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2015 IL App (3d) 140783-U

Order filed February 24, 2015

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2015

In re K.T., K.T., R.D. & A.D.,	)	Appeal from the Circuit Court
Minors,	)	of the 9th Judicial Circuit,
	)	Knox County, Illinois.
(THE PEOPLE OF THE STATE	)	
OF ILLINOIS,	)	Appeal No. 3-14-0783
	)	Circuit No. 12-JA-16
Petitioner-Appellee,	)	
	)	
v.	)	Honorable
	)	Greg McClintock
KAILEEN T.,	)	Heidi A. Benson
	)	James R. Standard
Respondent-Appellant).	)	Judges, Presiding

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

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**ORDER**

¶ 1 *Held:* Trial court's termination of mother's parental rights to her four children was not against the manifest weight of the evidence where mother was found unfit on several grounds and the best interests of the children were served by termination.

¶ 2 Respondent Kaileen T. challenges the trial court's termination of her parental rights to her children, K.T., K.T., R.D. and A.D. The trial court found Kaileen unfit on all five grounds

alleged by the State and determined it was in the children's best interest that Kaileen's parental rights be terminated. We affirm.

¶ 3

### FACTS

¶ 4

The State filed a juvenile petition on May 21, 2012, alleging that the minors, K.T., K.T., R.D. and A.D., were neglected based on an injurious environment (705 ILCS 405/2-3(1)(b) (West 2012)). The petition further alleged that respondent Kaileen T. had been indicated by the Department of Children and Family Services (DCFS) for injurious environment based on exposing the children to domestic violence in May 2008, and again in November 2011, when Kaileen and her then-boyfriend, Ryan Beck, engaged in domestic violence in the children's presence.

¶ 5

A shelter care hearing took place. The caseworker, Jennifer Johnson, testified all four children had witnessed domestic violence in the home. DCFS was granted guardianship and temporary custody was given to Kaileen's father and his fiancée. Kaileen filed a motion to vacate the temporary custody order on June 25, 2012, asserting that she corrected the conditions that caused the removal of the children by obtaining an order of protection against Beck.

¶ 6

At an adjudicatory hearing on July 3, 2012, Kaileen admitted the allegations in the juvenile petition, the State presented a factual basis, and the trial court found the children were neglected based on an injurious environment. 705 ILCS 405/2-3(1)(b) (West 2012)). On July 31, 2012, following a hearing, the trial court entered an order finding Kaileen dispositionally unfit. She was ordered to complete various service tasks, including to cooperate with DCFS, obtain counseling, and participate in a domestic violence program.

¶ 7

Permanency review reports were provided to the trial court and permanency review hearings took place. The reports and evidence presented at the hearings established that Kaileen

did not comply with her service plan requirements, failed to make any reasonable efforts in correcting the conditions that caused the children's removal, or failed to make reasonable progress toward their return home. In late April 2013, the court appointed special advocate (CASA) assigned to the case filed a report stating that the children were being physically abused in their foster home.

¶ 8 A hearing took place on April 30, 2013, and Kaileen's motion to vacate the temporary custody order was argued. The trial court found Kaileen fit and granted her custody of the children. Guardianship remained with DCFS. The trial court expressed its hesitation in allowing the children to return home, stating, "[t]he Court is extremely hesitant to return the children," citing Kaileen's "bad history with domestic violence" and her failure to progress in her domestic violence treatment program. To address its concerns, the trial court included the following restrictions in the custody order: only Kaileen and the children could live in the house; Kaileen could not have any male visitors; she and the children could not visit another residence where a male was present; and no adult males were permitted to be around the children at any time other than during school.

