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2016 IL App (3d) 150825-U

Order filed March 7, 2016

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2016

<i>In re</i> B.A.P., a Minor,	)	Appeal from the Circuit Court
	)	of the 14th Judicial Circuit,
	)	Rock Island County, Illinois.
(The People of the State of Illinois,	)	
	)	
Petitioner-Appellee	)	Appeal No. 3-15-0825
	)	Circuit No. 14-JA-42
v.	)	
	)	
Jerod T.,	)	Honorable
	)	Theodore G. Kutsunis
Respondent-Appellant).	)	Judge, Presiding.

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PRESIDING JUSTICE O'BRIEN delivered the judgment of the court.  
Justices Holdridge and McDade concurred in the judgment.

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**ORDER**

¶ 1 *Held:* Trial court did not err in finding respondent father unfit and terminating his parental rights to B.A.P. where he failed to participate in any ordered services during the nine-month period after B.A.P. was found abused and neglected.

¶ 2 The State brought a petition to terminate the parental rights of respondent Jerod T., the father of B.A.P. The trial court found Jerod unfit to care for his daughter and that it was in the

best interest of B.A.P. that his parental rights be terminated. The trial court granted the State's petition to terminate Jerod's parental rights. He appealed. We affirm.

¶ 3

### FACTS

¶ 4

In July 2014, the State filed a petition seeking wardship and temporary custody of B.A.P., who was born on January 1, 2013. The petition alleged that B.A.P. was in an injurious environment, left without supervision, and physically abused. The specific allegations were that Shandi P., B.A.P.'s mother, hit B.A.P. in the head, stomach and chest, and also left her home alone; that Jerod T., B.A.P.'s father, came to the hospital where B.A.P. was being treated for her injuries and told the investigator from the Department of Children and Family Services (DCFS) that Shandi did not harm B.A.P., that the injuries were not serious, that B.A.P. probably harmed herself; and that it was not inappropriate for Shandi to have left B.A.P. alone. Finally, the petition alleged that Shandi and Jerod had a history of domestic violence between them, including incidents in May 2014 and August 2013. The trial court granted temporary custody to the DCFS, and ordered that Jerod take a deoxyribonucleic (DNA) test to determine paternity. The trial court also appointed a guardian *ad litem* to represent B.A.P. A visitation plan was filed in July 2014, giving Jarod one hour of visitation a week.

¶ 5

An August 2014 integrated assessment/service plan reported background information on Jerod, including Jerod's extensive criminal history, with his last conviction in 2013 for domestic battery against B.A.P.'s mother. The report stated that Jerod acknowledged he was not in a position to parent B.A.P. , but believed that because he was not responsible for the abuse, he did not need services. The report further stated that Jerod was argumentative and failed to "demonstrate appropriate parenting skills or age appropriate expectations" during visitation and that Jerod would not have visitation until his paternity was established. The assessment

recommended various services for Jerod but concluded with a prognosis that reunification was unlikely.

¶ 6 The service plan required Jerod to participate in visitation and engage in appropriate behavior with B.A.P.; obtain a psychological examination and follow any recommendations resulting from it; attend and complete a parenting class; participate in and complete domestic violence counseling and education; engage properly with DCFS staff; avoid any criminal activity or involvement for six months; attend and complete anger management and substance abuse evaluations and comply with their recommendations; attend counseling; and participate in parent-child psychotherapy/attachment therapy.

¶ 7 On August 26, 2014, the trial court suspended Jerod's visitation with B.A.P. pending the outcome of the DNA test. On August 28, 2014, Jerod was arrested for domestic battery on B.A.P.'s mother and released from jail the following day. On August 31, 2014, B.A.P.'s maternal grandparents called the police on Jerod, who was at their home and refused to leave. At a hearing in September 2014, the trial court entered an order establishing Jerod's paternity. The trial court ordered that visitation was to remain suspended until Jerod participated in anger management classes. Shandi and Jerod stipulated to the facts in the State's petition and the trial court found they were sufficient to find the minor abused and neglected. The trial court adjudicated B.A.P. abused and neglected on October 24, 2014. A supplemental order entered the same day required Jerod to attend parenting and anger management classes; undergo substance abuse and psychological evaluations and follow any recommendations; and participate in individual and domestic violence counseling.

