2015 IL App (4th) 140930-U

NOS. 4-14-0930, 4-14-0932, 4-14-0934 cons.

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

March 17, 2015
Carla Bender
4th District Appellate
Court, IL

In re: J.P., a Minor, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-14-0930) ASHLEY PEASLEE, Respondent-Appellant.	)	Appeal from Circuit Court of Vermilion County No. 12JA67
In re: E.P., a Minor, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-14-0932) ASHLEY PEASLEE Respondent-Appellant.	)	No. 12JA68
In re: C.M., a Minor, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-14-0934) ASHLEY PEASLEE, Respondent-Appellant.	)	No. 12JA69 Honorable Claudia S. Anderson, Judge Presiding.

JUSTICE APPLETON delivered the judgment of the court.
Presiding Justice Pope and Justice Knecht concurred in the judgment.

ORDER

¶ 1 *Held*: The decision to terminate respondent's parental rights to her three children is not against the manifest weight of the evidence.

¶ 2 Respondent, Ashley Peaslee, appeals from the trial court's decision to terminate her parental rights to J.P. (born September 27, 2012), E.P. (born September 19, 2008), and C.M.

(born April 20, 2007). She challenges the court's findings that she was an "unfit person" and that it was in the children's best interest to terminate her parental rights. Because those findings are not against the manifest weight of the evidence, we affirm the trial court's judgment.

¶ 3 I. BACKGROUND

¶ 4 A. The Petitions for Adjudication of Wardship

¶ 5 In November 2012, the State petitioned the trial court to make the three children wards of the court. The State alleged that J.P. had been physically abused (see 705 ILCS 405/2-3(2)(i) (West 2012)) and that, given the physical abuse inflicted on him, his siblings, E.P. and C.M., were in an environment injurious to their welfare and hence were neglected (see 705 ILCS 405/2-3(1)(b) (West 2012)).

¶ 6 B. The Adjudicatory Hearing

¶ 7 In January 2013, the trial court held an evidentiary hearing on the petitions for adjudication of wardship, and at the conclusion of the hearing, the court found all counts of the petitions to be proven. Because this appeal does not challenge the court's findings in the adjudicatory hearing, we need not exhaustively recount the testimony therein. Instead, we will briefly summarize the testimony of one of the witnesses, Jessica Vella, so as to explain the circumstances leading the Illinois Department of Children and Family Services (DCFS) to take the children into protective custody.

¶ 8 Jessica Vella testified she was a registered nurse and that she worked in the emergency department of Presence United Samaritans Medical Center, in Danville, Illinois.

¶ 9 At 10:30 a.m. on November 2, 2012, while Vella was on duty, respondent brought her five-week-old son, J.P., to the emergency room. Her reason for bringing him was that he had swelling and bruising on the side of his head. Respondent said she had noticed some swelling

the previous evening but that J.P. had been acting normally. By morning, however, the swelling had grown worse, so she decided to bring him in.

¶ 10 A doctor in the emergency room determined that J.P. had a depressed skull fracture.

¶ 11 Vella and other nurses wanted to know how J.P. had sustained this injury. Respondent, who was anxious and distraught, gave them three different stories. The first story was that she was walking through the house the previous evening, with J.P. in her arms, when another child threw a toy. Respondent did not know whether the toy had hit J.P. in the head. The second story was that respondent actually had seen another child hit J.P. in the head with a plastic toy. The third story was that another child, who was being weaned off a pacifier, had hit J.P. in the head with a flashlight in order to take his pacifier.

¶ 12 Vella called the child-abuse hotline of DCFS.

¶ 13 C. The Dispositional Hearing

¶ 14 In a dispositional hearing in March 2013, the trial court made the children wards of the court.

¶ 15 D. The Petitions To Terminate Parental Rights

¶ 16 In April 2014, the State filed petitions to terminate respondent's parental rights to the three children. Each of the petitions alleged that respondent met three of the statutory definitions of an "unfit person." First, she had failed to maintain a reasonable degree of interest, concern, or responsibility as to the children's welfare. See 750 ILCS 50/1(D)(b) (West 2012). Second, within nine months after the adjudication of neglect or abuse, that is, from January 25 to September 25, 2013, she failed to make reasonable efforts to correct the conditions that were the basis for removing the children from her. See 750 ILCS 50/1(D)(m)(i) (West 2012). Third,

within nine months after the adjudication of neglect or abuse, she failed to make reasonable progress toward the return of the children. See 750 ILCS 50/1(D)(m)(ii) (West 2012).

¶ 17 E. The Hearing on the Issue of Whether Respondent Was an "Unfit Person"

¶ 18 In August 2014, the trial court held an evidentiary hearing on the question of whether respondent was an "unfit person" as alleged in the petitions to terminate her parental rights.

¶ 19 1. *The Testimony of Lisa Depratt*

¶ 20 One of Lisa Depratt's duties as the juvenile probation officer of Vermilion County was to do drug testing for DCFS clients. On August 30, 2013, she collected a urine sample from respondent. The sample was positive for "opiates and Benzodiazepines."

¶ 21 2. *The Testimony of Paige Hurt*

¶ 22 Another Vermilion County probation officer, Paige Hurt, collected urine samples from respondent on April 24 and August 30, 2014. Both of those samples were positive for "Benzos and opiates."

¶ 23 3. *The Testimony of Gwendolyn Parker*

¶ 24 In its service plans, DCFS had required respondent not only to take parenting classes and undergo individual counseling but also to undergo substance-abuse counseling and receive domestic-violence education. Respondent's caseworker, Gwendolyn Parker, testified that respondent had completed parenting classes and individual counseling but that she never completed substance-abuse counseling or domestic-violence education.

