2015 IL App (4th) 150398-U

NOS. 4-15-0398, 4-15-0399 cons.

FILED
September 18, 2015
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: S.M., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Vermilion County
v. (No. 4-15-0398)	)	No. 13JA83
RAHEEM MOHAMMED,	)	
Respondent-Appellant.	)	
----------	)	
In re: S.H., a Minor,	)	No. 14JA59
THE PEOPLE OF THE STATE OF ILLINOIS,	)	
Petitioner-Appellee,	)	
v. (No. 4-15-0399)	)	Honorable
RAHEEM MOHAMMED,	)	Claudia S. Anderson,
Respondent-Appellant.	)	Judge Presiding.

JUSTICE HOLDER WHITE delivered the judgment of the court.
Presiding Justice Pope and Justice Steigmann concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, concluding the trial court's unfitness and best-interest findings were not against the manifest weight of the evidence.

¶ 2 In October 2014, the State filed a petition to terminate the parental rights of respondent, Raheem Mohammed, as to his children, S.M. (born August 18, 2009) and S.H. (born April 16, 2014). Respondent mother, Mesha Haynes, is not a party to this appeal, nor is another child, M.H., of whom respondent is not the father. Following an April 2015 hearing, the trial court found respondent unfit. Later that month, the court determined it was in the best interest of the children to terminate respondent's parental rights.

¶ 3 Respondent appeals, asserting the trial court erred in finding him unfit and determining it was in the children's best interest to terminate his parental rights. For the following reasons, we affirm.

¶ 4 I. BACKGROUND

¶ 5 A. Initial Proceedings

¶ 6 1. *Proceedings as to S.M.*

¶ 7 In July 2013, the State filed a petition for adjudication of wardship, asserting S.M. was neglected in that she was subjected to an environment injurious to her welfare due to respondent mother's failure to (1) comply with her intact case requirements (count I); and (2) provide for the medical needs of her sibling, M.H. 705 ILCS 405/2-3(1)(b) (West 2012). M.H. was born exposed to alcohol and respondent mother failed to take M.H. to doctor's appointments. In November 2013, the trial court entered an adjudicatory order finding S.M. neglected as alleged in the petition. In December 2013, the court (1) found respondent was unfit and unable to protect, train, educate, supervise, or discipline S.M.; (2) made the minor a ward of the court; and (3) appointed the Department of Children and Family Services (DCFS) as guardian with the authority to place S.M.

¶ 8 2. *Proceedings as to S.H.*

¶ 9 In April 2014, following S.H.'s birth, the State filed a petition for adjudication of wardship after lab reports revealed she had been exposed to marijuana prior to her birth. The petition alleged S.H. was neglected in that (1) respondent mother subjected her to an injurious environment by failing to comply with the service plan regarding her other children (705 ILCS 405/2-3(1)(b) (West 2012)); (2) respondent mother subjected her to an injurious environment by failing to obtain prenatal care prior to S.H.'s birth (705 ILCS 405/2-3(1)(b) (West 2012); and (3)

she was not receiving the proper and necessary medical or other remedial care as needed for her well-being (705 ILCS 405/2-3(1)(a) (West 2012)). In August 2014, the trial court adjudicated S.H. a neglected minor. In October 2014, the court entered a dispositional order (1) finding respondent was unfit, unwilling, and unable to protect, train, educate, supervise, or discipline S.H.; (2) making S.H. a ward of the court; and (3) appointing DCFS as guardian with the authority to place S.H.

¶ 10 B. Termination Proceedings

¶ 11 In October 2014, the State filed a petition to terminate respondent's parental rights. As to S.M., the petition alleged respondent (1) abandoned her (750 ILCS 50/1(D)(a) (West 2012)); (2) failed to demonstrate a reasonable degree of interest, concern, or responsibility for her welfare (750 ILCS 50/1(D)(b) (West 2012)); (3) deserted her for more than three months preceding the petition to terminate his parental rights (750 ILCS 50/1(D)(c) (West 2012)); (4) failed to make reasonable efforts to correct the conditions which brought S.M. into DCFS custody within nine months of the adjudication of neglect (750 ILCS 50/1(D)(m)(i) (West 2012)); and (5) failed to make reasonable progress toward the return home of S.M. during the initial nine-month period following the adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2012)). As to S.H., the petition alleged respondent (1) abandoned her (750 ILCS 50/1(D)(a) (West 2012)); (2) failed to demonstrate a reasonable degree of interest, concern, or responsibility for her welfare (750 ILCS 50/1(D)(b) (West 2012)); and (3) deserted her for more than three months preceding the petition to terminate his parental rights (750 ILCS 50/1(D)(c) (West 2012)).

¶ 12 1. *Fitness Hearing*

¶ 13 In April 2015, respondent's fitness hearing commenced. Respondent, who had a history of sporadic appearances, failed to appear, but the trial court proceeded with the hearing after denying his attorney's motion for a continuance.

