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2015 IL App (3d) 150324-U

Order filed September 16, 2015

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2015

<i>In re</i> A.P. & K.P.,)	Appeal from the Circuit Court
)	of the 14th Judicial Circuit,
Minors)	Rock Island County, Illinois.
)	
(The People of the State of)	
Illinois,)	Appeal Nos. 3-15-0324 & 3-15-0325
)	Circuit Nos. 13-JA-13 & 13-JA-14
Petitioner-Appellee,)	
)	
v.)	
)	Honorable
Joshua P.,)	Theodore G. Kutsunis,
)	Judge, Presiding.
Respondent-Appellant).)	
)	

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

ORDER

¶ 1 *Held:* The termination of a father's parental rights was upheld on appeal where the finding of unfitness on the ground of failure to make reasonable progress toward the return of the minors during the relevant 9-month time period was not against the manifest weight of the evidence where the evidence showed that, during that time, the father did not maintain a steady job or housing, spent time in jail, and again re-lapsed in his drug use.

¶ 2 The minors, A.P. and K.P. were adjudicated neglected and dependent. Thereafter, the State filed petitions for the termination of both parent's parental rights. The circuit court found the petitions to be proven by clear and convincing evidence, and it found that it was in the best interests of the minors that their parental rights be terminated. The respondent father, Joshua P., appealed, challenging the finding of unfitness

¶ 3 **FACTS**

¶ 4 On February 27, 2013, the State filed petitions for adjudication of wardship, alleging that the minors, A.P. and K.P., were neglected and dependent due to the fact that the parents abandoned the minors by leaving town without making arrangements for their care. The minors were placed in the temporary custody of the Department of Children and Family Services (DCFS), and they were later placed with their aunt. On May 7, 2013, the minors were adjudicated neglected, and the parents were admonished that they must cooperate with DCFS and comply with the terms of the service plan. After a dispositional hearing, the minors were made wards of the court and DCFS was named guardian of the minors.

¶ 5 The State filed petitions to terminate the parental rights of both the mother and the father. With respect to the father, the appellant in this case, the petitions alleged that he was unfit because he: (1) failed to maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare (750 ILCS 50/1(D)(b)); (2) failed to make reasonable efforts to correct the conditions that were the basis for the removal during two 9-month periods following the adjudication of neglect, said periods being June 4, 2013 through March 4, 2014, and March 5, 2014 through December 5, 2014 (750 ILCS 50/1(D)(m)(i)); and (3) failed to make reasonable progress toward the return of the minors during two 9-month periods following the adjudication of neglect, said periods being June 4, 2013 through March 4, 2014 and March 5, 2014 through

December 5, 2014 (750 ILCS 50/1(D)(m)(ii)). The petitions further alleged that it was in the best interest of the minors to terminate the father's parental rights.

¶ 6 At the fitness hearing, Jessica Sable testified that she was the minors' caseworker at Lutheran Social Services (LSS) from March 6, 2013, until October 21, 2013. Sable testified that she prepared the initial service plan. Under the plan, the father was recommended to do a mental health evaluation, a substance abuse evaluation, family therapy, and maintain housing and income. Those services were later ordered by the court in its dispositional order. Sable testified that the father was incarcerated at the beginning of the case, but he was released and completed his integrated assessment in June 2013. Visits with the minors started soon after that. The father started counseling in August 2013. After his substance abuse assessment, the father was recommended for intensive outpatient therapy, which he started while Sable was still with LSS. The father's drug drops in June and August 2013 were negative. During those first six months, the father resided with his mother, and Sable thought the father was temporarily employed, although she never received proof of employment.

¶ 7 Hillary Condon, a child welfare supervisor at LSS, testified that she was the supervisor of the two caseworkers who were assigned to the minors after Sable left LSS in October 2013. Condon testified that the father successfully completed his outpatient substance abuse treatment in October 2013. He had one positive drug drop during this time, but he was able to provide a valid prescription. His other four drug drops were negative. However, the father admitted to a relapse in January 2014 with respect to prescription drugs and alcohol. At that time, he was discharged from counseling for attendance issues. The father continued his visitation with the minors until January 2014, when he was again arrested and went to jail. He resumed his visits in March 2014. According to Condon, by the end of the first nine-month period, March 2014, the

father was either living with his mother or his brother, but neither residence was an appropriate home for the minors. He never provided proof of employment.

