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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

<i>In re</i> AMIYAH P. and ANIYAH P., Minors)	Appeal from the Circuit Court
)	of Lake County.
)	
)	No. 14-JA-143
)	14-JA-144
)	
(The People of the State of Illinois,)	Honorable
Petitioner-Appellee, v. Kapresha S.,)	Valerie Boettle-Ceckowski,
Respondent-Appellant.))	Judge, Presiding.

PRESIDING JUSTICE SCHOSTOK delivered the judgment of the court.
Justices Zenoff and Birkett concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court did not err in finding the caseworker's testimony to be credible or in determining that the respondent was an unfit parent and terminating her parental rights.

¶ 2 The respondent, Kapresha S., appeals from the termination of her parental rights to her twin daughters, Amiyah P. and Aniyah P.¹ We affirm.

¶ 3 **BACKGROUND**

¹ The minors' father, Rhotunda P., was also a respondent in the termination of parental rights case. However, he is not a party to this appeal.

¶ 4 The twin minors were born August 28, 2012. At the time of birth, the respondent was 15 years old and a ward of the Illinois Department of Children and Family Services (DCFS). The twins remained in the care of the respondent for about eight months. On April 26, 2013, a three-count petition for wardship and temporary custody was filed, alleging neglect based on severe untreated diaper rash (count I) and the respondent's substance abuse (counts II and III). On May 2, 2013, temporary custody was entered based on the respondent's stipulation that there was probable cause to believe the twins were neglected because she was not complying with her services and she refused to participate in a safety plan. On November 12, 2013, the respondent admitted to count II of the petition—that the minors were in an environment injurious to their welfare based on the respondent's substance abuse. The other counts of the wardship petition were withdrawn.

¶ 5 On February 20, 2014, a dispositional order was entered, making the minors wards of the court and requiring the respondent to participate in services. These services included supervised visitation, substance abuse treatment, parenting classes, domestic violence counseling, individual counseling, mental-health treatment, and obtaining a job if possible.

¶ 6 The first permanency hearing was held on June 24, 2014. The goal was return home within 12 months. The trial court found that the respondent did not make substantial progress toward that goal because she had not cooperated with all services. The second permanency hearing was on September 23, 2014. The trial court found that the respondent had not made substantial progress, as she was still not engaging in services, and that it was in the best interest of the minors that the goal be changed to substitute care pending court determination of termination of parental rights.

¶ 7 On October 31, 2014, the State filed a petition for termination of parental rights. A trial began on October 22, 2015. Nancy Muenz testified that she was the first caseworker assigned to

the twins in April 2013. The respondent was referred for substance abuse treatment and was required to participate in random drug drops. The respondent tested positive in May and December 2013, and January 2014. In May 2013, Muenz met with the respondent to complete an integrated assessment. At that time, the respondent was 16 years old and was living with a relative, Nivia Cutrer. Cutrer was also the foster parent of the minors. The twins were about eight months old. During the integrated assessment, the respondent admitted that she had been using marijuana since she was 13 or 14 years old. Following the assessment, Muenz recommended the respondent for the following services: substance abuse, individual therapy, domestic violence counseling, parenting classes, and visitation. The respondent was given weekly supervised visits.

¶ 8 Muenz further testified that the first permanency hearing was in June 2014. The goal was return home. There were two service plans prior to the first permanency hearing. People's Exhibit 9 was the service plan dated January 21, 2014, which rated the six month period prior to that date. The respondent was rated not compliant with individual therapy, substance abuse treatment, visitation, and attendance at parenting classes. The respondent completed a parenting class and a substance abuse evaluation. As a result of the latter, the respondent was referred for services and random urine screenings. The respondent sporadically complied with the screenings and tested positive for marijuana. The respondent did not have any housing at that time; she was living in unapproved housing with the minors' father and his grandmother. The respondent was not employed and was not attending high school. Muenz rated the respondent's overall progress as unsatisfactory.

