2015 IL App (2d) 150220-U
No. 2-15-0220
Order filed June 24, 2015

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).

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re STORMIE D. K., a Minor.	)	Appeal from the Circuit Court
	)	of Winnebago County.
	)	
	)	No. 12-JA-0254
	)	
(The People of the State of Illinois,	)	Honorable
Petitioner-Appellee, v. Denise K.,	)	Mary Linn Green,
Respondent-Appellant.)	)	Judge, Presiding.

JUSTICE JORGENSEN delivered the judgment of the court.
Justices Burke and Hudson concurred in the judgment.

ORDER

¶ 1 *Held*: Appellate counsel's motion to withdraw granted where there were no issues of arguable merit regarding the trial court's findings that respondent is unfit and that it is in the minor's best interests for parental rights to be terminated.

¶ 2 On February 13, 2015, the trial court found that the State had established by clear and convincing evidence that respondent, Denise K., is an unfit parent to her daughter, Stormie K., and that it is in the child's best interests that her parental rights be terminated. Respondent appeals.

¶ 3 Pursuant to *Anders v. California*, 386 U.S. 738 (1967), respondent's appellate attorney moves to withdraw as counsel. See *In re S.M.*, 314 Ill. App. 3d 682, 685 (2000) (*Anders* applies

to termination cases). The attorney states that she has read the record and has found no issues of arguable merit. Further, the attorney supports her motion with a memorandum of law providing a statement of facts, potential issues, and argument as to why those issues lack arguable merit. Counsel served respondent with a copy of the motion and memorandum, and we advised respondent that she had 30 days to respond. That time is past, and she has not responded.

¶ 4 For the reasons set forth in counsel's memorandum of law, we agree that it would be frivolous to argue either that it was against the manifest weight of the evidence for the trial court to find respondent unfit or that termination of her parental rights is not in the children's best interests. A trial court's unfitness finding will not be disturbed on review unless it is contrary to the manifest weight of the evidence. *In re Gwynne P.*, 215 Ill. 2d 340, 354 (2005).

¶ 5 Here, the trial court found respondent unfit on all four grounds alleged in the State's petition to terminate parental rights. We, however, need not consider all of the grounds under which the trial court found respondent unfit, as any one of them, if not contrary to the manifest weight of the evidence, is sufficient to affirm the court's finding. *Id.* at 350. We have reviewed the record and, at a minimum, the court's finding that, in the nine-month period from September 6, 2013, to June 6, 2014, respondent failed to make reasonable progress toward the return of Stormie to her home, is not contrary to the manifest weight of the evidence. 750 ILCS 50/1(D)(m)(iii)(West 2010) (a parent may be found unfit for failing "to make reasonable progress toward the return of the child to the parent during any 9-month period after the end of the initial 9-month period following the adjudication of neglected or abused minor."). The evidence reflected that, prior to the period at issue, respondent had not successfully completed any of the recommended services (namely, counseling) in her service plan. Her visits with Stormie remained only supervised. Then, around September 2013, respondent decided to move

to New York. At the time of the move, Stormie was age 13 months. The move impacted visitation, as visits were reduced from twice per week to once per month. The caseworker referred respondent to multiple agencies in New York to obtain services and to have drug screens performed. Although respondent attended one assessment there, the assessing agency reported to the Illinois caseworker that it could not assist respondent because she did not believe she needed any services. Respondent never progressed to unsupervised visitation with Stormie and never successfully completed the recommendations in her service plan. Further, respondent did not attend any of the unfitness hearing dates, although she was represented by counsel. (And, by the time of the best-interests hearing, respondent had apparently moved to Oklahoma). As such, there is no arguable merit to the claim that it was unreasonable for the court to find that, between September 2013 and June 2014, respondent made no reasonable progress: Stormie was no closer to being returned home. See *In re Jordan V.*, 347 Ill. App. 3d 1057, 1068 (2004); see also *In re Shauntae P.*, 2012 IL App (1st) 112280, ¶ 99 (parent found unfit, in part, because she chose to move to Colorado, miles away from her children, resulting in visits through a web camera).

¶ 6 Similarly, we conclude that there is no arguable merit to a claim that it was against the manifest weight of the evidence for the trial court to conclude that termination of parental rights is in the child's best interests. See *In re Janira T.*, 368 Ill. App. 3d at 894. In making a best-interests determination, the trial court must consider the factors set forth in section 1-3(4.05) of the Juvenile Court Act (705 ILCS 405/1-103(4.05) (West 2010)), including the child's physical safety and welfare; need for permanence, stability and continuity; sense of attachments, love, security, and familiarity; community ties, including school; and the uniqueness of every child. *Id*.

¶ 7 Here, the court heard testimony that Stormie was placed with her foster mother when she was one day old and has lived with her continuously since that time (Stormie was age 2½ at the hearing date). The foster mother brought Stormie to monthly visits with her maternal siblings, who were also in foster care. Stormie experienced stability in the foster home and is attached to and affectionate with her foster mother. Stormie is thriving and has had all of her needs met. The foster mother wishes to adopt Stormie. The foster mother presented the court with photographs, reflecting images of Stormie engaged in activities such as birthday parties, her daycare and school, visits with friends and extended family, vacations, and swimming. The foster mother arranged for Stormie and her siblings to have an overnight visit together on Christmas Eve so that the siblings could be together on Christmas morning. According to the caseworker, it would be detrimental to Stormie for her to be taken out of the foster home. Further, the foster mother expressed a willingness to allow respondent continued visitation with Stormie.

¶ 8 Accordingly, after examining the record, the motion to withdraw, and the memorandum of law, we agree with counsel that the appeal presents no issues of arguable merit. Thus, we grant counsel's motion to withdraw and affirm the judgment of the circuit court of Winnebago County.

¶ 9 Affirmed.