¶ 25 In June 2013, Parker referred respondent to Cognition Works, in Champaign, for domestic-violence classes. (Because "there [had been] some kind of altercation," Your Family Resource Connection, in Danville, would not accept her for domestic-violence services.)

Respondent told Parker she was willing to go to Cognition Works, but she never began attending classes there in June or July 2013. Respondent simply "never followed up with the provider," and the referral expired. Parker referred her again to Cognition Works in December 2013, but she still did not attend the classes there. Consequently, as of the date of the hearing, respondent had not completed domestic-violence services.

¶ 26 In September 2013, Parker referred respondent to Prairie Center, in Danville, for a substance-abuse assessment, after a drug test revealed that respondent had been using illegal drugs. (Parker assumed the drugs were illegal, considering that respondent never provided her a prescription for opiates or benzodiazepine.) Respondent attended the substance-abuse assessment and began treatment at Prairie Center, but at the end of December 2013 or in early January 2014, Prairie Center dropped her from the program because of nonattendance. Thus, as of the date of the hearing, respondent had not completed substance-abuse counseling, either.

¶ 27 The assistant State's Attorney asked Parker:

"Q. By April of 2014 did you feel you could return the children home safely to [respondent]?

A. No.

Q. Why not?

A. She wasn't consistent with what she was supposed to do, like her, you know, go through the domestic, do her substance.

* * *

Q. You said she re-referred for services after January?

A. Yes.

Q. Did she attend any of those?

A. No."

¶ 28 Two other things concerned the trial court in addition to respondent's failure to complete substance-abuse services and domestic-violence services. First, in February 2014, there was an altercation between the parents, and Mark Peaslee was charged with the domestic battery of respondent (as Parker also testified). Considering that the case originated with physical abuse, that was a real concern to the court. Second, the skull fracture that J.P. suffered never was explained.

¶ 29 The trial court found respondent to be unfit as alleged in the petitions to terminate her parental rights.

¶ 30 F. The Hearing on the Children's Best Interest

¶ 31 DCFS placed all three children with their paternal grandmother. The children had been with her since June 2013. An uncle also lived with them. The children were close to both their grandmother and their uncle, and the grandmother wanted to adopt the children.

¶ 32 J.P. was receiving services to address his developmental delays. E.P. was in kindergarten and was receiving individual counseling. He played Little League football in Hoopeston. C.M. was in first grade, and she was a cheerleader for the Little League football team.

¶ 33 II. ANALYSIS

¶ 34 A. The Issue of Whether Respondent Was an "Unfit Person"

¶ 35 The trial court found that respondent met several of the statutory definitions of an "unfit person." See 750 ILCS 50/1(D)(b), (D)(m)(i), (D)(m)(ii) (West 2012). We need not review the evidence pertaining to all those definitions. Conformance to one of the definitions is enough to make a parent an "unfit person." *In re Tiffany M.*, 353 Ill. App. 3d 883, 891 (2004).

Therefore, we will choose one of the definitions of an "unfit person"—failure to make reasonable progress (750 ILCS 50/1(D)(m)(ii) (West 2012))—and ask whether the trial court made a finding that was against the manifest weight of the evidence when it found that respondent had failed to make reasonable progress (see *Tiffany M.*, 353 Ill. App. 3d at 890).

¶ 36 The State alleged that, within the nine months after the adjudication of abuse and neglect, that is, during the period of January 25 to September 25, 2013, respondent failed to make reasonable progress toward the return of the children to her. See 750 ILCS 50/1(D)(m)(ii) (West 2012). The appellate court has explained:

> "Reasonable progress is an objective standard, measured by a benchmark encompassing the parent's compliance with the service plan and the court's directives in light of the conditions causing removal, as well as other conditions that would prevent the court from returning the minor to [the] parent's custody. [Citation.] Reasonable progress requires measurable movement toward reunification and occurs when a trial court can expect to order the minor returned to the custody of her parents in the near future." *In re J.H.*, 2014 IL App (3d) 140185, ¶ 22.

¶ 37 The service plan required respondent to attend domestic-violence classes. This service was relevant to respondent, considering that a skull fracture inflicted on a five-week-old baby could be the result of domestic violence, especially if shifting, implausible explanations are offered for the injury. From January 25 to September 25, 2013, respondent failed to attend domestic-violence classes, and the trial court could have reasonably regarded that nonattendance as a failure to make reasonable progress.

¶ 38 Arguably, respondent also failed to make reasonable progress during the nine-month period by failing to complete substance-abuse treatment. This service likewise was relevant to respondent, considering that opiates and benzodiazepine were repeatedly detected in her urine and also considering that she had no idea how her infant child suffered a skull fracture during a time when the infant was continually in her immediate care.

¶ 39 B. The Issue of Whether It Was in the Children's Best Interest To Terminate Respondent's Parental Rights

¶ 40 According to respondent, the trial court also made a finding that was against the manifest weight of the evidence when it found that terminating her parental rights would be in the children's best interest. See *In re N.T.*, 2015 IL App (1st) 142391, ¶ 27. Her only reason for that assertion is as follows: "[Respondent] loves her children and played and read to them during visits." Parental love must express itself, however, not only in play and reading, but also in practical measures to keep the children safe. See 705 ILCS 405/1-3(4.05)(a) (West 2012). In respondent's case, taking domestic-violence classes and undergoing substance-abuse treatment would have been among those practical measures.

¶ 41 III. CONCLUSION

¶ 42 For the foregoing reasons, we affirm the trial court's judgment.

¶ 43 Affirmed.