¶ 9 On May 13, 2013, the children were taken into protective custody due to Kaileen taking them to the home of her then-boyfriend, Charles Hunter, in violation of the April 30 custody order. On May 14, 2013, the State moved for temporary custody. A shelter care hearing took place, the trial court granted the State's motion, and the children were placed in traditional foster care. The girls, K.T. and A.D., were placed together in a home and the boys, K.T. and R.D., were placed together in a different home. Also on May 14, 2013, the State filed a juvenile petition, alleging the children were again neglected based on an environment injurious to their welfare. 705 ILCS 405/2-3(1)(b) (West 2012). The petition alleged that Kaileen had violated the court

order “in that on or before May 13, 2013” Kaileen took the children to live with her boyfriend in Havana. The evidence also demonstrated that there was no food, electricity or gas at Kaileen’s residence in Galesburg, and that the children had attended school only 3 out of 10 possible days when they were in Kaileen’s care. The State also moved to amend the petition to change the date to “on or before July 3, 2012” as the basis for neglect.

¶ 10 An adjudicatory hearing took place on the first amended juvenile petition on July 2, 2013. Caseworker Jennifer Johnson testified Kaileen took the children to live with her and Charles Hunter in Havana. He had two orders of protection filed against him by his ex-wife, which also included their daughter. Officer Rhonda Southwood, a Havana police officer testified that she took the children into protective custody at which time Kaileen admitted that she and the children were living at Hunter’s apartment. She arrested Hunter on June 7, 2013, for domestic battery on Kaileen. The trial court entered an order finding that the children were neglected based on an injurious environment and that Kaileen violated the court’s no-contact restrictions. The trial court again found Kaileen unfit. Subsequent permanency review reports and evidence presented at a permanency review hearing demonstrated Kaileen’s lack of progress and participation in her service plan tasks.

¶ 11 At a permanency review hearing in February 2014, the permanency goal was changed to substitute care pending termination. The court order noted that Kaileen had an alcohol abuse problem, she had not corrected it, and she had not progressed or participated in services. On March 4, 2014, the State filed a petition to terminate Kaileen’s rights and filed an amended petition in June 2014. The petition alleged that Kaileen: (1) failed to make reasonable efforts to correct the condition that resulted in the children’s removal (750 ILCS 50/1D(m)(i) (West 2012)); (2) failed to make reasonable progress within nine months of an adjudication of neglect,

from July 3, 2012 to April 3, 2013 (750 ILCS 50/1D(m)(ii) (West 2012)); (3) failed to make reasonable progress within the nine-month period from April 4, 2013 to January 4, 2014 (750 ILCS 50/1D(iii) (West 2012)); (4) failed to protect the children from conditions injurious to their welfare (750 ILCS 50/1D(g) (West 2012)); and (5) failed to maintain a reasonable degree of interest, concern or responsibility for the children's welfare (750 ILCS 50/1D(b) (West 2012)).

¶ 12 A termination hearing took place, where the following testimony was presented. Southwood was dispatched to Hunter's home, where Kaileen was also living, to take protective custody of the children. No one was home but Southwood was later able to secure the children. During the next three months after the children were removed, Southwood responded to Hunter's home two to three times each month for "domestic disturbances." Each one involved the intoxication of Kaileen and/or Hunter. On one occasion, Southwood observed evidence of physical injury to Kaileen.

¶ 13 Johnson, the caseworker, testified to incidents of domestic violence between Kaileen and her various boyfriends, which were witnessed by the four children. Two of the children were themselves direct victims of the domestic violence. Kaileen participated in some of her service tasks but failed to make reasonable progress. After the children were removed from Kaileen's care in May 2013, she did not participate in any services until November 2013. Kaileen attended eight sessions of domestic violence counseling but felt she was not benefitting from the sessions. Kaileen was to fulfill that service plan task through her individual counseling. She was referred for domestic violence counseling but did not engage in the services until November 2013. She was subsequently referred back for domestic violence counseling but attended less than half the sessions. At the time of the hearing, Kaileen had not completed the domestic violence program as directed on her service plan.

