

NOTICE

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2014 IL App (4th) 140442-U

NO. 4-14-0442

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

September 25, 2014
Carla Bender
4th District Appellate
Court, IL

In re: K.M., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Vermilion County
v.)	No. 13JA108
PATRICK VAUGHN,)	
Respondent-Appellant.)	Honorable
)	Claudia S. Anderson,
)	Judge Presiding.

PRESIDING JUSTICE APPLETON delivered the judgment of the court.
Justices Pope and Harris concurred in the judgment.

ORDER

¶ 1 *Held:* (1) In this proceeding for the termination of parental rights, when finding that respondent failed to maintain a reasonable degree of interest, concern, or responsibility toward the minor's welfare (750 ILCS 50/1(D)(b) (West 2012)), the trial court did not make a finding that was against the manifest weight of the evidence.

(2) The trial court did not make a finding that was against the manifest weight of the evidence when it found, in the best-interest hearing, that terminating respondent's parental rights would be in the child's best interest.

¶ 2 Respondent father, Patrick Vaughn, appeals from the trial court's judgment terminating his parental rights to his minor daughter, K.M., born September 12, 2013. Respondent claims the court's unfitness and best-interest findings were against the manifest weight of the evidence. We affirm.

¶ 3

I. BACKGROUND

¶ 4 On September 18, 2013, the State filed a combined petition for adjudication of wardship and termination of parental rights, alleging as follows: (1) K.M. is a neglected minor, in that her environment is injurious to her welfare because her siblings are in the care and custody of the Illinois Department of Children and Family Services (DCFS) after their parents' rights were terminated in August 2013 for failure to make reasonable progress toward the children's return home (count I); (2) respondent father is unfit because he abandoned K.M. (750 ILCS 50/1(D)(a) (West 2012)) and has failed to maintain a reasonable degree of interest, concern, or responsibility as to her welfare (750 ILCS 50/1(D)(b) (West 2012)); and (3) K.M.'s mother is unfit for reasons unrelated to this appeal, as she is not a party hereto. On October 11, 2013, the State filed an amended petition, adding the allegation that respondent father is depraved (750 ILCS 50/1(D)(i) (West 2012)).

¶ 5 On April 24, 2014, the trial court conducted a hearing on the State's petition to terminate respondent's parental rights in his absence. The State called Carolyn Johnson, a child-welfare specialist for DCFS, who testified she was the family's caseworker. She became involved in the case prior to K.M.'s birth (K.M.'s mother's parental rights as to her two older children, L.V. and P.V., had already been terminated). DCFS initially became involved with the mother when she physically attacked her neighbor in P.V.'s presence. She became more violent when police arrived. She has a history of mental illness and domestic violence. She had not completed any recommended services. Respondent was the father of the two older children as well. In that case, respondent was referred to substance-abuse services, parenting classes, and domestic-violence counseling. Like the mother, respondent did not complete any recommended services. Johnson said respondent father has never met K.M.

¶ 6 Johnson said in September 2013, respondent participated in an integrated assessment in K.M.'s case, but since then, he has shown no interest in her well-being. Johnson did not hear from respondent again, though she made an unannounced visit and spoke with him at his home in March 2014. The substance of that meeting was not mentioned.

¶ 7 Nick Conway, a child-protection investigator with DCFS, testified he investigated a hotline call regarding K.M.'s birth on September 12, 2013. Conway went to respondent's home to inform respondent he had taken K.M. into protective custody. Respondent identified himself as K.M.'s father.

¶ 8 The trial court took judicial notice of the juvenile court files relating to P.V. (Vermilion County case No. 12-JA-52) and L.V. (Vermilion County case No. 12-JA-53), in which respondent's parental rights were terminated. The State also presented the court with certified copies of respondent's convictions from Cook County case Nos. 08-CR-0735901 (Class 2 felony, possession of narcotics), 05-CR-1643701 (Class 1 felony, manufacture and delivery of cocaine), and 09-CR-1746201 (Class 4 felony, possession of controlled substance and Class 2 felony, possession of another narcotic). The State rested.

