2015 IL App (4th) 150393-U

NO. 4-15-0393

FILED
September 8, 2015
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: D.M, a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	McLean County
v.	)	No. 14JA19
ANGELINA CROCE,	)	
Respondent-Appellant.	)	
	)	Honorable
	)	Kevin P. Fitzgerald,
	)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.
Presiding Justice Pope and Justice Holder White concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed the trial court's judgment, which terminated respondent's parental rights.

¶ 2 In February 2015, the State filed a petition to terminate the parental rights of respondent, Angelina Croce, as to her minor son, D.M. (born October 22, 2013). Following an April 2015 fitness hearing, the trial court found respondent unfit within the meaning of section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2014)). Following a best-interest hearing conducted immediately thereafter, the court terminated respondent's parental rights.

¶ 3 Respondent appeals, arguing that the trial court's fitness determination was against the manifest weight of the evidence. We disagree and affirm.

¶ 4 I. BACKGROUND

¶ 5 The following facts were gleaned from the State's pleadings, reports, service

plans, and evidence admitted at the various hearings held in this case.

¶ 6 A. Events Preceding the State's Motion To Terminate Respondent's Parental Rights

¶ 7 On April 7, 2014, the State filed a wardship petition alleging that D.M. was neglected within the meaning of section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Act) in that D.M.'s environment was injurious to his welfare (705 ILCS 405/2-3(1)(b) (West 2014)). The following day, the Department of Children and Family Services (DCFS) filed a shelter-care report, revealing that in December 2013, DCFS had opened an intact case to address various issues between respondent and D.M.'s biological father. DCFS' report noted that "[t]he family has not benefited from services and continue[d] to have unresolved issues with domestic violence, substance misuse, and mental[-]health concerns." At a shelter-care hearing held that day, the trial court found that an immediate and urgent necessity required D.M.'s placement in shelter care based on respondent's admission that she had violated DCFS' safety plan by engaging in a domestic-violence incident in D.M.'s presence. (D.M.'s biological father subsequently surrendered his parental rights; he is not a party to this appeal.)

¶ 8 At a May 2014 adjudicatory hearing, respondent stipulated to the State's allegation that her unresolved mental-health issues created a risk of harm to D.M. Based on respondent's admission, the trial court adjudicated D.M. neglected. Following a July 2014 dispositional hearing, the court made D.M. a ward of the court and maintained DCFS as his guardian.

¶ 9 B. The State's Petition To Terminate Parental Rights

¶ 10 In February 2015, the State filed a petition to terminate respondent's parental rights. Specifically, the State alleged that respondent was unfit within the meaning of section 1(D) of the Adoption Act in that she failed to (1) maintain a reasonable degree of interest, concern, or responsibility as to D.M.'s welfare (750 ILCS 50/1(D)(b) (West 2014)); (2) make rea-

sonable efforts to correct the conditions that were the basis for D.M.'s removal during any nine-month period following the adjudication of neglect (750 ILCS 50/1(D)(m)(i) (West 2014)); and (3) make reasonable progress toward the return of D.M. during any nine-month period following the adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2014)). The State's termination petition alleged that the relevant nine-month period was May 27, 2014, to February 27, 2015.

¶ 11 1. *The April 2015 Fitness Hearing*

¶ 12 The State presented the following pertinent evidence at the April 2015 fitness hearing on the State's motion to terminate respondent's parental rights.

¶ 13 Dana Lloyd, a caseworker employed by Baby Fold (a DCFS contractor), testified that since April 2014, she managed D.M.'s case. Lloyd explained that respondent—who was then 20 years old—had been receiving intact services prior to that time. DCFS later took protective custody of D.M. after respondent admitted that she had violated DCFS' safety plan by engaging in a domestic-violence incident in D.M.'s presence. Shortly thereafter, Lloyd modified respondent's intact client-service plan. The revised plan required respondent to complete certain goals targeted at (1) domestic violence, (2) mental health, (3) substance abuse, (4) financial stability, and (5) parenting in a safe environment.

¶ 14 At that time, respondent was living in a rented apartment with her mother, her mother's boyfriend, and D.M.'s biological father with whom she had an abusive relationship. Lloyd informed respondent that D.M. could not be placed with her if she continued to live with D.M.'s biological father. In May 2014, respondent was evicted from that residence and, thereafter, lived in various "out-of-town" locations. In October 2014, respondent briefly resided with friends in Downs, Illinois, but otherwise remained homeless until March 2015. Throughout this entire period, respondent maintained a relationship with D.M.'s biological father.

¶ 15 In November 2014, respondent completed parenting classes and consistently attended visits with D.M. However, respondent failed to comply with her remaining client-service-plan goals. In April 2014, respondent participated in an initial substance-abuse assessment that Lloyd considered incomplete because respondent failed to provide a drug screen. Respondent told Lloyd that she wanted to resolve her housing situation before attending a substance-abuse-treatment program. In June 2014, respondent completed a drug assessment but did not start a treatment program. In November 2014, respondent admitted to Lloyd that she had been smoking cannabis on a daily basis for the past month. In December 2014, respondent successfully updated her June 2014 drug assessment but failed to begin a drug-treatment program.

