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

2015 IL App (4th) 150413-U

NOS. 4-15-0413, 4-15-0414, 4-15-0415, 4-15-0416 cons.

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: A.H., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Vermilion County
v. (No. 4-15-0413)	)	No. 13JA148
JERMAINE HUNT,	)	
Respondent-Appellant.	)	
	)	
In re: J.H., a Minor,	)	No. 13JA149
THE PEOPLE OF THE STATE OF ILLINOIS,	)	
Petitioner-Appellee,	)	
v. (No. 4-14-0414)	)	
JERMAINE HUNT,	)	
Respondent-Appellant.	)	
	)	
In re: A.H., a Minor,	)	No. 13JA148
THE PEOPLE OF THE STATE OF ILLINOIS,	)	
Petitioner-Appellee,	)	
v. (No. 4-14-0415)	)	
ASHLEY COMPTON,	)	
Respondent-Appellant.	)	
	)	
In re: J.H., a Minor,	)	No. 13JA149
THE PEOPLE OF THE STATE OF ILLINOIS,	)	
Petitioner-Appellee,	)	
v. (No. 4-14-0416)	)	Honorable
ASHLEY COMPTON,	)	Claudia S. Anderson,
Respondent-Appellant.	)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.
Justices Turner and Harris concurred in the judgment.

ORDER

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

¶ 2 In November 2014, the State filed separate petitions to terminate the parental rights of respondents, Jermaine Hunt and Ashley Compton, as to their children, A.H. (born April 30, 2005) (Vermilion County case No. 13-JA-0148) and J.H. (born July 16, 2008) (Vermilion County case No. 13-JA-0149). Following an April 2015 fitness hearing, the trial court found respondents unfit. At a best-interest hearing held immediately thereafter, the court terminated respondents' parental rights.

¶ 3 Respondents appeal, arguing that the trial court's fitness and best-interest determinations were against the manifest weight of the evidence. We affirm.

¶ 4 I. BACKGROUND

¶ 5 A. The Events Preceding the State's Motion To Terminate Parental Rights

¶ 6 On December 13, 2013, the State filed separate petitions for adjudication of wardship, alleging that A.H. and J.H. were abused and neglected minors under various sections of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(2)(v), (1)(a), (1)(b) (West 2012)). Common to each petition were the State's allegations that A.H. and J.H. were in an environment injurious to their welfare due to (1) respondent mother's drug abuse; (2) respondents' domestic-violence issues; and (3) respondent mother's inability to provide A.H. and J.H. the proper and necessary support, education, and other remedial care. The State also alleged that respondent mother had abused A.H. by inflicting excessive corporal punishment.

¶ 7 At a shelter-care hearing conducted that day, the trial court found that an immediate and urgent necessity required the children's placement in shelter care based on testimony that respondent mother admitted to a child-protection specialist employed by the Department of Children and Family Services (DCFS) that she had (1) consumed methamphetamine, cannabis, and Vicodin—a prescription medication—earlier that day and (2) struck A.H. with a belt.

¶ 8 Following a February 14, 2014, adjudicatory hearing, the trial court determined that A.H. and J.H. were neglected minors based on respondent mother's stipulation that she had placed them in an environment injurious to their welfare by abusing drugs. (Despite the State's attempts to locate respondent father, he was not present at the adjudicatory hearing.) Following a May 2014 dispositional hearing, the court made A.H. and J.H. wards of the court and maintained DCFS as their guardian. (At the time of the dispositional hearing, the State had located respondent father but he declined to participate in the proceedings, citing a work conflict.)

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

¶ 10 In November 2014, the State filed separate petitions to terminate respondents' parental rights.

¶ 11 As to respondent mother, the State alleged that she was unfit within the meaning of section 1(D) of the Adoption Act in that she (1) failed to maintain a reasonable degree of interest, concern, or responsibility as to her children's welfare (750 ILCS 50/1(D)(b) (West 2014)); (2) had deserted her children for more than three months preceding the State's termination petition (750 ILCS 50/1(D)(c) (West 2014)); (3) failed to make reasonable efforts to correct the conditions that were the basis for the children's removal during any nine-month period following the adjudication of neglect (750 ILCS 50/1(D)(m)(i) (West 2014)); and (4) failed to make reasonable progress toward the return of the children during any nine-month period following the adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2014)).

¶ 12 As to respondent father, the State alleged that he was unfit within the meaning of section 1(D) of the Adoption Act in that he (1) had abandoned his children (750 ILCS 50/1(D)(a) (West 2014)); (2) failed to maintain a reasonable degree of interest, concern, or responsibility as to his children's welfare; (3) had deserted his children for more than three months preceding the

State's termination petition; (4) failed to make reasonable efforts to correct the conditions that were the basis for the children's removal during any nine-month period following the adjudication of neglect; and (5) failed to make reasonable progress toward the return of the children during any nine-month period following the adjudication of neglect. The State identified the relevant nine-month period as February 14, 2014, to November 14, 2014.

