable degree of interest, concern, or responsibility as to the minor's welfare; (2) make reasonable efforts to correct the conditions that were the basis of K.C.'s removal within nine months of adjudication; (3) make reasonable progress toward the return of K.C. within nine months of adjudication; or (4) make reasonable progress toward the return of K.C. within any nine-month period. Immediately thereafter, the court proceeded to the best-interest portion of the hearing, during which Kris Zogg, a caseworker, testified K.C. had resided in the same placement since she was two months old. K.C. was bonded with her foster mother, who had signed a permanency agreement and who was the only mother K.C. had known.

Zogg did not have any concerns about the placement. The court found it was in K.C.'s best interests that respondent's parental rights be terminated. The court instructed respondent "[t]his would be a final order upon execution, and that means that you have the right to appeal."

¶ 15 On March 4, 2013, respondent filed a notice of appeal. On March 21, 2013, the trial court entered a written order consistent with its decision.

¶ 16 II. ANALYSIS

¶ 17 On appeal, respondent contends the trial court erred by (1) finding respondent to be an unfit parent and (2) terminating respondent's parental rights.

¶ 18 Initially, we note, although respondent filed her notice of appeal before the trial court's March 21, 2013, written order, we have jurisdiction to consider respondent's appeal. Illinois Supreme Court Rule 303(a)(1) (eff. June 4, 2008) provides a notice of appeal must be filed "within 30 days after the entry of the final judgment appealed from." Pursuant to Illinois Supreme Court Rule 272 (eff. Nov. 1, 1990), if at the time of announcing final judgment the court requires the submission of a written judgment, the judgment becomes final only when the signed judgment is filed. However, "[i]f no such signed written judgment is to be filed, the judge or clerk shall forthwith make a notation of judgment and enter the judgment of record promptly, and the judgment is entered at the time it is entered of record." Ill. S. Ct. R. 272 (eff. Nov. 1, 1990).

¶ 19 Here, the trial judge terminated respondent's parental rights on February 27, 2013. Although it later entered a written order consistent with its judgment, when the trial court terminated respondent's parental rights on February 27, 2013, it did not indicate it was requiring the submission of a written judgment. Accordingly, the judgment became final on February 27,

2013, and respondent properly filed her notice of appeal within 30 days of the final judgment.

¶ 20 Having concluded we have jurisdiction, we now consider respondent's contentions.

¶ 21 A. The Trial Court's Finding of Unfitness

¶ 22 Respondent first argues the trial court erred by finding her unfit. We disagree.

¶ 23 Because the termination of parental rights constitutes the complete and permanent severance of a parent-child relationship, the State has the burden of proving parental unfitness by clear and convincing evidence. *In re C.N.*, 196 Ill. 2d 181, 208, 752 N.E.2d 1030, 1045 (2001); *In re Jordan V.*, 347 Ill. App. 3d 1057, 1067, 808 N.E.2d 596, 604 (2004). A trial court's fitness determination will not be disturbed on review unless it is against the manifest weight of the evidence. *In re M.R.*, 393 Ill. App. 3d 609, 613, 912 N.E.2d 337, 342 (2009). In this case, the trial court found respondent unfit based on respondent's failure to (1) maintain a reasonable degree of interest, concern, or responsibility as to K.C.'s welfare; (2) make reasonable efforts to correct the conditions that were the basis of K.C.'s removal within nine months of adjudication; (3) make reasonable progress toward the return of K.C. within nine months of adjudication; or (4) make reasonable progress toward the return of K.C. within any nine-month period. We may affirm on any one of the grounds on which the trial court found respondent unfit. *In re Richard H.*, 376 Ill. App. 3d 162, 165, 875 N.E.2d 1198, 1201 (2007).

¶ 24 Here, the trial court's finding of unfitness based on respondent's failure to make reasonable progress toward K.C.'s return home in the nine-month period spanning from February 6, 2012, to November 2012, was not contrary to the manifest weight of the evidence. "[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." *C.N.*, 196 Ill. 2d at 216-17, 752 N.E.2d at 1050.

¶ 25 In the nine-month period from February 6 to November 6, 2012, respondent did not successfully complete any of her services. Respondent was not engaged in mental health treatment or gained stability in taking her psychotropic medication. Specifically, we note respondent did not attend her March 28, 2012, psychiatric appointment with Aunt Martha's. After obtaining prescriptions for psychotropic medication on April 25, 2012, respondent did not have money to buy the medication. However, respondent also told Molina "she was never taking her medicines" and, when respondent was able to obtain free samples of her medicine in September 2012, she nonetheless persisted in refusing to take the medication.

¶ 26 Based on the foregoing, the trial court's fitness determination was not against the manifest weight of the evidence, as respondent's failure to engage in services and to comply with mental health treatment demonstrated a failure to make reasonable progress toward K.C.'s return home within the nine-month period from February 6, 2012, to November 6, 2012. Because we have concluded the trial court's finding was not against the manifest weight of the evidence, we need not consider the other findings of parental unfitness. *In re A.L.*, 409 Ill. App. 3d 492, 501, 949 N.E.2d 1123, 1130 (2011).

¶ 27 B. The Trial Court's Termination of Respondent's Parental Rights

¶ 28 Respondent next asserts the trial court erred by terminating her parental rights as to K.C. We disagree.

¶ 29 Following a finding of parental unfitness, the trial court then conducts a best-interest hearing, at which the State bears the burden of proving by a preponderance of the evidence that termination is in the child's best interest. *In re T.A.*, 359 Ill. App. 3d 953, 961, 835 N.E.2d 908, 914 (2005). During this hearing, "the parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life." *In re D.T.*, 212 Ill. 2d 347, 364, 818 N.E.2d 1214, 1227 (2004). We will not disturb a court's finding that termination is in the best interests of the child unless it is against the manifest weight of the evidence. *T.A.*, 359 Ill. App. 3d at 961, 835 N.E.2d at 914.

¶ 30 Here, the evidence showed K.C., who was currently two, had lived during the entirety of the case with her foster mother, who had signed a permanency agreement and wanted to adopt K.C. Zogg testified K.C. was bonded with her foster mother, who was the only mother K.C. had really known. Further, Zogg indicated she had no concerns with the placement based on her observation of K.C. in the home. Thus, although respondent acted appropriately and displayed affection toward K.C. during visits, her lack of compliance with DCFS and the service plan demonstrated she had no possibility of providing permanency for K.C. in the near future. Accordingly, the trial court's determination that it was in the best interests of K.C. to terminate respondent's parental rights was not against the manifest weight of the evidence.

¶ 31 III. CONCLUSION

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

¶ 33 Affirmed.