2015 IL App (3d) 150275-U

Order filed December 1, 2015

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2015

In re C.W.,	)	Appeal from the Circuit Court
	)	of the 10th Judicial Circuit,
a Minor	)	Peoria County, Illinois,
	)	
(The People of the State of Illinois,	)	
	)	Appeal No. 3-15-0275
Petitioner-Appellee,	)	Circuit No. 14-JA-321
	)	
v.	)	
	)	
Aleigha L. W.,	)	Honorable
	)	Albert L. Purham, Jr.,
Respondent-Appellant).	)	Judge, Presiding.

JUSTICE HOLDRIDGE delivered the judgment of the court.
Justices Lytton and Wright concurred in the judgment.

ORDER

¶ 1 *Held*: The appeal is moot as the respondent was found fit during this appeal and no exceptions to the mootness doctrine apply.

¶ 2 Following a dispositional hearing, the trial court made the minor, C.W., a ward of the court and found the respondent, Aleigha L. W., dispositionally unfit. On appeal, the respondent argues that the trial court's finding was against the manifest weight of the evidence. Because the

respondent was found fit during the pendency of this appeal, we find that the issue of her fitness is now moot.

¶ 3 FACTS

¶ 4 On December 18, 2014, the Department of Children and Family Services (DCFS) filed a juvenile petition, alleging that C.W. was neglected due to an injurious environment (705 ILCS 405/2-3 (West 2014)). Specifically, the petition alleged that C.W.'s environment was injurious to his welfare based on a history of domestic violence between the respondent and C.W.'s father and the respondent's mental health issues.

¶ 5 On March 10, 2015, an adjudicatory hearing was held. The court found the allegations in the petition proven, determined the environment was injurious to C.W., and set the matter for a dispositional hearing. The court stated, "[P]arents you must cooperate with [DCFS], comply with the terms of the service plan and correct the conditions that required the child to be in care or risk termination of your rights."

¶ 6 The dispositional hearing was held on April 7, 2015. The court admitted a "Dispositional Hearing" report prepared by a caseworker for Lutheran Social Services (LSS). Attached to the report was an integrated assessment, which included recommended services for the respondent, an order of protection the respondent had against C.W.'s father, and a mental health assessment.

¶ 7 In her report, the caseworker said that the respondent "continues to be cooperative and completes every task asked of her." She noted that the respondent had begun participating in the recommended services, including: (1) participating in supervised visitation three times a week; (2) attending a domestic violence group; (3) seeing two therapists; and (4) participating in random urine screens. There was no dispute that the respondent was complying with the terms of her service plan and cooperating with DCFS and LSS.

¶ 8 The caseworker said that the respondent acknowledged the danger C.W. was in during the domestic violence between her and C.W.'s father and "appears committed to participating in services and in the reunification between her and her son." The caseworker noted that the respondent developed a strong bond with C.W. during supervised visitation three days per week for a total of six hours.

¶ 9 The respondent participated in a mental health assessment, which indicated that the respondent suffered from trauma symptoms, unspecified mood disorder, and post-traumatic stress disorder. Her mental health assessment indicated that she was a low suicide risk and a low risk to harm others when C.W.'s father was not around. The assessment further indicated that the respondent was motivated to complete therapy and improve her ability to manage her symptoms. The caseworker said it was ambiguous on the mental health assessment whether or not the respondent needed a psychiatric consultation, as one box in the mental health assessment was checked that said "No additional Assessments Recommended," but then "Psychiatric Evaluation" was checked as a recommended service. To clear this ambiguity, the caseworker spoke to the respondent's therapist, who said that she did not believe the respondent was in need of a psychiatric consultation, as the respondent was participating in therapy.

¶ 10 The caseworker recommended that DCFS be named guardian of C.W., but that the respondent be found fit and DCFS have the discretion to return C.W. home. The caseworker further recommended that the respondent: (1) continue to cooperate with LSS and DCFS; (2) attend, participate, and successfully complete counseling; (3) successfully complete domestic violence classes; and (4) continue to submit to random drug testing.

¶ 11 The State asked the court to make C.W. a ward of the court and find the respondent unfit, based on the pattern of domestic violence and the respondent's "erratic behavior."

¶ 12 On April 7, 2015, the court found the respondent unfit based on the "pattern of domestic violence." The court said, "As I look at these incidents–I realize she is engaged in services, counseling and domestic violence–it's a work-in-progress. I kind of think that she will be found fit soon but not today. I need to have a little bit more." He ordered that the respondent: (1) complete a psychiatric exam and follow the recommendation of the psychiatrist; (2) take a drug test twice a month; (3) continue counseling and cooperating with the agencies; and (4) successfully complete the domestic violence classes. The court set the case four months out "to see where we are on the [respondent's] fitness." This appeal followed.

