NOTICE
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2014 IL App (4th) 130833-U

NOS. 4-13-0833, 4-13-0835 cons.

FILED
January 31, 2014
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: L.V., a Minor, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-13-0833) LAQUESHA MILLER, Respondent-Appellant.	)))))))))))))))	Appeal from Circuit Court of Vermilion County No. 12JA53 No. 12JA2 Honorable Claudia S. Anderson, Judge Presiding.
In re: P.V., a Minor, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-13-0835) LAQUESHA MILLER, Respondent-Appellant.		

PRESIDING JUSTICE APPLETON delivered the judgment of the court.
Justices Pope and 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 maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare by not participating in recommended services or visitation.

(2) The State presented sufficient evidence to support the trial court's order finding termination of respondent's parental rights was in the minors' best interest.

¶ 2 In August 2013, in a consolidated hearing, the trial court terminated respondent Laquesha Miller's parental rights to her minor children, P.V. (born May 9, 2008) and L.V. (born July 24, 2012). Each minor was the subject of a separate trial court case. Respondent filed an

appeal in each case, claiming the court's unfitness and best-interest findings were against the manifest weight of the evidence. We consolidated the appeals and affirm.

¶ 3 I. BACKGROUND

¶ 4 In December 2011, the Illinois Department of Children and Family Services (DCFS) received a hotline call indicating respondent was outside the Public Aid office in Danville repeatedly hitting her three-year-old son, P.V., on his head as he cowered. When an employee told respondent to stop, she became verbally aggressive toward the employee. During the investigation of this incident, on January 16, 2012, DCFS received another hotline call concerning respondent. Apparently, she had threatened a neighbor with a sharp object in the minor's presence. Police had been called to her home twice earlier the same day for threats of violence against a neighbor. On the third call, respondent disregarded the officers' instructions and she was placed under arrest. P.V. was taken into protective custody and placed in a traditional foster home.

¶ 5 In January 2012, in Vermilion County case No. 12-JA-2, the State filed a petition for adjudication of wardship, alleging P.V. was a neglected minor based on respondent's acts of violence. In February 2012, P.V. was placed in relative foster placement with his maternal grandmother in Chicago. In May 2012, the trial court entered an adjudicatory order, finding P.V. to be a neglected minor and appointing DCFS as temporary guardian. Respondent was unemployed and suffered from bipolar disorder. She visited with P.V. one time in April 2012 but refused further visits. P.V.'s father recently had been released from prison and had moved to Chicago. Before his incarceration, he resided with respondent and was involved in multiple domestic-violence incidents with her. He also fathered respondent's unborn child, who was due in July 2012. He is not a party to this appeal.

¶ 6 In June 2012, the trial court entered a dispositional order, finding respondent unfit, unable, and unwilling to care for P.V. and making him a ward of the court. Respondent appealed. This court affirmed. *In re P.V.*, No. 4-12-0701 (Nov. 15, 2012) (unpublished order under Supreme Court Rule 23).

¶ 7 In July 2012, the State filed a petition for adjudication of neglect in Vermilion County case No. 12-JA-53, alleging L.V., born three days earlier, was a neglected minor due to respondent's open case with P.V. and due to her mental illness. L.V. was born while respondent was hospitalized in Urbana for her mental illness. DCFS took L.V. into protective custody and placed her in the same home as P.V. After being released from the hospital, respondent struggled with housing. Within a few months, she had been evicted from an apartment, a hotel, and a shelter due to her confrontational behavior. She had three mental-health hospitalizations between May and July 2012. While homeless in August 2012, she was arrested for criminal trespass and spent 15 days in jail. Thereafter, she moved to Chicago to live with her maternal grandmother.

¶ 8 In September 2012, the trial court entered an adjudicatory order, finding L.V. a neglected minor due to respondent's untreated mental-health issues and her failure to participate in recommended services. As of October 22, 2012, respondent was residing in a long-term care mental-health facility in Chicago because her grandmother ousted her due to her unruly and threatening behavior. In December 2012, the court entered a dispositional order, finding respondent unfit and unable to care for L.V. and making her a ward of the court.

