

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).

2016 IL App (3d) 150876-U

Order filed November 4, 2016

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2016

In re L.W.,)	Appeal from the Circuit Court
)	of the 10th Judicial Circuit,
A Minor)	Peoria County, Illinois.
)	
(THE PEOPLE OF THE STATE)	
OF ILLINOIS,)	
)	Appeal No. 3-15-0876
Petitioner-Appellee)	Circuit No. 15-JA-181
)	
v.)	
)	
SHAQUANNA F.,)	Honorable
)	Albert L. Purham, Jr.
Respondent-Appellant).)	Judge, Presiding

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

ORDER

- ¶ 1 *Held:* Trial court's determinations that minor should be made a ward of the court and mother should remain unfit were supported by the evidence.
- ¶ 2 Petitioner Shaquanna F.'s son, L.W. was found neglected based on an injurious environment. Shaquanna was ordered to perform various tasks aimed at reunification with L.W.

At a dispositional hearing, the trial court found Shaquanna unfit and made L.W. a ward of the court. We affirm.

¶ 3

FACTS

¶ 4

The State filed a petition for wardship on July 7, 2015, alleging L.W. was neglected in that his environment was injurious to his welfare. The petition provided that Shaquanna had been previously found unfit as to her three other children and she had not completed services in those cases resulting in a return home of the children or a finding of fitness. Shaquanna answered the petition, stipulating that the allegations against her could be proven, as well as the allegation that L.W.'s father had been previously found unfit regarding their other child, and that she lacked sufficient knowledge to admit or deny the other allegations. The petition included other allegations against L.W.'s father that are not at issue in this appeal.

¶ 5

At the adjudicatory hearing, evidence was introduced by proffer through exhibits, including the files of Shaquanna's three other children. They had been removed from her care due to domestic violence in her relationship with L.W.'s father and an incident when she was pregnant with L.W. The children were present when Shaquanna was found unconscious on the floor due to taking a combination of medication and alcohol. The trial court found the allegations proven. She was ordered to participate in counseling and parenting class, obtain domestic violence and substance abuse assessments, and submit to three random drug tests per month.

¶ 6

A September 2015 dispositional hearing report established that Shaquanna was employed part time and was soon to start another part-time job. She was living in a two-bedroom apartment but was actively seeking a four-bedroom place. L.W.'s father did not live with her. She obtained orders of protection against him and his mother in August 2015. She completed a substance abuse assessment and no services were recommended. She missed a drug test in September

because of an afternoon doctor's appointment. DCFS denied Shaquanna's request for a gas card because she told the caseworker she did not have a driver's license. Shaquanna was "diligent" in attending her weekly hourly visitation sessions with all four of her children. During the visits, she was "engaged; playing games, being silly with the kids, letting them style her hair, and tickles on the floor." She struggled to discipline her two oldest daughters but acted appropriately with L.W. She was discharged from parenting class due to absences but completed a domestic violence class. A clinical treatment report stated Shaquanna was "fully participating" in counseling services and a report from Shaquanna's domestic violence counselor stated that she participated in 10 of 10 classes, "was engaged in, and participated in" the group discussions, and completed all homework and a safety plan.

¶ 7 A permanency review report filed in November 2015 informed that Shaquanna's attendance at counseling had improved and her parenting class retake was scheduled to begin. She was still awaiting a four-bedroom apartment and remained diligent in her visitation. She had improved her discipline of her two older daughters and did well in the visits. She missed drug tests in October and November. A December addendum to the permanency review report provided that Shaquanna had started her parenting class and that visitation was going to begin at her home.

¶ 8 A dispositional hearing took place on December 16, 2015. Shaquanna testified as the only witness. She explained that she missed one drug test because she was in the hospital and missed the other because she had a doctor's appointment. She admitted the appointment was in the afternoon. In another instance, she showed up for another drug test but could not perform it because she did not have proper identification. The State and the guardian ad litem (GAL) recommended that L.W. be made a ward of the court. The State noted Shaquanna "is getting

quite far down the road,” and the GAL that “mom has done some things” but was not “quite there yet.”