¶ 14 Johnson helped Kaileen obtain an order of protection against Beck, the boyfriend who battered her, which had resulted in the initial removal of the children. She learned of Kaileen’s next boyfriend in October 2012 following his and Kaileen’s arrests for domestic battery. The charge against Kaileen was later dropped. Kaileen began dating and moved in with Hunter in May 2013. Hunter was arrested for domestic battery against Kaileen in June 2013. Their relationship ended in August 2013 when he went to jail. Kaileen then dated Ed Fox until January 2014. Fox expressed concerns about Kaileen’s drinking, marijuana use, fighting and hitting. In April 2014, Kaileen began to date James Richardson, who had a criminal history that included violation of an order of protection and a domestic battery. At the time of the hearing the couple shared a two-bedroom home. K.T., who was 14-year-old, testified *in camera*. The trial court found Kaileen unfit under all five grounds alleged in the petition to terminate.

¶ 15 A best interest hearing took place, where the following evidence was presented. The caseworker testified that all four children were stable in, and adapted to, their foster placements, and bonded with their foster parents and siblings. The children were enrolled in school and extracurricular activities as appropriate. The foster parents attended to the children’s physical and emotional needs, and were committed to adopting their respective foster children. Kaileen testified she lived with Richardson and was employed as a certified nursing assistant (CNA). Her visits with the children went well, she felt close to them and they referred to her as “mommy.” The trial court found it was in the children’s best interests that Kaileen’s parental rights be terminated. She appealed.

¶ 16 ANALYSIS

¶ 17 On appeal, Kaileen challenges the trial court’s unfitness and best interest findings. She maintains both findings were in error and requests reversal and remand.

¶ 18 The involuntary termination of parental rights involves a two-step process. *In re C.N.*, 196 Ill. 2d 181, 209 (2001). First, the State must show that the parent is unfit and if the court finds the parent unfit, it must then consider whether it is in the child’s best interest to terminate the parent’s rights. 750 ILCS 50/1D (West 2012); 705 ILCS 405/2-29(2) (West 2012); *C.N.*, 196 Ill. 2d at 209.

¶ 19 We first examine Kaileen’s assertion that the petition to terminate was defective for failing to “clearly and obviously state” that it was brought under section 2-29 of the Juvenile Court Act or that she could “permanently lose” her parental rights. These notice requirements apply to petitions to terminate that are included with the State’s petition for wardship. *In re Andrea D.*, 342 Ill. App. 3d 233, 242 (2003), quoting 705 ILCS 405/2-13 (West 2012). We review *de novo* the sufficiency of the pleadings. *Andrea D.*, 342 Ill. App. 3d at 242.

¶ 20 The petition to terminate was filed after, and independent from, the wardship petition and the notice requirements do not apply, contrary to Kaileen’s claims. Moreover, the amended petition to terminate stated that it was in the children’s best interest that Kaileen’s parental rights be terminated. In its prayer for relief, the petition stated it sought Kaileen’s rights “be forever terminated.” The petition clearly and obviously stated that the State sought to permanently terminate Kaileen’s rights. We find the petition to terminate was not defective.

¶ 21 We now turn to Kaileen’s claims that the evidence did not demonstrate she was unfit under any of the five grounds alleged in the State’s petition to terminate Kaileen’s parental rights. The petition to terminate filed in June 2014, asserted Kaileen was unfit for (1) failing to make reasonable efforts to correct the conditions that were the basis for the children’s removal (750 ILCS 50/1D(m)(i) (West 2012)); (2) failed to make reasonable progress toward the return home of the minors during the 9-month period between July 3, 2012 to April 3, 2013 (750 ILCS

50/1D(m)(ii), (iii) (West 2012)); (3) failed to make reasonable progress toward the return home of the minors during the 9-month period between April 4, 2013 to January 4, 2014 (750 ILCS 50/1D(m)(ii), (iii) (West 2012)); (4) failed to protect the children from an injurious environment (750 ILCS 50/1D(g) (West 2012)); and (5) failed to maintain a reasonable degree of interest, concern or responsibility as to the children's welfare (750 ILCS 50/1D(b) (West 2012)).

