

2016 IL App (2d) 16-0613-U
No. 2-16-0613
Order filed December 2, 2016

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).

IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

<i>In re</i> KEYON R., a Minor)	Appeal from the Circuit Court
)	of Winnebago County.
)	
)	No. 14-JA-264
)	
(The People of the State of Illinois, Petitioner- Appellee, v. Kelena B., Respondent- Appellant.))	Honorable Mary Linn Green, Judge, Presiding.

JUSTICE ZENOFF delivered the judgment of the court.
Justices Burke and Hudson concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court's judgment terminating respondent's parental rights was affirmed, where the State proved by clear and convincing evidence that respondent was unfit and where the court's finding that it was in the minor's best interest to terminate parental rights was not against the manifest weight of the evidence.

¶ 2 The trial court found respondent, Kelena B., to be an unfit parent and ruled that it was in the best interest of her minor child, Keyon R., to terminate her parental rights. We affirm.

¶ 3 I. BACKGROUND

¶ 4 Keyon R., born on October 26, 2006, was adjudicated a neglected minor on November 12, 2014. In February 2016, the court changed the goal to substitute care pending termination of parental rights, and on March 24, 2016, the State filed a motion to terminate respondent's

parental rights on the following grounds: she failed to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare (750 ILCS 50/1(D)(b) (West 2014)) (count I); she failed to make reasonable efforts to correct the conditions that were the basis of the removal of the child during a nine-month period after an adjudication of neglect (11/12/14 to 8/12/15 and/or 6/24/15 to 3/24/16) (750 ILCS 50/1(D)(m)(i) (West 2014)) (count II); she failed to make reasonable progress toward the return of the child during a nine-month period after an adjudication of neglect (11/12/14 to 8/12/15 and/or 6/24/15 to 3/24/16) (750 ILCS 50/1(D)(m)(ii) (West 2014)) (count III); and she failed to protect the minor from conditions within the environment injurious to the child's welfare (750 ILCS 50/1(D)(g) (West 2014)) (count IV).

¶ 5 The court heard the following evidence regarding unfitness. Gina Gauthier, a child welfare specialist with Lutheran Social Services of Illinois, testified that Keyon was removed from respondent's custody in July 2014 because two of respondent's other children had been placed with the Illinois Department of Children and Family Services (DCFS). Following Keyon's removal, respondent was tasked with completing certain services, including individual therapy, parenting coaching, drug and alcohol assessment, and random urine drops. According to Gauthier, during the period of November 12, 2014, to August 12, 2015, and/or the period of June 24, 2015, to March 24, 2016, respondent was discontinued from parenting coaching for lack of attendance. Gauthier testified that respondent did not participate in an integrated assessment for services, and she did not complete random urine drops. Respondent did not comply with drug abuse assessment, and was arrested in January 2013 for retail theft and possession of drug paraphernalia. Gauthier testified that respondent refused to do services. Gauthier also testified that from the end of April 2015 to the first week in June 2015, respondent had consistent visitation with Keyon. Thereafter, respondent contacted Keyon only three times, did not resume

visits, did not send cards or letters, and did not pay support. In August 2015, the court entered a “no contact” order prohibiting respondent from contacting Keyon. Gauthier opined that it was not in Keyon’s best interest to be placed with respondent, because respondent was not consistent with visitation and had not completed the recommended services.

¶ 6 On cross-examination, Gauthier testified that she explained to respondent what services she needed to complete to have Keyon returned to her, but respondent failed to complete those services. Gauthier also testified that respondent never had “stable” housing.

¶ 7 The court took judicial notice of the indicated packets and found that the State proved by clear and convincing evidence the allegations of all four counts of the motion directed against respondent. With respect to count I, the court found that respondent failed to maintain interest, concern, and responsibility by failing to participate in services, failing to visit Keyon, and displaying a general lack of involvement typified by respondent’s failure to attend court. With respect to counts II and III, lack of reasonable efforts and reasonable progress, the court found that respondent completed no services and that visitation was stopped due to no communication. Additionally, the court found that respondent did not have contact with DCFS and did not come to court. With respect to count IV, the court found that Keyon was living with respondent despite the fact that she was to have only supervised visits.

¶ 8 The court then proceeded to conduct a best interest hearing. The State again presented the testimony of Gauthier. Gauthier testified that Keyon was living in a “traditional” non-related foster home, meaning that the foster parent and sibling were not related to Keyon by blood. The foster mother wished to adopt Keyon. According to Gauthier, arrangements had been made for Keyon, now nine years old, to visit his blood siblings, who were all in different placements.

