2015 IL App (4th) 150508-U

NOS. 4-15-0508, 4-15-0509, 4-15-0510 cons.

FILED
November 4, 2015
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: R.T., a Minor, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-15-0508) RAVEN THOMPSON, Respondent-Appellant.	)	Appeal from Circuit Court of Vermilion County No. 12JA44
In re: A.B., a Minor, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-15-0509) RAVEN THOMPSON, Respondent-Appellant.	)	No. 12JA45
In re: N.T., a Minor, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-15-0510) RAVEN THOMPSON, Respondent-Appellant.	)	No. 12JA46 Honorable Claudia S. Anderson, Judge Presiding.

JUSTICE APPLETON delivered the judgment of the court.
Justices Harris and Steigmann concurred in the judgment.

ORDER

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

¶ 2 In April 2014, the State filed separate petitions to terminate the parental rights of respondent, Raven Thompson, as to her children, R.T. (born March 14, 2009) (Vermilion County case No. 12-JA-44), A.B. (born September 13, 2011) (Vermilion County case No. 12-JA-45),

and N.T. (born December 13, 2007) (Vermilion County case No. 12-JA-46). Following an April 2015 fitness hearing, the trial court found respondent unfit. At a May 2015 best-interest hearing, the court terminated respondent's parental rights.

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

¶ 4 I. BACKGROUND

¶ 5 On July 10, 2012, the State filed separate petitions for adjudication of wardship, alleging R.T. was an abused minor and N.T. and A.B. were neglected minors under various sections of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(2)(i), (1)(b) (West 2010)). Common to each petition were the State's allegations that respondent's paramour abused R.T., causing all three minors' environments, when they resided with respondent, to be injurious to their welfare. The minors were taken into protective custody and the Department of Children and Family Services (DCFS) placed them with their maternal stepgrandmother, Stacey Benson.

¶ 6 Following a September 2012 adjudicatory hearing, the trial court determined the minors were abused and/or neglected based on respondent's stipulation. Respondent stipulated she had allowed physical abuse to be inflicted on R.T. and had placed A.B. and N.T. in an environment injurious to their welfare due to their exposure to the risk of physical abuse. Following an October 2012 dispositional hearing, the court made the minors wards of the court and maintained DCFS as their guardian.

¶ 7 In April 2014, the State filed separate petitions to terminate respondent's parental rights. The State alleged she was unfit within the meaning of section 1(D) of the Adoption Act in that she (1) abandoned the minors (750 ILCS 50/1(D)(a) (West 2012)); (2) failed to maintain a

reasonable degree of interest, concern, or responsibility as to her children's welfare (750 ILCS 50/1(D)(b) (West 2012)); (3) had deserted her children for more than three months preceding the State's termination petition (750 ILCS 50/1(D)(c) (West 2012)); (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 (September 26, 2012, to June 26, 2013) (750 ILCS 50/1(D)(m)(i) (West 2012)); (5) failed to make reasonable progress toward the return of the children during the initial nine-month period following the adjudication of neglect (September 26, 2012, to June 26, 2013) (750 ILCS 50/1(D)(m)(ii) (West 2012)); and (6) failed to make reasonable progress toward the return of the children during any nine-month period following the adjudication of neglect (June 26, 2013, to March 26, 2014) (750 ILCS 50/1(D)(m)(iii) (West 2012)).

¶ 8 At the April 2015 fitness hearing, Brianna Coffey, a caseworker employed by Lutheran Social Services, a DCFS contractor, testified that between July 2012 and January 2013, she was the caseworker for this case. Coffey assisted with the preparation of the integrated assessment performed on respondent. Respondent was to participate in a parenting course, individual counseling, and a substance-abuse assessment and any recommended treatment at Prairie Center. Respondent did not attend the assessment until the second referral and did not participate in substance-abuse counseling. However, she had three positive drug tests in October and November 2012.

¶ 9 In October 2012, respondent began the Family Life Skills parenting course upon Coffey's second referral. As to respondent's housing, Coffey explained, in the beginning, respondent's housing was stable. Although, in October 2012, she had been evicted for nonpayment of rent. Respondent attended weekly visits with the minors.

¶ 10 Coffey said when she "handed the case off" to her supervisor, Rachel Kramer, in January 2013, respondent was not engaged in any services, she did not have a stable residence, and she was not employed. Because she had positive drug drops and had not participated in substance-abuse counseling or parenting classes, her referral for individual counseling was delayed until those services had been completed.

¶ 11 Brittany Lutz, a caseworker also employed by Lutheran Social Services, testified between March 2013 and May 2014, she was the caseworker for this case. Lutz said she had been made aware that the family had a prior open case in 2010. Respondent had regained custody of the minors in April 2012, three months prior to the opening of this case. By the time Lutz became involved, respondent's recommended services had already been developed.