¶ 9 Muenz further testified that the next service plan, People's Exhibit 11, was dated August 18, 2014, and covered the prior six-month period. The goal was still return home. The respondent was again rated overall as having unsatisfactory progress toward that goal. The

respondent had started to attend substance abuse treatment but then stopped attending. During that time, the respondent submitted to urine screens that were positive for marijuana. Muenz suggested that the respondent receive inpatient substance abuse treatment but the respondent refused. The respondent did not attend the parenting classes that Muenz referred her to, but she did allegedly attend parenting classes through her church. However, Muenz was not able to verify that she attended parenting classes because the respondent never provided Muenz with the necessary documentation. The respondent sporadically attended individual therapy. The respondent was not employed during this time period and was not attending school. The respondent missed almost all of her scheduled visits with the twins, attending only twice, once in June 2014 and once in August 2014.

¶ 10 Muenz testified that the next permanency hearing was on September 23, 2014. At that time, the goal was changed to substitute care pending determination of parental rights. The respondent was not participating in any services. A termination petition was filed shortly thereafter. In April 2015, the respondent sent Muenz a certificate that indicated the respondent participated in parenting classes. However, Muenz was not able to verify the respondent's participation due to a consent issue. Since the time that Muenz was the caseworker, the respondent had not completed substance abuse treatment. The respondent had not regularly visited the minors or stayed in contact with Muenz. The respondent had last visited the minors in November 2014. The respondent had provided no proof of employment and had not finished high school. The respondent was living in her own apartment. However, Muenz had never been allowed in the apartment to determine if it was appropriate for the minors.

¶ 11 On cross-examination, Muenz acknowledged that the first service plan was dated January 2014. At that time, the respondent was 16 years old. Muenz acknowledged that she had rated the respondent satisfactory in attending weekly individual therapy; in attending weekly visits; for

her conduct during visits; and for participating in parenting classes. Muenz testified that the respondent had been participating in individual therapy but explained that the participation was not consistent. Muenz acknowledged that the service plan indicated that the respondent was working with a family support specialist. Muenz testified that the respondent stated she was attending weekly substance abuse appointments but that the respondent had not provided any documentation. Muenz had attempted to place the respondent with relatives, but the respondent declined and chose instead to live with the minors' father and his grandmother.

¶ 12 Muenz acknowledged that the next service plan covered the period from February to August 2014. During that time the respondent gave birth to a third child. The respondent was rated satisfactory for her conduct during visits. Muenz referred the respondent to the YWCA for parenting classes but the respondent allegedly took classes through a church. However, the respondent stopped attending classes when she obtained employment. Muenz acknowledged that, on direct examination, she had testified that the respondent was not employed but she believed she had been referring to an earlier period of time. Muenz acknowledged that the respondent had been attending weekly visits with the minors and participating in therapy. However, the visitation and therapy became sporadic when the respondent obtained employment in June 2014.

¶ 13 On redirect examination, Muenz stated that in the service plan dated January 2014 the respondent was rated unsatisfactory as to substance abuse treatment, which was one of the bases for the determination of neglect. The respondent had made no progress in addressing her substance abuse issues during the period of time prior to the rating of that service plan. There were continued positive drug drops. In the second service plan, the respondent still did not make progress in addressing her substance abuse issues. Additionally, between February and June

2014, the respondent only attended two visits with the minors. There were no visits between June and August 2014. There was one visit in November 2014.

¶ 14 Upon questioning by the guardian *ad litem*, Muenz acknowledged that, in the first service plan, the respondent was rated satisfactory for attendance and participation in parenting classes. However, the respondent never provided documentation of that participation. The respondent was rated unsatisfactory for lack of attending substance abuse treatment, not providing proof that she was participating in services, and for failing to give consent for Muenz to speak with the respondent's counselor at the Northern Illinois Council on Alcohol and Substance Abuse (NICASA). On the second service plan, the respondent was rated unsatisfactory for her lack of participation in parenting classes, lack of attending visits with the minors, lack of engaging with the children when she did attend visits, and because the respondent stopped attending and was unsuccessfully discharged from family support services. The respondent was rated unsatisfactory for her participation in individual therapy because her participation was not consistent. The respondent was unsatisfactorily discharged from NICASA and was not participating in urine screens.

