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2015 IL App (3d) 140741-U

Order filed February 5, 2015

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2015

In re K.G., a Minor,)	Appeal from the Circuit Court
)	of the 14th Judicial Circuit,
(THE PEOPLE OF THE STATE)	Rock Island County, Illinois.
OF ILLINOIS,)	
)	
Petitioner-Appellee,)	Appeal No. 3-14-0741
)	Circuit No. 12-JA-78
v.)	
)	Honorable
MELINDA G.,)	Raymond J. Conklin
)	Peter W. Church
Respondent-Appellant).)	Judges, Presiding

JUSTICE O'BRIEN delivered the judgment of the court.
Presiding Justice McDade and Justice Holdridge concurred in the judgment.

ORDER

¶ 1 *Held:* Trial court's finding that mother was unfit was not against the manifest weight of the evidence where she did not make reasonable efforts or progress toward the minor's return home. Mother failed to complete her service tasks and was found unfit regarding K.G.'s sibling during the applicable nine-month period.

¶ 2 Respondent, Melinda G., challenges the trial court's findings that she was an unfit parent for failing to make reasonable efforts to correct the conditions resulting in K.G.'s removal and for failing to make responsible progress toward K.G.'s return home. We affirm.

¶ 3

FACTS

¶ 4

The minor, K.G. was born September 10, 2012, and taken into the custody of the Illinois Department of Children and Family Services (DCFS) on September 13. K.G. was removed on the basis that he was born with opiates in his system, a prior finding of unfitness remained pending against Melinda and Corey M., K.G.'s father, and Corey admitted marijuana use. A neglect petition was filed on September 14, 2012, alleging K.G. was in an injurious environment; that his four siblings were previously found neglected; that Melinda failed to make reasonable and substantial progress or reasonable efforts to return home of those minors; that Melinda continued to fail to make substantial progress or reasonable efforts on her service plan, and there were concerns about drug activity, Melinda's failure to complete the majority of urinalyses, a positive drug test result, and lack of permanent housing; and a DCFS recommendation for termination of Melinda's parental rights regarding K.G.'s sibling.

¶ 5

Corey stipulated to the allegations in the neglect petition and the trial court adjudicated K.G. neglected following a December 7, 2012, dispositional hearing. The trial court entered a supplemental order setting forth the following service tasks Melinda was required to comply with, including: "maintain safe and stable housing[,] which is clean, organized, appropriate for her child and free from illegal drug activity;" obtain fulltime employment or legal income sufficient for her family's financial needs; obtain a substance abuse evaluation and cooperate with its recommendations, "including reporting all prescribed medications and pain relievers"; complete random urinalyses and provide documentation of the testing; cooperate with individual therapy services; cooperate with service plan objectives and tasks; and sign necessary releases. The service tasks were the same tasks continued from the proceedings involving K.G.'s siblings, who were adjudicated neglected in May 2011 based on unexplained injuries and removed from

Melinda's care. The service plan had been in place as to those children and Melinda failed to make reasonable efforts and progress on that service plan.

¶ 6 Permanency review reports and orders entered detailed that Melinda had not made reasonable and substantial progress or reasonable efforts toward K.G.'s return home. In January 2014, the State filed a supplemental petition to terminate parental rights and an amended supplemental petition to terminate parental rights in April 2014. The amended supplemental petition alleged that Melinda was unfit for failing to make reasonable efforts to correct the conditions that were the basis for the removal of K.G. during the 9-month period between December 7, 2012, and September 7, 2013 (750 ILCS 50/1D(m)(i) (West 2012)), and failed to make reasonable progress toward K.G.'s return home during the 9-month period between December 7, 2012, and September 7, 2013 (750 ILCS 50/1D(m)(ii) (West 2012)).

¶ 7 The factual basis for the petition to terminate was that Melinda: (1) lacked adequate housing between April and August 2013; (2) failed to obtain and maintain appropriate employment or income; (3) did not comply with psychiatric and psychological services and recommendations; (4) failed to complete the required urinalyses; (5) did not complete a substance and mental health assessment, which prevented her from continuing counseling; and (6) was found unfit on March 8, 2013, as to K.G.'s sibling on a petition to terminate parental rights.