¶ 14 a. Brooke Lanter

¶ 15 Brooke Lanter, a child-protection investigator for DCFS, testified she was the family's caseworker between October 2013 and February 2014 while she was employed with the Center for Youth and Family Solutions (CYFS). At the time she became involved with the case, CYFS had concerns over respondent's substance-abuse issues. Lanter had phone contact with respondent, who resided in Danville, and scheduled three or four appointments to meet with him. During the only meeting respondent attended, Lanter referred him for a substance-abuse assessment at Prairie Center in Danville. Although respondent scheduled the assessment, he never attended. He also failed to complete court-ordered drug testing as a condition for visitation, which resulted in him having no visits with S.M.

¶ 16 Prior to Lanter's involvement in the case, respondent had attended parenting classes but did not successfully complete them. In attempting to facilitate respondent's attendance at substance-abuse counseling, Lanter provided him with bus tickets and told him gas cards were available if someone transported him.

¶ 17 b. Kristen Larkin

¶ 18 Kristen Larkin testified she had been a caseworker with CYFS since 2005. Between February 2014 and October 2014, she served as the family's caseworker. In March 2014, Larkin referred respondent to parenting classes and substance-abuse treatment. Following Larkin's March 2014 referral, respondent scheduled an appointment for a substance-abuse assessment at Prairie Center but did not appear for his appointment. In June 2014, Larkin again

referred respondent for substance-abuse treatment but, again, he failed to appear for the assessment. At the end of July 2014, respondent was briefly incarcerated for criminal trespass. By September 2014, he had been released from jail and Larkin referred respondent to substance-abuse treatment for a third time. Respondent never called to set up an appointment at Prairie Center.

¶ 19 Because respondent had previously failed parenting classes, Larkin referred him for individual parenting classes. Respondent attended "a couple" of sessions and then stopped attending. During Larkin's tenure as caseworker, respondent had no visits with S.M. due to his failure to submit to court-ordered drug testing.

¶ 20 In April 2014, respondent mother gave birth to S.H. and, in July 2014, deoxyribonucleic acid (DNA) testing revealed respondent to be S.H.'s father. Larkin stated she told respondent his service plan remained the same. Due to his continued noncompliance with the service plan and court-ordered drug testing, respondent had no visits with S.H.

¶ 21 c. Melinda Doland

¶ 22 Melinda Doland testified she had been the CYFS caseworker for the family since October 2014. Her first contact with respondent was on November 25, 2014, at which time she discussed with him the service plan. She referred him to substance-abuse treatment at Prairie Center and told him she would be referring him to parenting classes so they could begin visitation with the children. Respondent never appeared for a substance-abuse assessment. Because respondent stopped taking or returning Doland's calls, she was unable to complete a referral for parenting classes. Her last contact with respondent was in January 2015. Respondent also never submitted to drug testing as a precursor to initiating visits because Doland

was unable to reach him by phone. S.M.'s last visit with respondent was in December 2013, and S.H. had never visited him.

¶ 23 Following the presentation of evidence, the trial court found respondent unfit on all of the grounds set forth in the petitions to terminate his parental rights, except for the allegations that he deserted the children.

¶ 24 2. *Best-Interest Hearing*

¶ 25 Later that month, the trial court held a best-interest hearing. Respondent again failed to appear for the hearing.

¶ 26 Olivia Bray, who became the family's CYFS caseworker earlier in the month, testified the children resided in different traditional foster homes. S.M., who was placed with her sister, M.H., appeared bonded to her foster parents and the other foster siblings within the home. The foster parents expressed an interest in adopting her and M.H. S.M. had been engaging in weekly play therapy, which the foster parents coordinated and agreed to maintain. S.H. was also placed with a foster family with whom she appeared to be bonded, and the family expressed interest in adopting her. Both sets of foster parents were adamant the children continue visits with one another.

¶ 27 Larkin testified she completed the best-interest report for the hearing. During her tenure, S.M. never asked about respondent, nor would she talk about him when prompted to do so. Respondent never sent S.M. gifts, letters, money, or other items to show his affection.

¶ 28 The best-interest report was consistent with the evidence presented at the hearing. The report further indicated S.M. appeared to be happy in her foster placement. She was approximately six months behind in school, which her teachers attributed to a lack of confidence. She was engaged in play therapy to address her tendency to attach to males too quickly. S.H.

was very bonded with her foster family, as illustrated by her quickly recognizing and then seeking out her foster father upon hearing his voice.

¶ 29 Following the presentation of evidence, the trial court found it was in the best interest of S.M. and S.H. to terminate respondent's parental rights. The court noted the children had bonded with their respective foster families, whereas respondent had shown little interest in his children.

¶ 30 Respondent filed notices of appeal as to both children. We docketed the appeal as related to S.M. as 4-15-0398 and S.H. as 4-15-0399. We have consolidated these cases for review.