¶ 15 Following testimony, the trial court rendered its ruling. The trial court found Muenz's testimony credible. The respondent was rated unsatisfactory overall on both of her service plans. She missed many visits and was not participating in substance abuse treatment. She had attended parenting classes but failed to provide verification. She was attending individual counseling but was eventually discharged for failing to complete her counseling. The respondent sporadically participated in services and, while she would gain a satisfactory rating as to specific tasks, she never completed the services required and did not attend substance abuse treatment. The trial court noted that the respondent's young age was not an excuse for a complete lack of progress towards the goal of return home. The trial court also noted that the respondent's failure to attend

any of the hearings on the petition for termination of parental rights showed a lack of care, concern, and responsibility for the minors.

¶ 16 The trial court granted the petition for termination of parental rights finding that the respondent failed to maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare. Based on the respondent's lack of compliance and failure to participate in any services, the trial court found that the respondent failed to protect the minors from conditions within their environment that were injurious. The trial court also found that the respondent failed to make reasonable efforts to correct the conditions which were the basis for the minors' removal and that she failed to make any reasonable progress towards the goal of return home.

¶ 17 Thereafter, a best interest hearing was held. Muenz testified that the minors were three years old. They resided with the respondent's cousin, Nivia Cutrer, and her husband, Calvin Savannah. Muenz testified that it would be detrimental if the twins were removed from this placement. They were thriving in Cutrer's care. Cutrer was willing to adopt the children and it was in the minors' best interests to have the respondent's parental rights terminated so that they could be adopted.

¶ 18 Patty Felker, the minors' Court Appointed Special Advocate (CASA), testified that she was familiar with the minors and had been visiting them once or twice a month during the pendency of this case. The minors were in a very loving home and were attached to their foster family. Felker testified that it would be detrimental to remove the minors from the foster home and that it was in their best interests to have their parental rights terminated so that they could be adopted by the foster parents.

¶ 19 Following arguments, the trial court terminated the respondent's parental rights of the minors. The trial court stated that it considered the necessary factors set forth in the Juvenile Court Act of 1987 (705 ILCS 405/1-3(4.05) (West 2012) (setting forth various factors to

consider in making a best-interests determination). The trial court found that the children were lucky to have lived in the same home since birth. The foster mother was a maternal family member and seemed willing to facilitate a long-term relationship between the minors and the respondent. The trial court found that the minors needed permanency, were attached to their foster family, and that it would be detrimental to remove them from the foster parents' home. The trial court found that it was in the minors' best interests to terminate the respondent's parental rights. The trial court changed the goal to adoption.

¶ 20

ANALYSIS

¶ 21 On appeal, the respondent argues that the trial court erred in entering a finding that she was not a fit parent. Specifically, she argues that the trial court erred in finding that (1) she failed to make reasonable efforts to correct the conditions which were the basis for the minors' removal; (2) she failed to make reasonable progress towards the goal of return home; (3) she failed to protect the minors' from an injurious environment; and (4) she failed to maintain a reasonable degree of interest, concern, or responsibility as to the minors. The respondent also argues that the trial court erred in finding Muenz's testimony credible.

¶ 22 A proceeding on a petition for termination of parental rights involves a two-step, bifurcated approach where the trial court first holds a hearing to determine whether a parent is unfit as defined in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2012)). 705 ILCS 405/2-29(2) (West 2012); *In re D.T.*, 212 Ill. 2d 347, 352 (2004). If the parent is found unfit, the trial court conducts a subsequent hearing to determine whether the termination of parental rights is in the child's best interest. 705 ILCS 405/2-29(2) (West 2012); *In re D.T.*, 212 Ill. 2d at 352.

¶ 23 Although section 1(D) of the Adoption Act sets forth numerous grounds under which a parent may be found unfit, any one of the grounds, if properly proven, is sufficient to enter a finding of unfitness. *In re A.F.*, 2012 IL App (2d) 111079, ¶ 40. The State has the burden of

proving a parent's unfitness by clear and convincing evidence. 705 ILCS 405/2-29(2), (4) (West 2012); *In re Antwan L.*, 368 Ill. App. 3d 1119, 1123 (2006). The trial court is generally in the best position to assess the credibility of the witnesses and, therefore, we will not reweigh or reassess credibility on appeal. *In re A.F.*, 2012 IL App (2d) 111079, ¶ 40. A trial court's determination of a parent's unfitness will not be reversed unless it is contrary to the manifest weight of the evidence, *i.e.*, unless the opposite conclusion is clearly evident. *In re Joshua S.*, 2012 IL App (2d) 120197, ¶ 44.

