

NOTICE

Decision filed 06/18/15. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2015 IL App (5th) 150030-U

NO. 5-15-0030

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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<i>In re</i> T.D. and B.D., Minors	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Bond County.
	)	
Petitioner-Appellee,	)	
	)	
v.	)	No. 12-JA-3
	)	
David D. and Cariana D.,	)	Honorable
	)	Ronald R. Slemer,
Respondents-Appellants).	)	Judge, presiding.

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PRESIDING JUSTICE CATES delivered the judgment of the court.  
Justice Schwarm and Moore concurred in the judgment.

**ORDER**

¶ 1 *Held:* Decision to terminate parental rights was not against the manifest weight of the evidence when the parents failed to make reasonable progress toward the return of the children.

¶ 2 Respondents, David and Cariana D., Father and Mother, appeal from the order entered by the circuit court of Bond County terminating their parental rights to two of their minor children, T.D. and B.D. We affirm.

¶ 3 On February 10, 2012, a motion for temporary custody and a petition for adjudication of wardship pertaining to two minors, T.D. and B.D., was filed in Bond

County. The petition also related to four other children of Mother and Father, but those children are not involved in this appeal. Father is the birth parent of B.D., and Mother is the birth parent of T.D. After Mother and Father were married, Mother adopted B.D. and Father adopted T.D.

¶ 4 At the shelter care hearing, the court found probable cause to believe that B.D. and T.D. were neglected as defined by statute (705 ILCS 405/2-3 (West 2012)). The minors were removed from the custody of their parents based, in part, on a letter from Dr. Melanie C. Schaafsma, Ph.D., a licensed clinical social worker, that was introduced into evidence at the hearing. The letter outlined numerous problems within the blended family, "including constant chaotic interaction, manipulation, and histrionic behaviors." Dr. Schaafsma noted that Mother is resentful of the girls, does not make sound parenting decisions, and is highly manipulative in her actions with everyone else in the family. She also reported that Mother is on medication for bipolar disorder. Father's behavior was reported to be reactive in nature. According to Dr. Schaafsma, Father endeavors to avoid confrontation with Mother as much as possible, and by so doing, creates a substantial risk of emotional impairment to the children. Dr. Schaafsma did not believe, however, that the children needed to be removed from the household at that time.

¶ 5 At the request of the parties, the adjudication was continued while psychological reports were conducted on both parents and the children. The reports were finally completed in September 2012. The psychological report for Mother revealed diagnoses of bipolar disorder, PTSD, ADHD, histrionic traits and complex problems affecting parenting. The psychological report for Father revealed diagnoses of dysthymic

disorder, generalized anxiety disorder, and depressive and avoidant traits.

¶ 6 The State filed an amended petition for adjudication of wardship alleging neglect by both parents based on an environment injurious to the welfare of the children. The petition alleged that Mother created a substantial risk of emotional impairment to the children from Mother's unwillingness or inability to make viable parenting decisions, and that Father created a substantial risk of emotional impairment to the children by allowing Mother to emotionally abuse the children on a regular basis. Both parents also allegedly exposed the children to unacceptable living conditions. On September 26, 2012, the children were adjudicated neglected. They have never been returned to the parents.

¶ 7 Court records from September 2012 to September 2014 consist of a voluminous collection of service plans, progress reports and psychological and social evaluations. Recommendations included parenting classes, individual counseling programs, domestic violence classes and cooperation with the Department of Children and Family Services (DCFS). After Mother and Father completed the basic 12-week program of individual counseling, DCFS informed both parents that they needed more individual counseling because of concerns about their mental health. Mother and Father refused individual counseling. DCFS further reported that the parents often violated the strictures of visitation, including discussing the case with the children, discussing an older daughter who had already been removed from the family, and contacting the children outside scheduled supervised visits. DCFS also noted that Mother and Father never provided DCFS with any copies of their prescriptions, the names of their doctors and psychiatrists, copies of their medical records, or employment and income information.

¶ 8 On September 19, 2014, a petition for termination of parental rights and for appointment of a guardian with power to consent to adoption was filed. The petition alleged that both parents were unfit to have the named children because each of the parents had failed to make reasonable progress toward their return. After an unfitness hearing, conducted on November 14 and November 17, 2014, the trial court found both parents unfit for failure to make reasonable progress within nine months after adjudication and failure to make reasonable progress within the second nine months after adjudication (covering the periods from September 26, 2012, through March 26, 2013). A best interest hearing was conducted on November 26, 2014, and on December 17, 2014, the court entered an order finding it in the best interests of T.D. and B.D. that Mother and Father's parental rights be terminated.