¶ 9 In March 2013, in both cases, the State filed a petition to terminate respondent's parental rights to each respective minor. As to P.V., in case No. 12-JA-2, the State alleged respondent was an unfit parent because she (1) abandoned the minor (750 ILCS 50/1(D)(a)

(West 2012)); (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 2012)); (3) deserted the minor for more than three months preceding the filing of the petition to terminate (750 ILCS 50/1(D)(c) (West 2012)); (4) failed to make reasonable efforts to correct the conditions that were the basis for the removal of the minor during the nine-month period between May 3, 2012, and February 3, 2013 (750 ILCS 50/1(D)(m)(i) (West 2012)); and (5) failed to make reasonable progress toward the return of the minor during the initial nine-month period following adjudication, namely, between May 3, 2012, and February 3, 2013 (750 ILCS 50/1(D)(m)(ii) (West 2012)).

¶ 10 In the petition to terminate in the case involving L.V., case No. 12-JA-53, the State alleged respondent was an unfit parent because she (1) abandoned the minor (750 ILCS 50/1(D)(a) (West 2012)); (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 2012)); and (3) deserted the minor for more than three months preceding the filing of the petition to terminate (750 ILCS 50/1(D)(c) (West 2012)).

¶ 11 In August 2013, the trial court conducted a consolidated fitness hearing. Respondent failed to appear. The State presented respondent's four case plans as exhibits and called Carolyn Johnson, the DCFS caseworker for the family, as a witness. Johnson testified respondent had not participated in any services or any visitation, with the exception of visiting with P.V. one time in April 2012. Visitations were scheduled weekly and services were offered, but respondent did not avail herself of either. No further evidence was presented.

¶ 12 After considering the arguments of counsel, the trial court found the State had sufficiently proved respondent was an unfit parent as to P.V. for the following reasons: (1) her failure 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) her failure to make reasonable efforts to correct the conditions which were the cause of the minor's removal between May 3, 2012, and February 3, 2013 (750 ILCS 50/1(D)(m)(i) (West 2012)); and (3) her failure to make reasonable progress toward the return of the minor during the initial nine-month period following adjudication, that is, between May 3, 2012, and February 3, 2013 (750 ILCS 50/1(D)(m)(ii) (West 2012)). The court further found the State had sufficiently proved respondent was an unfit parent as to L.V. for her failure to maintain a reasonable degree of interest, concern, or responsibility as to the minor's welfare (750 ILCS 50/1(D)(b) (West 2012)).

¶ 13 By stipulation of the parties, the trial court proceeded directly to the best-interest hearing, noting it had received and reviewed the best-interest report filed a week prior to the hearing. The State presented the testimony of William Shine, the DCFS caseworker for the minors. Shine testified P.V. and L.V. were both residing with their maternal grandmother, which he considered a permanent placement as she had agreed to adopt the minors. He said both minors were thriving and "doing excellent" with no medical issues. All services requested had been provided. Shine said he had no reservations about the minors permanently residing with their grandmother.

¶ 14 The best-interest report reiterated respondent's diagnosis of bipolar disorder, her lack of mental-health treatment, her inability to maintain stable housing due to her aggressive behavior, her lack of parenting skills, and her failure to participate in any of the recommended services. The report also noted how well the minors were doing in placement with their grandmother. She had provided a stable, safe, bonded, and loving environment for the children and planned to provide permanency through adoption. She had met all of their emotional, physical, and educational needs.

¶ 15 After considering the evidence and arguments of counsel, the trial court found it in the minors' best interest that respondent's parental rights be terminated. This appeal followed.

¶ 16 II. ANALYSIS

¶ 17 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, she argues 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.

¶ 18 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 rights 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).

¶ 19 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.

¶ 20 The evidence presented at the fitness hearing demonstrated that respondent failed to participate in *any* of her recommended services. She attended one visit with P.V. in April 2012, and no visits with L.V. after her birth in July 2012. This evidence 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 both minors. Therefore, we find the 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 proved when a single alleged ground for unfitness is supported by clear and convincing evidence).

¶ 21 Likewise, we find the trial court's best-interest determination was supported by the evidence. Focusing on the minors' 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 both minors' best interest when the evidence suggested the minors were thriving in the care of their grandmother. She provided a stable and

nurturing environment and she was willing to provide permanency through adoption. Based on this evidence, we affirm the trial court's judgment terminating respondent's parental rights.

¶ 22 III. CONCLUSION

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

¶ 24 Affirmed.