¶ 16 Lloyd noted that during respondent's intact case, she received medication for her mental health, but her revised plan also required her to attend individual mental-health and domestic-violence counseling. Respondent attended the first two counseling sessions but missed her next three appointments. In June 2014, respondent began anew her domestic-violence assessment but was not attending mental-health counseling sessions. Lloyd observed instances of respondent's inability to control her anger, recounting one specific instance in which respondent threatened D.M.'s foster parents. After respondent calmed down, she apologized for her behavior, explaining that when she gets upset, it is hard for her to control her "rage."

¶ 17 Lloyd opined that as of February 27, 2015, respondent had failed to make reasonable progress on her domestic violence, substance abuse, and mental health client-service-plan goals. Specifically, Lloyd stated that during the nine-month period of May 27, 2014, to February 27, 2015, respondent failed to participate in any counseling, treatment, or therapy sessions. Lloyd opined further that at no time during her case management did she consider recommending that the trial court grant respondent unsupervised contact with D.M.

¶ 18 Bloomington police officer Curt Maas testified that in January 2015, he responded to a report of a battery at a public intersection. Upon arriving at the location, respondent told Maas that she had been struck multiple times by an unknown assailant while walking. Respondent surmised that she had been targeted because several weeks earlier, she bought cannabis, intending to deliver the drug to a buyer. Before that delivery occurred, respondent took some of the cannabis from the package, which angered the buyer. Respondent suspected that the buyer had retaliated against her.

¶ 19 Nurse practitioner Julie Gifford testified that she had seen respondent as a patient on two separate occasions for "medication management." During the initial December 2014 visit, respondent told Gifford that she had run out of her psychotropic medication, which made her moody and prone to suicidal ideation. Respondent told Gifford that in November 2014, she attempted to hang herself. In response, Gifford refilled respondent's medication, noting (1) the time that had passed since the suicide attempt and (2) that respondent had not exhibited any further suicidal ideations during the December 2014 visit. Gifford then scheduled a February 2015 appointment that respondent failed to attend. Respondent also failed to attend a March 2015 appointment. At a meeting held later that month, respondent told Gifford that she "did not think she was totally stable." In response, Gifford increased respondent's medication and scheduled another appointment.

¶ 20 Lori Farley, a therapist, testified that in January 2015, respondent was referred to her for outpatient mental-health counseling. Farley noted that, initially, the goal was to modify respondent's treatment plan and identify issues requiring further work. During that initial meeting, respondent was (1) "irritated and agitated," (2) cursing and talking loudly, and (3) not making eye contact. Respondent told Farley that she felt poorly and struggled to manage her emo-

tions because she had not smoked cannabis in the past two weeks.

¶ 21 After the initial meeting, Farley scheduled three therapy sessions during January and February 2015, but respondent missed two of the sessions. During March and April 2015, respondent did not attend two of five scheduled therapy sessions. After each missed session, Farley attempted—with sporadic success—to contact respondent and reschedule. Farley stated that she was in the "engagement" phase of respondent's counseling, which concerned building rapport. Farley estimated that she would require "a number of sessions" to develop the "trust needed to really do the work you would do in therapy." Farley opined that respondent would have been further along in the process if she had attended the four missed appointments but cautioned that even if respondent had attended the missed sessions, it would not necessarily mean that respondent would have progressed past the engagement stage.

¶ 22 Carrie Anderson, an outpatient chemical dependency coordinator for Chestnut Health Systems, testified that in December 2014, respondent started Chestnut's intensive outpatient drug treatment program, which consisted of (1) group therapy sessions that occurred 3 times per week lasting 3 1/2 hours per session and (2) an individual counseling session that occurred every other week. In April 2015, respondent was discharged unsuccessfully from Chestnut's intensive outpatient drug treatment program for failure to comply with the terms of the program. Specifically, Anderson noted that respondent (1) did not attend mandated 12-step-program meetings, (2) had four unexcused absences, (3) refused to comply with 14 drug screens, and (4) tested positive for cannabis on all 5 drug screens that occurred from December 2014 to February 2015.

¶ 23 Respondent did not present any evidence.

¶ 24 Following the presentation of argument, the trial court found respondent unfit as alleged in the State's February 2015 petition to terminate parental rights.

¶ 25 2. *The Best-Interest Hearing*

¶ 26 At the best-interest hearing held immediately thereafter, the trial court considered evidence concerning (1) D.M.'s scheduled surgery to correct his profound hearing loss, (2) DCFS' postoperative plan, (3) the permanency provided by his current foster family, and (4) future plans to transition D.M. to another foster family who was willing to adopt him. The court also considered respondent's request for more time to complete her client-service-plan goals.

¶ 27 Following the presentation of argument, the trial court found that it was in D.M.'s best interest to terminate respondent's parental rights.

¶ 28 This appeal followed.