¶ 8 At permanency review hearings held in April and July 2015, the trial court found Jerod failed to make reasonable efforts or progress on his service tasks. At the July hearing, Jerod's

attorney notified the court that Jerod had been evicted from his house and his belongings had been stolen by his neighbors. The trial court changed the permanency goal from return home to substitute care. In August 2015, the results of Jerod's psychological evaluation were submitted to the court. They revealed that Jerod suffered from several disorders, including reading, persistent depressive, generalized anxiety, alcohol use, and an intellectual disability. The record recommended that Jarod "be regarded as lacking sufficient personal and other resources and skills sufficient to function adequately in the role of a custodial parent;" that he "be deemed unlikely to gain the ability to parent sufficiently well due to his substance abusing, poor intellectual functioning, illiteracy, instability in behavioral and emotional regulation, poor intimacy skills, and poor parenting ability." In addition, Jerod "appear[s] to lack physical resources, e.g., job, home, driver's license, and vehicle" and "behavioral expectations for a child."

¶ 9 The State filed a supplemental petition to terminate Jerod's parental rights for his failure to maintain a reasonable degree of interest, concern, or responsibility for B.A.P.'s welfare (750 ILCS 50/1D(b) (West 2012)); failure to make reasonable efforts to correct the conditions that resulted in B.A.P.'s removal during the 9-month period between October 24, 2014 and July 24, 2015 (750 ILCS 50/1D(m)(i) (West 2012)); and failure to make reasonable progress toward B.A.P.'s return during the same 9-month period (750 ILCS 50/1D(m)(ii) (West 2012)).

¶ 10 A fitness hearing took place. The caseworker testified. Jerod was not in contact with her between April 2015 when he signed releases for services until July 2015, when he contacted her but failed to show up for a meeting. He told her he had no time for the court-ordered services and was not responsible for the abuse and neglect of B.A.P. During the initial nine-month period after B.A.P. was adjudicated neglected and abused, Jerod did not engage in any services except

attending one of several sessions needed for the psychological evaluation. After the nine-month period, he began a batterer's education program and had participated in two of the five classes required to resume visitation. He then stopped attending, although a total of 24 classes was required to complete the program. He had no visitation with B.A.P. after August 2014 until September 2015, when visitation resumed. In her view, Jerod did not make reasonable progress or efforts. Jerod also testified.

¶ 11 The trial court found Jerod was unfit. It noted the causes for removal were a combination of physical abuse and lack of supervision and that Jerod failed to accept the seriousness of the situation. He was uncooperative with services and did not demonstrate interest, concern or responsibility for B.A.P. and did not make reasonable efforts to correct the conditions resulting in her removal and reasonable progress toward her return home. A best interest hearing took place and the trial court found that it was in B.A.P.'s best interest that Jerod's parental rights be terminated. The permanency goal was changed to adoption. Jerod appealed and the trial court granted his motion to stay the adoption pending the appeal.

¶ 12 ANALYSIS

¶ 13 On appeal, Jerod argues that the trial court erred in terminating his parental rights. He submits the trial court's unfitness finding was in error and requires a reversal of the termination of his parental rights.

¶ 14 There is a two-step process for the termination of parental rights. *In re L.M.*, 385 Ill. App. 3d 393, 395 (2008). The State must first prove that the parent is unfit and, if so, then must prove it is in the child's best interest to terminate the parent's rights. *Id.*; 750 ILCS 50/1D (West 2012); 750 ILCS 405/2-29(2) (West 2012). Unfitness grounds include the parent's failure to maintain a reasonable degree of interest, concern or responsibility in the child's welfare; failure

to correct the conditions that lead to the child’s removal within a specified nine-month period after an adjudication of neglect or abuse; and failure to make reasonable progress toward the return of the child within a specified nine-month period after an adjudication of neglect or abuse; and. 750 ILCS 50/1D(b), (m)(i), (m)(ii), (West 2012). Any one ground of unfitness that is proven is sufficient for an unfitness finding. *In re C.W.*, 199 Ill. 2d 198, 210 (2002). The State must prove unfitness by clear and convincing evidence. *In re Jordan V.*, 347 Ill. App. 3d 1057, 1067 (2004). We will not reverse a trial court’s fitness determination unless it was against the manifest weight of the evidence. *In re D.D.*, 196 Ill. 2d 405, 417 (2001).