¶ 24 The respondent was found unfit, in part, based on subsection (ii) of section 1(D)(m) of the Adoption Act (750 ILCS 50/1(D)(m) (West 2012). Subsection (ii) deals with a parent's failure to make reasonable progress toward the return of the child within nine months after an adjudication of the child as abused, neglected or dependent. 750 ILCS 50/1(D)(m) (West 2012). Reasonable progress is judged by an objective standard based upon the amount of progress measured from the conditions existing at the time custody was taken from the parent. *In re Allen*, 172 Ill. App. 3d 950, 956 (1988). "[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 that 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." *In re C.N.*, 196 Ill. 2d 181, 216-17 (2001). Reasonable progress exists when the trial court can conclude that it will be able to order the child returned to parental custody in the near future. *In re L.L.S.*, 218 Ill. App. 3d 444, 461 (1991).

¶ 25 In the present case, the respondent failed to make reasonable progress toward the return of the minors to her custody in the near or foreseeable future. The evidence indicates that the basis for the minors' removal was the respondent's substance abuse. However, within the nine

month period following the adjudication of neglect, from November 2013 to August 2014, the respondent never successfully completed substance abuse treatment and random urine screens were positive for cannabis. The respondent was unsuccessfully discharged from outpatient drug treatment by NICASA and Muenz testified that the respondent refused to attend inpatient drug treatment. Additionally, the respondent failed to comply with other recommended services. We acknowledge that the respondent was rated satisfactory on the original service plan, covering the period from July 2013 to January 2014, for attending individual therapy, attending visits with the minors, and meeting with a family support worker. However, on the subsequent service plan, covering the period from February through August 2014, the respondent was rated unsatisfactory. The respondent did not consistently attend individual therapy or visits with the minors and was unsuccessfully discharged for failing to contact her family support worker. The respondent was also supposed to attend parenting classes but never provided any documentation to show whether she had attended or completed such classes. Accordingly, based on the objective standard by which reasonable progress is measured, the trial court's finding that the respondent was unfit under subsection 1(D)(m)(ii) due to her failure to make reasonable progress between November 2013 and August 2014 was not against the manifest weight of the evidence. *In re Konstantinos H.*, 387 Ill. App. 3d 192, 204 (2008) (noncompliance with an imposed service plan is sufficient for an unfitness finding).

¶ 26 The respondent argues that the trial court erred when it found Muenz's testimony credible. The respondent notes that Muenz's testimony regarding the respondent's performance on the tasks in her service plan was inconsistent and impeached. We acknowledge that in her direct testimony, Muenz testified that on the initial service plan the respondent was rated not compliant with individual therapy, substance abuse treatment, visitation, and attendance at parenting classes. However, this testimony was not consistent with the actual service plan report

admitted into evidence. The written report indicated that the respondent was rated satisfactory for attending individual therapy and visitation. The respondent was also rated satisfactory for attending parenting classes but rated unsatisfactory for failing to provide proof of her attendance. Nonetheless, it is well settled that “[a] reviewing court *** must not substitute its judgment for that of the trial court regarding the credibility of the witnesses, the weight to be given to the evidence, or the inferences to be drawn.” *In re D.F.*, 201 Ill. 2d 476, 499 (2002). While there were some inconsistencies, most of Muenz’s testimony was consistent with the written service plans admitted into evidence. Moreover, the respondent was able to cross-examine Muenz as to the inconsistencies and the trial court was aware of them. As such, we cannot say that the trial court erred in finding Muenz’s testimony credible or that the evidence presented was not sufficient to support the trial court’s finding of unfitness.

¶ 27 As any one ground of unfitness will support the trial court’s determination (*A.F.*, 2012 IL App (2d) 111079, ¶ 40), we need not address the respondent’s additional contentions of error on appeal.

¶ 28 CONCLUSION

¶ 29 For the foregoing reasons, the judgment of the circuit court of Lake County is affirmed.

¶ 30 Affirmed.