¶ 29 II. THE TRIAL COURT'S FITNESS DETERMINATION

¶ 30 Respondent argues that the trial court's fitness determination was against the manifest weight of the evidence. We disagree.

¶ 31 A. The Applicable Statute, Reasonable Progress, and the Standard of Review

¶ 32 Section 1(D) of the Adoption Act provides, in pertinent part, as follows:

> "D. 'Unfit person' means any person whom the court shall find to be unfit to have a child, without regard to the likelihood that the child will be placed for adoption. The grounds of unfitness are any one or more of the following, except that a person shall not be considered an unfit person for the sole reason that the person has relinquished a child in accordance with the Abandoned Newborn Infant Protection Act:
>
> * * *
>
> (m) Failure by a parent *** (ii) to make rea-

> sonable progress toward the return of the child to the parent during any [nine]-month period following the adjudication of neglected or abused minor under Section 2-3 of the [Juvenile Act]." 750 ILCS 50/1(D)(m)(ii) (West 2014).

¶ 33 In *In re C.N.*, 196 Ill. 2d 181, 216-17, 752 N.E.2d 1030, 1050 (2001), the supreme court discussed the following benchmark for measuring "reasonable progress" under section 1(D)(m) of the Adoption Act:

> "[T]he benchmark for measuring a parent's 'progress toward the return of the child' under section 1(D)(m) of the Adoption Act encompasses 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 in light of other conditions which later become known and which would prevent the court from returning custody of the child to the parent."

¶ 34 In *In re L.L.S.*, 218 Ill. App. 3d 444, 461, 577 N.E.2d 1375, 1387 (1991), this court discussed reasonable progress under section 1(D)(m) of the Adoption Act and held as follows:

> " 'Reasonable progress' *** exists when the [trial] court *** can conclude that *** the court, in the *near future*, will be able to order the child returned to parental custody. The court will be able to order the child returned to parental custody in the near future because, at that point, the parent *will have fully complied* with the di-

rectives previously given to the parent ***." (Emphases in original.)

¶ 35 The supreme court's discussion in *C.N.* regarding the benchmark for measuring a parent's progress did not alter or call into question this court's holding in *L.L.S.* For cases citing the *L.L.S.* holding approvingly, see *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1067, 859 N.E.2d 123, 137 (2006); *In re Jordan V.*, 347 Ill. App. 3d 1057, 1068, 808 N.E.2d 596, 605 (2004); *In re B.W.*, 309 Ill. App. 3d 493, 499, 721 N.E.2d 1202, 1207 (1999); and *In re K.P.*, 305 Ill. App. 3d 175, 180, 711 N.E.2d 478, 482 (1999).

¶ 36 "The State must prove parental unfitness by clear and convincing evidence, and the trial court's findings must be given great deference because of its superior opportunity to observe the witnesses and evaluate their credibility." *Jordan V.*, 347 Ill. App. 3d at 1067, 808 N.E.2d at 604. A reviewing court will not reverse a trial court's fitness finding unless it is contrary to the manifest weight of the evidence, meaning that the opposite conclusion is clearly evident from a review of the record. *Id.*

¶ 37 B. Respondent's Fitness Claim

¶ 38 In support of her argument, respondent contends that the State did not establish the condition that resulted in the removal of D.M. from respondent's care. We disagree.

¶ 39 In this case, the evidence presented by the State at the April 2015 fitness hearing pertained to respondent's inability to successfully complete service-plan goals that—as the trial court correctly noted—were devised to address issues of such a serious nature, they necessitated the removal of D.M. from her care. Specifically, that respondent had unresolved substance-abuse, domestic-violence, and mental-health concerns. We note that in stating its rationale for finding respondent unfit, the court commented that although respondent had been receiving med-

ication for her mental-health issues, her "outbursts" during the proceedings "suggest [respondent] has a long way to go, even if she is medication compliant." Indeed, the evidence presented by the State showed that respondent had not made any reasonable progress toward addressing those issues. Respondent's unwillingness to take measureable steps to regain custody of D.M. despite numerous opportunities to do so is the complete opposite of making "reasonable progress toward the return of the child." 750 ILCS 50/1(D)(m)(ii) (West 2014).

¶ 40 Contrary to respondent's claim, the trial court was fully aware of the circumstances that caused the court to make D.M. a ward of the court and place him in DCFS' protective care. More important, we conclude that the court's finding that respondent did not make *reasonable* progress within the meaning of section 1(D)(m)(ii) of the Adoption Act was not against the manifest weight of the evidence.

¶ 41 Having so concluded, we need not consider the trial court's other findings of parental fitness against respondent. See *In re Katrina R.*, 364 Ill. App. 3d 834, 842, 847 N.E.2d 586, 593 (2006) (on review, if sufficient evidence is shown to satisfy any one statutory ground, we need not consider other findings of parental fitness).

¶ 42 Accordingly, because respondent does not challenge the trial court's best interest determination, we agree with the court's decision that the evidence supported termination of respondents' parental rights.

¶ 43 III. CONCLUSION

¶ 44 For the reasons stated, we affirm the trial court's judgment.

¶ 45 Affirmed.