¶ 15 To decide whether a parent has demonstrated a reasonable degree of interest, concern or responsibility for the child’s welfare, the court looks at the parent’s efforts to visit and maintain contact with the child, his inquiries into the child’s welfare and other examples exhibiting interest, concern or responsibility. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1064 (2006). Where personal visits are not possible, the court considers whether the parent called the child or sent letters and gifts. *Id.* The court’s focus is on the efforts of the parent rather than his success and the court must examine the parent’s conduct in the circumstances in which the conduct occurred. *In re B’yata I.*, 2014 IL App (2d) 130558-B ¶ 31. A parent’s completion of his service tasks and attendance at court proceedings are indicative of his interest, concern or responsibility. *Daphnie E.*, 368 Ill. App. 3d at 1065.

¶ 16 In deciding whether a parent put forth reasonable efforts to correct the conditions resulting in the child’s removal involves a subjective review of the parent’s achievements. *In re Gwynne P.*, 346 Ill. App. 3d 584, 596 (2004), *aff’d*, 215 Ill. 2d 340 (2005). The court determines whether the parent made “ ‘earnest and conscientious strides’ ” in correcting the conditions. *In re*

*D.F.*, 332 Ill. App. 3d 112, 125 (2002) (quoting *In re B.S.*, 317 Ill. App. 3d 650, 658 (2001) (*overruled on other grounds*, *In re R.C.*, 195 Ill. 2d 291 (2001))).

¶ 17 The failure to make reasonable progress is determined by an objective standard where the trial court focuses on the amount of progress toward reunification to be reasonably expected under the particular circumstances. *In re A.A.*, 324 Ill. App. 3d 227, 236 (2001). The court measures progress by the parent's compliance with the directives of the court, the DCFS service plan, or both. *Id.* (quoting *In re L.L.S.*, 218 Ill. App. 3d 444, 463-64 (1991)).

¶ 18 Jerod's lack of engagement in any of the ordered service tasks is indicative of his failure to maintain a reasonable degree of interest, concern or responsibility as to B.A.P.'s welfare and to make reasonable efforts to correct the conditions that resulted in B.A.P.'s removal or reasonable progress toward B.A.P.'s return home. He refused to acknowledge any role he had in the neglect and abuse of B.A.P. This refusal hindered his participation in the ordered service tasks during the nine-month period following the trial court's adjudication of neglect, specifically October 24, 2014 to July 24, 2015. His attitude and behavior resulted in the suspension of visitation until he completed five classes in a batterer's education program. Visitation was suspended in August 2014, yet he did not engage in the required classes until July 2015. Jerod had one visit in September 2015, after he completed the required five classes to resume visitation. Between October 24, 2014 and July 24, 2015, the only service in which Jerod participated was undergoing the first of several sessions for the psychological evaluation.

¶ 19 Jerod has not offered any viable explanation or special circumstances for his failure to complete any ordered tasks during the relevant period, aside from placing blame on B.A.P.'s mother, the caseworker and the foster parents. As the trial court did, we acknowledge that Jerod was undergoing some turmoil in his life, including the loss of his home and belongings.

Nevertheless, while Jerod admitted that his situation was not conducive for a child, he did not engage in any services that might have improved his quality of life, particularly in regard to B.A.P. Considered from either a subjective or an objective perspective, Jerod's lack of participation in the ordered services cannot be anything but a failure to show a reasonable degree of interest, concern or responsibility or to make reasonable efforts or progress. We find that the trial court's unfitness findings under any of the three grounds alleged were not against the manifest weight of the evidence. The trial court did not err when it found Jerod to be an unfit parent, and based on that finding and B.A.P.'s best interest, terminated his parental rights.

¶ 20 For the foregoing reasons, the judgment of the circuit court of Rock Island County is affirmed.

¶ 21 Affirmed.