¶ 13 1. *The April 2015 Fitness Hearing*

¶ 14 Before the start of respondents' fitness hearing, respondent father's counsel moved for a continuance, citing his client's inability to attend the fitness hearing due to his homelessness. The trial court denied counsel's motion. Thereafter, the State presented the following pertinent evidence.

¶ 15 Michael Tolles, a caseworker employed by the Center for Youth and Family Solutions (Center), a DCFS contractor, testified that in June 2014, he began managing the instant case. At that time, respondent father was in a Decatur homeless shelter, but he later moved to a Peoria and then a Champaign homeless shelter. Tolles explained that because respondent father did not complete an initial integrated assessment, the previous caseworker devised independently a client-service plan she believed would benefit respondent father. That plan, which the caseworker mailed to respondent father, required him to successfully complete certain goals related to (1) substance abuse, (2) domestic violence, and (3) suitable housing.

¶ 16 Tolles had spoken to respondent father by phone on at least three occasions—the first occurring in June 2014—urging him to start services to regain custody of A.H. and J.H. During Tolles' tenure, however, respondent father (1) did not complete any of his client-service-plan goals, (2) did not visit with A.H. or J.H., and (3) tested positive for cannabis use in November 2014. Tolles acknowledged that just prior to the fitness hearing, respondent father informed

him that he was still homeless, but he "wanted an extension of time with the court."

¶ 17 Tolles' first contact with respondent mother occurred in July 2014, while she was incarcerated in the Vermillion County jail. At that time, Tolles estimated that respondent mother had been incarcerated for approximately six weeks on methamphetamine-related charges. After respondent mother's October 2014 release, Tolles referred her to services targeted at addressing substance abuse, individual counseling, and domestic-violence issues. Tolles stated that although respondent mother began performing those services, she was later discharged unsuccessfully from each referral for nonattendance. Tolles did not have a current address for respondent mother, and his attempts to contact her by phone went unanswered. In addition, Tolles could not leave respondent mother a phone message because her voicemail was not activated. Respondent mother visited A.H. and J.H. twice during December 2014, but was not allowed to visit them on January 20, 2015, because she tested positive for methamphetamine. Respondent mother did not thereafter visit A.H. and J.H. Tolles' last contact with respondent mother occurred by phone in January 2015.

¶ 18 Carla Paterson-Dumas (Dumas), a therapist employed by the Center, testified that DCFS had referred respondent mother to her for (1) domestic-violence, (2) parenting, and (3) chemical-dependency counseling. On May 7, 2014, respondent mother met with Dumas and completed an initial assessment, which included receiving respondent mother's contact information. Dumas then scheduled a recurring appointment with respondent mother, which occurred on the same day and time each week. On May, 14, 2014, respondent met with Dumas and began a mental-health assessment, which was continued to May 21, 2014. Respondent mother missed that appointment. Despite Dumas' efforts to contact respondent mother through her (1) contact information and (2) DCFS caseworker, respondent mother did not again meet with Dumas. Du-

mas subsequently learned that in June 2014, respondent mother was incarcerated. In July 2014, Dumas closed respondent mother's case file.

¶ 19 Respondents did not present any evidence.

¶ 20 Following the presentation of argument, the trial court found respondent father unfit as to all five grounds alleged in the State's November 2014 petition to terminate his parental rights. As to respondent mother, the court determined that she was unfit in that she failed to (1) maintain a reasonable degree of interest, concern, or responsibility as to her children's welfare; (2) make reasonable efforts to correct the conditions that were the basis for the children's removal during any nine-month period following the adjudication of neglect; and (3) make reasonable progress toward the return of the children during any nine-month period following the adjudication of neglect. The court also determined that the State had failed to satisfy its burden of proof that respondent mother was unfit because she had deserted her children for more than three months preceding the State's termination petition.

¶ 21 2. *The Best-Interest Hearing*

¶ 22 At a best-interest hearing conducted immediately thereafter, the trial court considered the following evidence provided by the State.

¶ 23 Tolles testified that for the past two months, A.H. and J.H. had been residing with their paternal uncle and his fiancée. Prior to that placement, A.H. and J.H. resided with another family member, but that person could not continue caring for them because of a medical condition. Tolles recounted that before their placement with the family member, A.H. and J.H. had been moved several times among other family members and traditional foster families.