¶ 13 On September 23, 2015, this court entered an order directing the parties to give status on the respondent's fitness. Both parties said that the respondent was found fit at a permanency review hearing on August 18, 2015, and attached the trial court's Permanency Review Order. The Permanency Review Order further stated that C.W. should be returned home within five months.

¶ 14 ANALYSIS

¶ 15 On appeal, the respondent argues that the trial court's finding that the respondent was dispositionally unfit was against the manifest weight of the evidence. As the respondent has subsequently been found fit, we find this issue moot.

¶ 16 "An appeal is considered moot where it presents no actual controversy or where the issues have ceased to exist." *In re Andrea F.*, 208 Ill. 2d 148, 156 (2003). "The test for mootness is whether the issues involved in the trial court no longer exist because intervening events have rendered it impossible for the reviewing court to grant effectual relief to the complaining party." *Id.* On review, the court can take judicial notice of events which, while not appearing in the record, reveal that an actual controversy no longer exists, rendering the issue

moot. *Id.* "As a general rule, courts in Illinois do not decide moot questions, render advisory opinions, or consider issues where the result will not be affected regardless of how those issues are decided." *In re Alfred H.H.*, 233 Ill. 2d 345, 351 (2009).

¶ 17 Here, the respondent appeals from the trial court's finding of dispositional unfitness and asks this court to reverse that finding. As the respondent has been found fit, her unfitness is no longer an issue. Even if we were to rule on the issue, our ruling would have no effect on the respondent and it would be impossible to grant her any relief. Thus, we find any challenges to the April 7, 2015, dispositional order to be moot. See *In re Rayshawn H.*, 2014 IL App (1st) 132178 (holding challenge to dispositional order moot where respondent was subsequently found fit, willing, and able); *People v. Madison*, 2014 IL App (1st) 131950 (holding issue of defendant's fitness to stand trial moot where she was found fit to stand trial during the pendency of the appeal).

¶ 18 In coming to this conclusion, we note that no exception to the mootness doctrine applies. There are three established exceptions to the mootness doctrine: (1) the public interest exception; (2) the capable of repetition yet avoiding review exception; and (3) the collateral consequences exception. See *Alfred H.H.*, 233 Ill. 2d at 355-61.

¶ 19 First, "[t]he public interest exception allows a court to consider an otherwise moot case when (1) the question presented is of a public nature; (2) there is a need for an authoritative determination for the future guidance of public officers; and (3) there is a likelihood of future recurrence of the question." *Alfred H.H.*, 233 Ill. 2d at 355. This exception is narrowly construed and requires a clear showing of each criterion. *Id.* at 355-56.

¶ 20 This case does not present an issue of a public nature. The issue in this case is whether the trial court's finding was against the manifest weight of the evidence. Sufficiency of the

evidence claims are inherently case-specific reviews that do not present the kinds of broad public interest issues necessary to meet the requirements for this exception. See *id.* at 356-57. This case also " 'does not present a situation where the law is in disarray or there is conflicting precedent,' " therefore, the second prong is not met. *Id.* at 358 (quoting *In re Adoption of Walgreen*, 186 Ill. 2d 362, 365-66 (1999)). Further, any future unfitness of the respondent would be based on the respondent's unfitness at that future time; therefore, any determination based on the sufficiency of the evidence now would not impact future litigation. See *id.*

¶ 21 Second, in order to meet the requirements for the capable of repetition yet avoiding review exception, it must be shown that: "(1) the challenged action is in its duration too short to be fully litigated prior to its cessation and (2) there is a reasonable expectation that the same complaining party would be subjected to the same action again." *In re A Minor*, 127 Ill. 2d 247, 258 (1989).

¶ 22 Even assuming the first prong was applicable, the respondent does not meet the burden of the second prong. Again, as the respondent is solely challenging the sufficiency of the evidence against her, "[t]here is no clear indication of how a resolution of this issue could be of use to respondent in future litigation." See *Alfred H.H.*, 233 Ill. 2d at 360. Therefore, the requirements for the capable of repetition yet avoiding review exception are not met.

¶ 23 Lastly, the collateral consequences exception to the mootness doctrine allows for review if the party seeking review has suffered an actual injury that is likely to be redressed by a favorable judicial decision. *Alfred H.H.*, 233 Ill. 2d at 361. "[A]pplication of the collateral consequences exception must be decided on a case-by-case basis and [] the finding of collateral consequences has to be tailored to the facts of each case." *Madison*, 2014 IL App (1st) 131950

¶ 13. Here, we cannot see any actual injury the respondent suffered based on the trial court's dispositional order that can be rectified by a favorable decision on the issue of her fitness.

¶ 24 CONCLUSION

¶ 25 The respondent's appeal from the judgment of the circuit court of Peoria County is dismissed.

¶ 26 Appeal dismissed.