¶ 22 We find the evidence supported the trial court's finding that Kaileen failed to protect her children from conditions within their environment injurious to their welfare. 750 ILCS 50/1D(g) (West 2012). Unfitness may be determined on any one ground supported by the evidence. *In re Tiffany M.*, 353 Ill. App. 3d 883, 889 (2004). Proof of failure to protect requires evidence focused on the child's environment and the parent's failure to protect the children from an injurious home environment before the children were removed. *In re C.W.*, 199 Ill. 2d 198, 214-15 (2002). There is no requirement that a parent be allowed a period of time to correct or improve the conditions creating the injurious environment before she may be found unfit. *C.W.*, 199 Ill. 2d at 216. We will not reverse a trial court's unfitness finding unless it is against the manifest weight of the evidence. *In re S.R.*, 326 Ill. App. 3d 356, 360 (2001).

¶ 23 In reciting its unfitness finding, the trial court pointed to Kaileen's "abject knowing and intentional violation" of the custody order prohibiting males from being in the children's presence. While initially at Kaileen's Galesburg home, which was without heat, electricity, or food, Beck, the former boyfriend with whom Kaileen engaged in the domestic violence that resulted in the children's removal, visited. She then took the children to Havana, where her then-current boyfriend, Hunter, lived. Kaileen and the children were driven there by an unidentified male friend. All four children, at some point during the two-week period that Kaileen had custody, lived with Kaileen at Hunter's apartment and slept on the living room floor. The



children, who were enrolled in school in Galesburg, did not attend school for 7 of the 10 days they were in Kaileen's custody, but rather remained in Havana at Hunter's home. During the period of custody, Kaileen and Hunter drank to excess in front of the children.

¶ 24 There is no question that Kaileen violated the restrictions provided in the order returning the children to her custody. Kaileen allowed Beck to visit her and the children at her Galesburg home, she had a male friend drive the family to Havana, and she and the children moved in with Hunter. Despite Kaileen's chronic history of domestic violence, she continued to expose the children to the violent men in her life. The custody order prohibited any males from having contact with the children. In addition, Kaileen and the children "were not permitted to visit with any adult males at any time." The restrictions were necessary due to Kaileen's history of exposing the children to episodes of domestic violence with her boyfriends. The evidence established that her failure to comply with the restrictions placed the children in conditions that were injurious to their environment. Based on the evidence presented at the fitness hearing, we find that the trial court's determination that Kaileen was unfit was not against the manifest weight of the evidence.

¶ 25 The last issue for our consideration is whether the trial court's best fitness finding was in error. Kaileen asserts that the best interest factors do not support the trial court's finding. According to Kaileen, a guardianship goal would be more appropriate to ensure the children's best interests were served.

¶ 26 After finding a parent unfit, the focus shifts and the trial court must then decide whether it is in the child's best interest that the rights of her parent be terminated. *In re B.B.*, 386 Ill. App. 3d 686, 697 (2008). A trial court considers the following factors when determining whether termination of parental rights is in a child's best interest: the child's physical safety and welfare;

development of her identity; the child's familial, cultural and religious background; her sense of attachment, including love, security, familiarity, continuity of affection, and the least disruptive placement alternative; the wishes of the child; the child's ties to her community; her need for permanence, including stability and continuity of relationships with parent figures and siblings; the uniqueness of each family and child; risks related to substitute care; and the preferences of caregivers. 705 ILCS 405/1-3(4.05) (West 2012). We will not reverse a trial court's best interest finding unless it is against the manifest weight of the evidence. *B.B.*, 386 Ill. App. 3d at 697.

¶ 27 The record supports the trial court's best interest findings as to all four children. The children were in foster homes, the boys together and the girls together, where the foster parents were committed to adopting them. Their physical and emotional needs were being met. The foster parents remained devoted to ensuring the children received the help and opportunities they needed to prosper. The children were bonded to their respective foster parents and siblings and involved in their communities. The children had been in their foster placements for an extended period of time and settled in those environments. We find the trial court did not err when it found it was in the children's best interests that Kaileen's parental rights be terminated.

¶ 28 For the foregoing reasons, the judgment of the circuit court of Knox County is affirmed.

¶ 29 Affirmed.