¶ 9 Without presenting evidence, respondent's counsel reminded the trial court that contact with respondent "has been at the shelter care hearing, at the hearing on November 14th, 2013, and ***, Your Honor, that has been about it." Respondent rested.

¶ 10 After considering counsel's arguments, the trial court found the State had met its burden in proving all allegations of parental unfitness as to respondent. Specifically, the court found respondent unfit in that he (1) had abandoned K.M.; (2) failed to maintain a reasonable degree of interest, concern, or responsibility as to her welfare; and (3) was depraved. The court proceeded to conduct a best interest hearing at which William Shine, a DCFS case specialist,

testified. Shine has observed K.M. in her relative foster home. K.M. resides with P.V. and L.V. in her maternal grandmother's home. Her grandmother is willing to provide K.M. with permanency in the form of adoption. Shine said K.M. and her grandmother share a bond and that K.M.'s needs are being met in the home. To Shine's knowledge, K.M. has never visited with her mother or father. K.M.'s grandmother has been instructed not to allow contact between the mother and the minors.

¶ 11 After the close of the evidence, the trial court found it in K.M.'s best interest that respondent's parental rights be terminated. The court entered a written order terminating respondent's parental rights. This appeal followed.

¶ 12 II. ANALYSIS

¶ 13 Respondent argues the trial court's finding he was unfit was against the manifest weight of the evidence. Specifically, he claims the court's finding that he had failed to maintain a reasonable degree of interest, concern, or responsibility as to K.M.'s welfare was against the manifest weight of the evidence. We disagree.

¶ 14 The State must prove a parent is unfit by clear and convincing evidence. A reviewing court will give great deference to the trial court's findings because it has a superior opportunity to observe the witnesses' demeanor and credibility. We will not reverse a trial court's finding unless it is contrary to the manifest weight of the evidence, meaning the opposite conclusion is clearly evident from a review of the evidence. *In re T.A.*, 359 Ill. App. 3d 953, 960 (2005).

¶ 15 Section 1(D)(b) of the Adoption Act provides, in pertinent part, as follows:

"The grounds of unfitness are any *** of the following ***:

* * *

(b) Failure to maintain a reasonable degree of interest, concern[,] or responsibility as to the child's welfare." 750 ILCS 50/1(D)(b) (West 2012).

¶ 16 The language of section 1(D)(b) is in the disjunctive; therefore, any of the three elements may be considered individually as a ground for unfitness. This court has recognized that, when examining allegations under this section, the trial court must (1) focus on a parent's reasonable efforts, not the success of those efforts; and (2) consider any circumstances that may have hindered his ability to visit, communicate with, or otherwise show interest in his child. *T.A.*, 359 Ill. App. 3d at 961. "However, 'a parent is not fit merely because [he] has demonstrated some interest or affection towards [his] child.' [Citation.] Rather, a parent's interest, concern, or responsibility must be reasonable." *T.A.*, 359 Ill. App. 3d at 961 (quoting *In re Jaron Z.*, 348 Ill. App. 3d 239, 259 (2004)).

¶ 17 In his brief, respondent points to evidence he (1) participated in the integrated assessment with DCFS, (2) expressed his desire for reunification with K.M., and (3) expressed his love for K.M. as grounds tending to demonstrate he was interested or concerned about his child's welfare. Indeed, Carolyn Johnson testified at the fitness hearing that respondent appeared and participated in the integrated assessment in September 2013. However, respondent's reliance on "evidence" of his expressed desire for reunification and expression of love for K.M. is misplaced. First, these claims (noted as respondent's comments) were set forth in the case plan filed in the court file, and they were not presented as evidence at the hearing. Second, these comments were made prior to July 3, 2013, which is referenced as the "date established" for the desired outcome set forth in the case plan. K.M. was not born until September 12, 2013, so these expressed desires did not contemplate respondent's feelings for K.M.

¶ 23

Affirmed.