¶ 31 II. ANALYSIS

¶ 32 On appeal, respondent argues the trial court erred in finding him unfit and determining it was in the children's best interest to terminate his parental rights. We address these arguments in turn.

¶ 33 A. Fitness Finding

¶ 34 Respondent first asserts the trial court erred by finding him unfit. The State has the burden of proving parental unfitness by clear and convincing evidence. *In re Jordan V.*, 347 Ill. App. 3d 1057, 1067, 808 N.E.2d 596, 604 (2004). A reviewing court will not overturn the trial court's finding of unfitness unless it is against the manifest weight of the evidence. *Id.* The court's decision is given great deference due to "its superior opportunity to observe the witnesses and evaluate their credibility." *Id.*

¶ 35 In this case, the trial court found respondent unfit on multiple grounds. However, "[w]hen multiple grounds of unfitness have been alleged, a finding that any one allegation has been proved is sufficient to sustain a parental unfitness finding." *In re D.H.*, 323 Ill. App. 3d 1,

9, 751 N.E.2d 54, 61 (2001). Therefore, we begin by examining whether the trial court erred by finding respondent failed to maintain a reasonable degree of interest, concern, or responsibility for his children.

¶ 36 A parent's interest, concern, or responsibility toward his or her child must be objectively reasonable under the circumstances. *In re J.B.*, 2014 IL App (1st) 140773, ¶ 51, 19 N.E.3d 1273. Courts have found "[n]oncompliance with an imposed service plan, a continued addiction to drugs, a repeated failure to obtain treatment for an addiction, and infrequent or irregular visitation with the child" sufficient to warrant a finding of unfitness under this subsection. *In re Jaron Z.*, 348 Ill. App. 3d 239, 259, 810 N.E.2d 108, 125 (2004).

¶ 37 Here, respondent's caseworkers repeatedly referred him to parenting classes and substance-abuse assessments. He failed to complete his parenting classes and, despite at least five referrals for substance-abuse treatment, he failed to engage in treatment. Moreover, respondent failed to submit to any court-ordered drug tests as a condition for visiting his children. As a result, he had not visited with S.M. since December 2013, and he had never visited with S.H. During the pendency of the case, respondent was noncompliant with the service plan, repeatedly failed to obtain treatment for his substance-abuse issues, and had infrequent, if any, visitation with the children. Larkin testified respondent did not send letters, gifts, cards, or money in lieu of visitation to show his ongoing interest in the children. We also note respondent's failure to appear at the fitness hearing demonstrates his lack of interest, concern, and responsibility for the children. Accordingly, we conclude the trial court's finding of unfitness was not against the manifest weight of the evidence.

¶ 38 B. Best-Interest Finding

¶ 39 Respondent next asserts the trial court erred in terminating his parental rights. We disagree.

¶ 40 Once the trial court determines a parent to be unfit, the next stage is to determine whether it is in the best interest of the minor to terminate parental rights. *Id.* at 261, 810 N.E.2d at 126. The State must prove by a preponderance of the evidence that termination is in the best interest of the minor. *Id*. The court's finding will not be overturned unless it is against the manifest weight of the evidence. *Id.* at 261-62, 810 N.E.2d at 126-27.

¶ 41 The focus of the best-interest hearing is determining the best interest of the child, not the parent. 705 ILCS 405/1-3(4.05) (West 2012). The trial court must consider the following factors, in the context of the child's age and developmental needs, in determining whether to terminate parental rights:

> "(a) the physical safety and welfare of the child, including food, shelter, health, and clothing;
>
> (b) the development of the child's identity;
>
> (c) the child's background and ties, including familial, cultural, and religious;
>
> (d) the child's sense of attachments ***[;]
>
> * * *
>
> (e) the child's wishes and long-term goals;
>
> (f) the child's community ties, including church, school, and friends;

(g) the child's need for permanence which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives;

(h) the uniqueness of every family and child;

(i) the risks attendant to entering and being in substitute care; and

(j) the preferences of the persons available to care for the child." 705 ILCS 405/1-3(4.05) (West 2012).

¶ 42 Here, the record demonstrates the children have bonded with their respective foster families, and those families remain committed to continuing visits between the siblings. The foster families also expressed an interest in adopting the children, which has provided permanence and stability in the children's lives. Conversely, respondent had not complied with the service plan or made any efforts toward addressing his drug addiction. Thus, respondent was in no position to provide permanency to the children without endangering their physical safety and welfare. He had also taken few, if any, steps toward developing any sort of relationship with his children. S.M. refused to speak about him, and respondent refused to acknowledge his paternity of S.H., despite a DNA test confirming he was her father. This has resulted in the children having little to no attachment to respondent.

¶ 43 Accordingly, we conclude the trial court's finding that it was in the children's best interest to terminate respondent's parental rights was not against the manifest weight of the evidence.

¶ 44 III. CONCLUSION

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

¶ 46 Affirmed.