¶ 8 A fitness hearing took place. Two caseworkers assigned to Melinda's case testified. One witness stated that she conducted a home check in October 2012 and Melinda's home was found unsafe. The other witness testified that during the nine-month period, Melinda did not take her medication for a two-and-one-half to three-month period and continued to drug seek. Melinda was compliant with her counseling until April 2013 when it was suspended because she did not

take a substance abuse assessment as required. She also failed to comply with the mandated urinalyses, did not verify that she participated in a substance abuse evaluation, and did not sign the needed consents. Melinda did not engage in mental health services. Her housing was insufficient, including an eviction and lack of a permanent address during the nine-month period. Melinda also failed to provide verification of employment.

¶ 9 After the parties presented their arguments, the trial court found Melinda unfit. It stated that Melinda did not complete any mental health services or counseling, did not procure viable housing, and did not obtain verifiable employment. The trial court expressly discussed Melinda’s failure to comply with the urinalysis requirement, taking only 6 of 59 required urine tests, which the trial court calculated as less than 11% of the mandated tests. The trial court emphasized that the case “started out revolving around the use of drugs”, that Melinda never made “progress to resolving the drug issue,” and that K.G. was no closer to a return home than when the case started. The trial court determined that “there’s no doubt[,] certainly by clear and convincing evidence[,] that she failed to make reasonable efforts and reasonable and substantial progress.” A best interest hearing took place. Following the hearing, the trial court granted the petition to terminate Melinda’s parental rights to K.G. She appealed. Enforcement of the termination order was stayed pending this appeal.

¶ 10 ANALYSIS

¶ 11 On appeal, Melinda argues that the trial court’s finding that she was an unfit parent was against the manifest weight of the evidence and that the termination of her parental rights was in error. She does not challenge the trial court’s finding that it was in K.G.’s best interest that Melinda’s parental rights be terminated.

¶ 12 There is a two-step process for the termination of parental rights. 705 ILCS 405/2-29 (West 2012). The trial court must determine that the parent is unfit; if found unfit, the trial court then determines whether it is in the child's best interest that his parent's rights be terminated. 750 ILCS 50/1D (West 2012); 705 ILCS 405/2-29(2), (4) (West 2012). Grounds for unfitness include the parent's failure: "(i) to make reasonable efforts to correct the conditions that were the basis for the removal of the child from the parent during any 9-month period following the adjudication of neglected *** minor *** or (ii) to make reasonable progress toward the return of the child to the parent during any nine-month period following the adjudication of neglected *** minor." 750 ILCS 50/1D(m)(i), (ii) (West 2012).

¶ 13 Reasonable efforts concern the goal of correcting the conditions that caused the removal of the child and are judged by a subjective standard based on what amount of effort is reasonable for the parent in question. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1066-67 (2006). Reasonable progress relates to the amount of progress a parent has made measured from the conditions existing at the time the child was removed and is judged by an objective standard. *Daphnie E.*, 368 Ill. App. 3d at 1067. We will not reverse a trial court's unfitness determination unless it is against the manifest weight of the evidence. *In re C.N.*, 196 Ill. 2d 181, 208 (2001).

¶ 14 The trial court determined that Melinda failed to make either reasonable efforts or reasonable progress in the nine-month period following the neglect finding, from December 7, 2012 to September 7, 2013. Its determination was supported by the evidence. At the unfitness hearing, the State presented the testimony of Melinda's caseworkers. Both witnesses outlined Melinda's unsatisfactory efforts and lack of compliance with the service plan. While she complied with some of the requirements from time to time, such as counseling, she was inconsistent in her participation. She failed to complete a substance abuse and mental health

assessment, which precluded her from continuing therapy. Melinda was off her medicine for a several month period. She participated in less than 11% of the required urinalyses. Her housing and employment were inappropriate or unverified. In March 2013, during the pendency of the nine-month period at issue, the trial court found her unfit as to K.G.'s other sibling. She was evicted from one apartment in April 2013 and did not find other housing until August 2013. Although Melinda was consistent in exercising visitation, she was chronically tardy to the appointments. We find the trial court's finding of unfitness was not against the manifest weight of the evidence.

¶ 15 Based on the evidence presented at the fitness hearing, the trial court properly concluded that during the nine-month period from December 7, 2012 to September 7, 2013, Melinda's efforts and progress were not reasonable and K.G. was no closer to a return home at the end of the nine-month period than at the beginning. The trial court did not err in finding Melinda to be an unfit parent.

¶ 16 The judgment of the circuit court of Rock Island County is affirmed.

¶ 17 Affirmed.