¶ 9 Gauthier testified that the foster home was appropriate and that the foster parent provided Keyon with all of the necessities. Keyon had no special needs, and the foster parent provided adequate medical and spiritual care. Gauthier testified that Keyon's natural grandparents contacted her after Keyon had already been with his foster family for approximately five months. Because the grandparents had not made themselves available over the past year, Gauthier did not consider them fit to take Keyon. Gauthier opined that it would be in Keyon's best interest to terminate respondent's parental rights.

¶ 10 The court considered the statutory best interest factors, the testimony, and arguments of counsel and found "at least" by a preponderance of the evidence that the State had proved that it was in Keyon's best interest to terminate respondent's parental rights. Respondent filed a timely notice of appeal.

¶ 11 II. ANALYSIS

¶ 12 Respondent first argues that the finding that she was unfit in that she failed to maintain a reasonable degree of interest, concern, or responsibility (count I) was not proved by clear and convincing evidence.

¶ 13 Termination of parental rights under the Juvenile Court Act of 1987 (Act) (705 ILCS 405/1-1 *et seq.* (West 2014)) is a two-step process. *In re Julian K.*, 2012 IL App (1st) 112841, ¶ 1. The State first must establish by clear and convincing evidence one ground of parental unfitness from those listed in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2014)). 705 ILCS 405/2-29(2) (West 2014); *In re B.B.*, 386 Ill. App. 3d 686, 698 (2008). If the trial court finds a parent unfit, the court must conduct a second hearing to determine, by a preponderance of the evidence, whether it is in the best interest of the minor to terminate parental rights. *B.B.*, 386 Ill. App. 3d at 698. A reviewing court will not disturb a trial court's decision at

a termination hearing unless it is against the manifest weight of the evidence. *Julian K.*, 2012 IL App (1st) 112841, ¶ 65. A trial court's decision is against the manifest weight of the evidence only if the opposite conclusion is clearly apparent or the decision is unreasonable, arbitrary, and not based on evidence. *B.B.*, 386 Ill. App. 3d at 697-98.

¶ 14 A single ground of unfitness under section 1(D) is sufficient to support a finding of unfitness. *Julian K.*, 2012 IL App (1st) 112841, ¶ 2. Here, the court found that the State proved that respondent was unfit with respect to all four counts of the motion to terminate parental rights. Respondent does not challenge three of those findings with any meaningful argument or supporting authority. Consequently, those arguments are forfeited. Also, Illinois Supreme Court Rule 341(h)(7) (eff. Jan. 1, 2016) requires arguments to be supported by authority, and an absence of such authority forfeits the arguments. *In re Addison R.*, 2013 IL App (2d) 121318, ¶ 31.

¶ 15 With respect to count I, the State alleged that respondent failed to maintain a reasonable degree of interest, concern, or responsibility as to Keyon's welfare. Respondent contends that the evidence must be viewed in light of her limitations. She argues that she lacked transportation and funds and was further hampered in her ability to participate in services because of active warrants for her arrest. However, Gauthier's un rebutted testimony was that respondent refused to engage in services. The evidence further showed that respondent did not comply with random urine drops and did not maintain stable housing. The court recited that respondent failed to attend court sessions. Accordingly, the court's finding of unfitness was not against the manifest weight of the evidence.

¶ 16 Respondent next argues that the State failed to prove by a preponderance of the evidence that termination of her parental rights was in Keyon's best interest. Once a parent is found unfit,

the focus shifts to the child, and the parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life. *In re D.T.*, 212 Ill. 2d 347, 364 (2004). The Act sets forth the factors to be considered whenever a best interest determination is required: "(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 2014). Also relevant in a best interest hearing is the nature and length of the minor's relationship with his or her present caretaker and the effect that a change in placement would have upon the minor's emotional and psychological well-being. *In re William H.*, 407 Ill. App. 3d 858, 871 (2011).

¶ 17 Respondent argues only that Keyon was in foster care for too little time to say that termination of parental rights was in his best interest. We disagree. Gauthier testified that the foster parent was meeting Keyon's physical and spiritual needs, something that respondent and his extended family were unable or unwilling to do. Based on the evidence at the best interest hearing, the trial court's determination that it was in the child's best interest to terminate respondent's parental rights was not against the manifest weight of the evidence.

¶ 18

III. CONCLUSION

¶ 19 For the foregoing reasons, the judgment of the circuit court of Winnebago County is affirmed.

¶ 20 Affirmed.