¶ 8 With respect to the second nine-month period, beginning on March 5, 2014, Condon testified that the father was incarcerated from the end of May 2014 until July 21, 2014. Prior to that incarceration, the father completed a new substance abuse assessment in April 2014, and he completed outpatient treatment in September 2014 after his release, but he then tested positive for cocaine on September 24, 2014. When he was not incarcerated, the father did not maintain housing that was a viable return home option for the minors. According to Condon, the father was visiting the minors regularly before he went to jail in May. After he was released, it was recommended that he participate in some services before resuming visits with the girls. After doing so, a visit was scheduled for October 2014. However, then the father tested positive for cocaine. In response, LSS requested a meeting with the father before any further action would be taken, but the father never met with anyone at LSS. During this second nine-month period, the father was discharged two more times from counseling due to attendance issues.

¶ 9 The father testified that he was dropped from counseling when he was taken into custody in May 2014, but he was able to re-start that counseling after he was released in July 2014. Also prior to that time in jail, the father testified that he was visiting regularly with the minors, although he had missed a few visits. After May 2014, there were no visits scheduled because they were not going to be reestablished until the father completed drug treatment and had some further counseling. The visits were then never reestablished because of the positive cocaine test. As for his mother's home, the father testified that it was his recollection that his mother's home passed the safety assessment.

¶ 10 The trial court found by clear and convincing evidence that the father was an unfit parent pursuant to all three grounds alleged in the petitions. After a best interest hearing, the trial court found that it was in the best interest of the minors to terminate the father’s parental rights. The father appealed, only challenging the finding of unfitness.

¶ 11 ANALYSIS

¶ 12 The father argues that the trial court’s finding that he was unfit was against the manifest weight of the evidence. Under the Adoption Act (the Act), an “unfit person” is defined as “any person whom the court shall find to be unfit to have a child.” 750 ILCS 50/1(D) (West 2012). The Act enumerates several grounds for unfitness, including *inter alia*, the “[f]ailure to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare” (750 ILCS 50/1(D)(b)(West 2012); “[f]ailure...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 or abused minor under Section 2-3 of the Juvenile Court Act of 1987” (750 ILCS 50/1(D)(m)(i) (West 2012); and failure “to make reasonable progress toward the return of the child to the parent during any 9-month period following the adjudication of neglected or abused minor under Section 2-3 of the Juvenile Court Act of 1987” (750 ILCS 50/1(D)(m)(ii) (West 2012). The State must prove the allegation of unfitness by clear and convincing evidence. *In re Adoption of Syck*, 138 Ill. 2d 255, 273 (1990). A trial court's finding of unfitness is entitled to great deference and will be upheld unless it is against the manifest weight of the evidence. *Id.* As the grounds for finding unfitness are independent, we may affirm the judgment if the evidence supports the trial court's finding of unfitness on any one of the statutory grounds alleged. *In re C.L.T.*, 302 Ill. App. 3d 770, 772 (1999).

¶ 13

The evidence at the fitness hearing established that the father made some effort and some progress during the first relevant nine-month period. Whether those efforts or that progress was reasonable under the Act is not something that we need to determine, however, because we can affirm in any of the grounds of unfitness is proven. See *C.L.T.*, 302 Ill. App. 3d at 772 (a finding of parental unfitness may be upheld if there is evidence sufficient to support any one statutory ground, even if the evidence is not sufficient to support other grounds alleged). In this case, the State proved by clear and convincing evidence that the father failed to make reasonable progress (750 ILCS 50/1(D)(m)(ii) (West 2012)) during the second relevant nine-month time period, March 5, 2014 through December 5, 2014. Reasonable progress is an objective standard, requiring at least measurable or demonstrable progress toward the goal of returning the child. *In re A.S.*, 2014 IL App (3d) 140060, ¶ 17. Courts consider the parent's compliance with the service plans and the court's directives, in light of the condition which gave rise to the removal of the child and any other conditions that would prevent the court from returning custody of the child to the parent. *Id.* It is clear that the father was visiting with the minors before he was jailed in May 2014. After his release, though, the visits were never reestablished because the father again tested positive for cocaine on September 22, 2014, and then he never followed through with LSS to reestablish his visits. In addition, there was no evidence that the father held a steady job or maintained stable housing during the relevant time period. Although the father testified that he thought that his mother's home had passed a safety inspection, the trial court believed the testimony of the caseworkers that the mother's home was not a viable option for the minors. Those findings, and the conclusion that the father failed to make reasonable progress toward the return of the minors from March 5, 2014, to December 5, 2014, were not against the manifest weight of the evidence. Since we have found that the trial court's conclusion that the father

failed to make reasonable progress towards the return of the minors for that time period, we need not address the other grounds. Also, the father did not challenge the best interest findings, so we will not address those findings. We affirm the judgments terminating the father's parental rights as to A.P. and K.P.

¶ 14

CONCLUSION

¶ 15

The judgments of the circuit court of Rock Island County are affirmed.

¶ 16

Affirmed.