¶ 24 Tolles described the relationship between A.H. and J.H. and their current foster family as loving and appropriate and observed that A.H. and J.H. were treated as siblings by the

three additional children that resided in the home. Tolles noted that the foster family had taken A.H. and J.H. to a psychiatrist to (1) renew their medication for their attention deficit/hyper-activity disorder and (2) address concerns regarding depression exhibited by A.H. Although the foster parents were not yet married, they indicated their willingness to provide permanency for A.H. and J.H. Tolles stated that he had no reservations regarding the placement of A.H. and J.H. with their current foster family, elaborating that he was confident that the current placement would provide A.H. and J.H. permanency because "these foster parents *** are committed to taking these children and taking care of them."

¶ 25 Respondents did not provide any evidence.

¶ 26 Following argument, the trial court found that it was in the best interest of A.H. and J.H. that respondents' parental rights be terminated.

¶ 27 This appeal followed.

¶ 28 II. ANALYSIS

¶ 29 A. The Trial Court's Fitness Determination

¶ 30 1. *The Applicable Statute, Reasonable Progress, and the Standard of Review*

¶ 31 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 reasonable 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 Court Act]." 750 ILCS 50/1(D)(m)(ii) (West 2014).

¶ 32 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."

¶ 33 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 directives previously given to the parent ***." (Emphases in original.)

¶ 34 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).

¶ 35 "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.*

¶ 36 2. *Respondents' Fitness Claims*

¶ 37 Respondents argue that the trial court's fitness determinations were against the manifest weight of the evidence. We disagree.

¶ 38 In this case, the evidence presented by the State at the April 2015 fitness hearing showed that respondents were not able to make reasonable progress toward their respective client-service-plan goals such that A.H. and J.H. could have been returned to their custody in the near future. In particular, respondent father's efforts were nonexistent in that he did not even par-

ticipate in the first step of the process—that is, he failed to cooperate by undergoing an initial integrated assessment to identify the specific deficiencies he would have to address to regain custody of A.H. and J.H. Similarly, although respondent mother did make some initial progress toward addressing the deficiencies that necessitated the removal of A.H. and J.H. from her care following her October 2014 release from jail, her progress stalled and she was eventually discharged unsuccessfully from each of those requirements.

¶ 39 Mindful of the importance that the Adoption Act places on a minor's interest in permanency and stability, we note that at respondents' April 2015 fitness hearing, respondents were not in a better position to provide such permanency and stability than when A.H. and J.H. were adjudicated neglected 14 month earlier. See *In re Brandon A.*, 395 Ill. App. 3d 224, 238, 916 N.E.2d 890, 902-03 (2009) (noting that the Adoption Act recognizes a child's interest in a permanent and stable home environment with a positive, caring role model).

¶ 40 Accordingly, we conclude that the trial court's finding that respondents 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 unfitness 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 unfitness).

¶ 42 B. The Trial Court's Best-Interest Determination

¶ 43 1. *Standard of Review*

¶ 44 At the best-interest stage of parental-termination proceedings, the State bears the burden of proving by a preponderance of the evidence that termination of parental rights is in the

child's best interest. *In re Jay. H.*, 395 Ill. App. 3d 1063, 1071, 918 N.E.2d 284, 290-91 (2009). Consequently, at the best-interest stage of termination proceedings, " 'the parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life.' [Citation.]" *In re T.A.*, 359 Ill. App. 3d 953, 959, 835 N.E.2d 908, 912 (2005).

¶ 45 "We will not reverse the trial court's best-interest determination unless it was against the manifest weight of the evidence." *Jay. H.*, 395 Ill. App. 3d at 1071, 918 N.E.2d at 291. A best-interest determination is against the manifest weight of the evidence only if the facts clearly demonstrate that the court should have reached the opposite result. *Id.*

¶ 46 2. *The Trial Court's Best-Interest Finding in This Case*

¶ 47 In this case, the evidence presented at the best-interest hearing showed that although A.H. and J.H. had been placed with their current foster family for only two months, Tolles noted that (1) A.H. and J.H. were in a loving environment where they were being treated as family members, (2) the foster parents pledged to provide A.H. and J.H. stability and permanency, and (3) the foster parents demonstrated their commitment to A.H. and J.H. by ensuring their current medical needs were being addressed. In addition, Tolles expressed his confidence that the foster parents were committed to ensuring the best interest of A.H. and J.H. Respondents, on the other hand, were not reasonably capable of caring for A.H. and J.H. in the foreseeable future, given that they had yet to successfully address their personal deficiencies.

¶ 48 Based upon the evidence presented, we agree with the trial court's finding that the evidence favored termination of respondents' parental rights.

¶ 49 III. CONCLUSION

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

¶ 51 Affirmed.