¶ 9 Mother and Father argue on appeal that the court's finding of parental unfitness has no reasonable basis in the evidence and is against the manifest weight of the evidence. We initially note that the determination of whether an individual's parental rights should be terminated involves a two-step process whereby the State must prove by clear and convincing evidence that the individual is unfit, as defined by the Adoption Act (750 ILCS 50/1(D) (West 2012)). If unfitness is found, the court must then consider whether it is in the best interest of the child or children to terminate parental rights (705 ILCS 405/2-29(2) (West 2012)). See also *In re D.F.*, 201 Ill. 2d 476, 494-95, 777 N.E.2d 930, 940 (2002). When a parent challenges the sufficiency of the evidence, we, as a reviewing court, will only reverse the trial court's finding of unfitness if it is against the manifest weight of the evidence. *In re C.W.*, 199 Ill. 2d 198, 211, 766 N.E.2d 1105, 1113

(2002); *In re D.F.*, 201 Ill. 2d at 495, 777 N.E.2d at 940-41. A determination will be found to be against the manifest weight of the evidence only if an opposite conclusion is clearly evident or if the determination is unreasonable, arbitrary, or not based on the evidence presented. *In re D.F.*, 201 Ill. 2d at 498, 777 N.E.2d at 942; *In re M.J.*, 314 Ill. App. 3d 649, 655, 732 N.E.2d 790, 795 (2000).

¶ 10 The trial court found, by clear and convincing evidence, that Mother and Father were both unfit. We cannot say under the circumstances presented that the court's decision was manifestly erroneous. The parents refused to engage in individual counseling, their visitation with the children was inappropriate, and they failed to provide information to DCFS as requested. As the trial court found, the parents failed to make reasonable progress in either nine-month period after the adjudication of wardship.

¶ 11 Specifically, the record reveals that DCFS determined, because of the complex and serious mental health issues of both parents, Mother and Father needed more than the required minimum number of individual counseling sessions. The parents chose not to attend because they did not believe they needed individual counseling. Over several months, DCFS made it clear to the parents that they needed such counseling. They finally agreed to start, but then changed their minds a few days later. They did attend family counseling, but each time they did so, it did not go well. For example, even though there was a no cell phone policy during sessions, when Mother's phone rang during the very first session and she was not permitted to talk on the phone, she cried, screamed and sulked out in the hallway for over an hour.

¶ 12 In February of 2013, the DCFS psychologist conducted a mental health assessment

of the parents and also recommended individual counseling for both. The psychologist's assessment concluded that Father was inattentive, irritable, in denial, evasive, guarded, angry, and anxious. It was further reported that Mother often competed with her children, particularly the girls, for Father's attention, and Father did nothing to stop such behavior. In fact, Father wanted to care for Mother, who is childlike and emotional, to the point where there was no space left for the children. His passive approach to the distress in the household when the children were reacting to a volatile environment caused by Mother's unpredictable behavior showed that he did not know how to handle, develop, maintain and implement a healthy family structure. Mother, on the other hand, was loud, rude, overly emotional, angry, resentful, jealous, inattentive, evasive, manipulative, demanding, compulsive, indecisive, helpless and overly sexual. She accepted no blame for family problems and was more concerned with her own life than that of her children.

¶ 13 It was further noted that both Father and Mother repeatedly failed to comply with visitation requirements. They inappropriately discussed their case with the children during visits; they asked for information about the foster parent homes; and they showed up unannounced at unsupervised visits, which the children neither wanted nor needed. Overall, Mother and Father made visitation traumatic for the children, leading to even more problems. Another concern was that neither parent ever provided DCFS with copies of their prescriptions, the names of their doctors and psychiatrists, copies of their medical records, or employment and income information. In general, the testimony of the social workers, DCFS's supervisor and psychologist established that while Mother

and Father may have made reasonable efforts at times, they did not make reasonable progress toward the return of their children.

¶ 14 All of the evidence, taken together, clearly and convincingly supports the trial court's findings of unfitness with respect to both Mother and Father. Because the parents do not dispute the conclusion that termination of their rights is in the best interests of the children, we therefore affirm the trial court's decision terminating the parental rights of Mother and Father with respect to the minors, B.D. and T.D.

¶ 15 For the foregoing reasons, we affirm the order of the circuit court of Bond County terminating the parental rights of Mother and Father.

¶ 16 Affirmed.