¶ 9 The trial court found that Shaquanna remained unfit and that the prior bases for L.W.’s removal had not been fully rectified. The trial court made L.W. a ward of the court and appointed the Department of Children and Family Services (DCFS) guardian. The trial court found that Shaquanna was “well on her way to being found fit, but I don’t think that you are fit today.” The trial court ordered Shaquanna to continue to submit to three random drug drops per month, participate in counseling and parenting classes, maintain adequate housing and engage in supervised visitation. She appealed the unfitness finding.

¶ 10 ANALYSIS

¶ 11 On appeal, we address Shaquanna’s challenge to the trial court’s finding that she remains unfit. She argues that she has made significant progress in her service tasks sufficient to refute the State’s evidence of unfitness.

¶ 12 A child may be adjudged a ward of the court and custody of him taken from his parent where the trial court finds the parent unfit or unable, for reasons other than financial circumstances alone, to care for, protect, train or discipline the child or is unwilling to do so. 705 ILCS 405/2-27(1) (West 2014). Where a minor has been found neglected, custody shall not be returned to his parent until the trial court holds a hearing on the best interest of the child and the parent’s fitness and enters an order finding the parent fit. 705 ILCS 405/2-23(1)(a) (West 2014).

¶ 13 In a dispositional hearing, the trial court decides what further actions are in the minor’s best interests and the parent is given notice of what she must do to retain her parental rights in any future termination proceedings. *In re April C.*, 326 Ill. App. 3d 225, 237 (2001) (quoting *In re G.F.H.*, 315 Ill. App. 3d 711, 715 (2000)). A parent’s participation in services does not

require the trial court to make a finding of fitness. *In re Chelsea H.*, 2016 IL App (1st) 150560, ¶ 87. The standard of proof for a fitness finding is a preponderance of the evidence. *April C.*, 326 Ill. App. 3d at 238. A trial court’s unfitness finding should not be reversed unless it was against the manifest weight of the evidence. *In re T.B.*, 215 Ill. App. 3d 1059, 1062 (1991). A trial court is in the best position to assess the witnesses’ credibility and to weigh the evidence and a reviewing court should not reverse the trial court’s finding because it might have reached a different result. *Id.* The trial court is afforded wide discretion in child custody cases. *In re Lakita B.*, 297 Ill. App. 3d 985, 994 (1998).

¶ 14 When L.W. was found neglected, Shaquanna was ordered to participate in a substance abuse assessment, domestic violence and parenting classes, and counseling, submit to random drug tests, and engage in visitation. At the time of the dispositional hearing in December 2015, Shaquanna had completed her domestic violence class, earning a positive report. She integrated the information she learned by obtaining an order of protection against L.W.’s father, who no longer lived with her. She was employed. Shaquanna “diligently” participated in visitation. Her parenting abilities had improved. Visitation was to start at her apartment, which was deemed safe and secure for the children. She was participating in counseling and on target to finish parenting class within several weeks.

¶ 15 Despite Shaquanna’s substantial progress toward reunification, we find the trial court had sufficient evidence to support its unfitness finding and its decision to make L.W. a ward of the court. She missed three drug tests. The trial court commented on the drug test Shaquanna missed because she had an afternoon doctor’s appointment, suggesting that she could have gone in the morning for the test, even if she had to take the bus. She missed another drug test because she did not bring proper identification. The court further noted that although Shaquanna had secured

a driver's license, she previously had been denied a gas card by DCFS because she was driving without one. She told her caseworker she was driving on a permit and could not afford to obtain a driver's license.

¶ 16 The trial court acknowledged that Shaquanna was participating in parenting class and engaged in counseling but expressed that she still needed to complete those services. We consider the trial court's concern that she complete parenting class and continue with counseling warranted. Shaquanna was earning good grades in parenting class but still had four more sessions to complete the class. She had been dismissed from the prior parenting class due to absences. She was still in the process of developing counseling goals. The trial court concluded that Shaquanna was on her way to fitness but was not yet there. We, too, acknowledge the efforts Shaquanna has put forth and the successes she has achieved on her path to fitness. However, we find that the trial court's determination that she remain unfit and L.W. be a ward of the court to be supported by the evidence.

¶ 17 For the foregoing reasons, the judgment of the circuit court of Peoria County is affirmed.

¶ 18 Affirmed.