¶ 12 In March 2013, respondent was participating in substance-abuse counseling at Prairie Center, as well as parenting and domestic-violence classes with Family Life Skills. She was scheduled to participate in a psychological evaluation in June 2013. She successfully completed the parenting and domestic-violence classes in April 2013. However, in June 2013, she was unsuccessfully discharged from substance-abuse counseling due to poor attendance. She did not attend the psychological evaluation.

¶ 13 Upon her successful completion of the Family Life Skills programs, respondent was referred to individual therapy in May 2013. However, she did not begin those sessions because she decided to move to the state of Kansas in June 2013 for what she explained as employment reasons. Respondent informed Lutz she did not want to participate in services, but rather, wanted to surrender her parental rights. Prior to June 2013, respondent had maintained appropriate contact with Lutz and had participated in weekly visits with the minors.

¶ 14 Respondent remained out of state until December 2013, when Lutz met with her to discuss participation in services. Lutz referred respondent to Prairie Center in February 2014 for a substance-abuse assessment, in which she participated. She was also referred to individual counseling, in which she did not participate. Because respondent had not seen her children for over six months, she would have been required to participate in another parenting course, though the referral was never made. Lutz said visitation with the children did not resume upon respondent's return "[d]ue to the amount of time it had been since she had seen them and lack of services." Additionally, respondent's job at the time conflicted with visitation, as she worked the third shift. Lutz said respondent had no visits with her children between May 2013 and May 2014. Lutz said she lost contact with respondent at the end of March 2014.

¶ 15 Lutz further testified respondent had previously expressed her intention to have the foster mother, Benson, adopt the minors because respondent believed the minors were "better off" with Benson. In fact, Benson had expressed her willingness to adopt them.

¶ 16 Lauren Bennett, a child-welfare specialist, testified she began as the caseworker in May 2014. Since that time, respondent had not visited with the minors because she was not engaged in services. Bennett confirmed respondent's last contact with the minors was in May 2013. Respondent participated in a substance-abuse assessment at Prairie Center in December 2014, but she did not regularly attend her group sessions and was unsuccessfully discharged. She attended two individual counseling sessions at Lutheran Social Services in January 2015, but she chose not to continue. The counseling sessions were designed to address the impending termination of her parental rights. Respondent never participated in the referred mental-health assessment.

¶ 17 Bennett testified, in August 2014, DCFS received a hotline call alleging respondent was having unsupervised contact with the minors through Benson. According to the caller, respondent was living with Benson and the minors. DCFS removed the minors from Benson's home. The State rested.

¶ 18 Respondent testified she intended to participate in services. She had registered for some services but then decided to leave the state in June 2013 to pursue "better employment." She worked for Pro-Ex, a fire and water restoration company, in Kansas, earning $44 per hour. She said she spoke with Lutz about surrendering her parental rights because she wanted the opportunity to earn money so that she could send it to her stepmother Benson for the care of the minors. She said she sent two such checks to Benson for the minors' care. As of June 2013, respondent believed the minors were better off with Benson. She said she spoke with the minors on the telephone while she was away.

¶ 19 In December 2013, respondent returned to Danville and began working for a local fire and water restoration company. She continued to provide support for the minors. Also upon her return, she attended the Prairie Center substance-abuse assessment, but she did not attend the recommended sessions because she had "already passed all the drug tests and [she] kept passing drug tests." She did not feel the need to participate. Lutz had also referred her to Family Life Skills, which, she said, she successfully completed.

¶ 20 Respondent returned to Illinois from Kansas "to obtain the kids back because [she] was told that [she] couldn't surrender them." She had changed her telephone number in the spring of 2014, which is how Lutz had lost track of her. She attempted to contact Lutz but it had "always been a phone tag issue." Respondent said she would like to work toward the return of the children to her care. However, she admitted she had attempted suicide in September 2014.

¶ 21 After considering the evidence and arguments of counsel, the trial court found the State had sufficiently proved respondent was an unfit parent as to four grounds alleged. The court found respondent had failed to: (1) maintain a reasonable degree of interest, concern, or responsibility (750 ILCS 50/1(D)(b) (West 2012)); (2) make reasonable efforts to correct the conditions that were the basis for the minors' removal (750 ILCS 50/1(D)(m)(i) (West 2012)); (3) make reasonable progress toward the return of the minors during the initial nine-month period (September 25, 2012, to June 26, 2013) following adjudication (750 ILCS 50/1(D)(m)(ii) (West 2012)); and (4) make reasonable progress toward the return of the minors during any nine-month period (June 26, 2013, to March 26, 2014) following adjudication (750 ILCS 50/1(D)(m)(iii) (West 2012)).

¶ 22 The trial court found respondent had done nothing toward the goal of having the minors returned to her care. The court noted respondent (1) had not engaged in any services, (2) had lost every job she had, (3) attempted suicide, (4) made a unilateral decision not to attend substance-abuse counseling, and (5) required multiple referrals before she participated in services "and then it was a bust anyway."

¶ 23 At a best-interest hearing, the trial court considered the following evidence. For the State, Lutheran Social Services caseworker, Lauren Bennett, testified she prepared the best-interest report filed with the court. Bennett explained, in August 2014, the three minors were placed together in traditional foster placement in Champaign. The foster parents were willing to adopt all three minors, who had become "very attached" to the foster parents. Bennett had no concerns or reservations about the minors' placement. However, she did explain that N.T. had shown some emotional instability as it related to not being able to visit her grandmother, Benson. N.T. sometimes asked to see Benson, even though she preferred to live with her current foster

parents. The foster parents were capable of addressing N.T.'s emotional needs. R.T. and A.B. had also expressed their desire to remain with their current foster parents.

¶ 24 Respondent did not provide any evidence.

¶ 25 Following argument, the trial court found it was in the minors' best interest that respondent's parental rights be terminated.

¶ 26 This appeal followed.

¶ 27 II. ANALYSIS

¶ 28 A. Finding of Unfitness

¶ 29 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:
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> * * *
>
> (m) Failure by a parent *** (iii) to make reasonable progress toward the return of the child to the parent during any [nine]-month period after the end of the initial [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)(iii) (West 2012).

¶ 30 In *In re C.N.*, 196 Ill. 2d 181, 216-17 (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."

¶ 31 In *In re L.L.S.*, 218 Ill. App. 3d 444, 461 (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.)

¶ 32 "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." *In re Jordan V.*, 347 Ill. App. 3d 1057, 1067 (2004). 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. *Jordan V.*, 347 Ill. App. 3d at 1067.

¶ 33 Respondent argues the trial court's fitness determinations were against the manifest weight of the evidence. We disagree.

¶ 34 The evidence presented by the State at the April 2015 fitness hearing showed respondent failed to make any progress toward the return of the minors. As the trial court stated, respondent has "done just about squat to get these kids back, and she's had three years to do it."

¶ 35 One of the relevant time periods in the State's petition to terminate was between June 26, 2013, and March 26, 2014. During this nine-month period, respondent left the state of Illinois and moved to the state of Kansas to pursue an employment opportunity, leaving behind the only means she had of regaining custody of her children. More importantly, she left the minors for six months with little or no contact from her. She expressed to Lutz her desire to surrender her parental rights and to forego participation in services. Respondent did not visit the minors during this nine-month period. (In fact, respondent did not visit with the minors between May 2013 and May 2014.)

¶ 36 Lutz testified during the applicable nine-month period, she never felt the minors could be safely returned to respondent's care. Respondent had not successfully completed any of her services so as to allow for the return of the minors to her care. As the trial court noted, respondent was in no better position to provide permanency and stability at the time of the fitness hearing than when the minors were adjudicated neglected three years earlier. See *In re Brandon*

A., 395 Ill. App. 3d 224, 238 (2009) (noting the Adoption Act recognizes a child's interest in a permanent and stable home environment with a positive, caring role model).

¶ 37 Accordingly, we conclude the trial court's finding that respondent did not make reasonable progress within the meaning of section 1(D)(m)(iii) of the Adoption Act was not against the manifest weight of the evidence.

¶ 38 Based upon our conclusion, 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 (2006) (on review, if sufficient evidence is shown to satisfy any one statutory ground, we need not consider other findings of parental unfitness).

¶ 39 B. Best Interest Determination

¶ 40 At the best-interest stage of termination proceedings, the State must prove by a preponderance of the evidence that termination of parental rights is in the minors' best interest. *In re Jay. H.*, 395 Ill. App. 3d 1063, 1071 (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 (2005).

¶ 41 "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. 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. *Jay. H.*, 395 Ill. App. 3d at 1071.

¶ 42 Here, the evidence presented at the best-interest hearing showed the minors had been placed in their current foster placement for almost one year. The foster parents were committed to adopting the minors, agreeing to provide the required stability and permanency.

The three minors expressed their desire to remain in their current foster placement, as each minor had bonded to the foster parents. The caseworker Bennett had no concerns about the minors' current placement and opined it was in their best interest to remain with their foster parents. Respondent, on the other hand, was not reasonably capable of caring for the minors in the foreseeable future, given she had yet to successfully address any of her personal deficiencies.

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

¶ 44 III. CONCLUSION

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

¶ 46 Affirmed.