2016 IL App (4th) 151021-U

NOS. 4-15-1021, 4-15-1022 cons.

FILED
March 30, 2016
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: F.K., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Macon County
v. (No. 4-15-1021)	)	No. 14JA30
CHRISTOPHER KENNEDY,	)	
Respondent-Appellant.	)	
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In re: K.K., a Minor,	)	No. 14JA37
THE PEOPLE OF THE STATE OF ILLINOIS,	)	
Petitioner-Appellee,	)	
v. (No. 4-15-1022)	)	Honorable
CHRISTOPHER KENNEDY,	)	Thomas E. Little,
Respondent-Appellant.	)	Judge Presiding.

PRESIDING JUSTICE KNECHT delivered the judgment of the court.
Justices Appleton and Pope concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, concluding the State presented sufficient evidence to support the trial court's order finding (1) respondent was an unfit parent when he failed to maintain a reasonable degree of responsibility as to the minors' welfare, and (2) termination of respondent's parental rights was in the minors' best interest.

¶ 2 In June 2015, the State filed motions to terminate respondent Christopher Kennedy's parental rights to F.K. (born December 21, 2003) and K.K. (born June 24, 2000). In a November 30, 2015, order, the trial court found respondent to be unfit and determined it was in

the minors' best interest to terminate his parental rights. Respondent appeals, arguing the trial court's unfitness findings and best-interest determinations were against the manifest weight of the evidence. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On February 24, 2014, the State filed a petition for adjudication of wardship, alleging F.K. was neglected (705 ILCS 405/2-3(1)(a), (b) (West 2012)) and abused (705 ILCS 405/2-3(2)(i) (West 2012)). On March 7, 2014, the State filed a petition for adjudication of wardship, alleging K.K. was neglected (705 ILCS 405/2-3(1)(a), (1)(b) (West 2012)) and abused (705 ILCS 405/2-3(2)(i) (West 2012)). At the time the petitions were filed, (1) the minors had been residing with their mother and her paramour, and (2) respondent was serving a sentence of imprisonment for driving with a revoked driver's license.

¶ 5 On May 30, 2014, the trial court adjudicated the minors neglected as they were residing in an environment injurious to their welfare (705 ILCS 405/2-3(1)(b) (West 2012)). The minors had been exposed to substance abuse, domestic violence, and medical neglect. That same month, respondent was released from prison.

¶ 6 On June 5, 2014, dispositional orders, the trial court made the minors wards of the court and placed custody and guardianship with the Department of Children and Family Services (DCFS).

¶ 7 On June 23, 2015, the State filed motions to terminate respondent's parental rights to each minor. The State alleged respondent was an unfit parent as he failed (1) to maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare (750 ILCS 50/1(D)(b) (West 2012)); (2) to make reasonable efforts to correct the conditions that were the

basis for the minors' removal within any nine-month period following the adjudication of neglect (750 ILCS 50/1(D)(m)(i) (West 2012)); and (3) to make reasonable progress toward the return of the minors within any nine month period following the adjudication of neglect (May 30, 2014, to February 28, 2015, and September 23, 2014, to June 23, 2015) (750 ILCS 50/1(D)(m)(ii) (West 2012)).

¶ 8 A. The Fitness Hearing

¶ 9 On September 18, 2015, the trial court held a fitness hearing and heard testimony from the following individuals: (1) Holli Churchill, a caseworker who had been assigned to the minors since March 2015; (2) Susan Davis, a court-appointed special advocate who had been assigned to the minors since March 2014; (3) respondent; and (4) Linda Kennedy-Calabro, respondent's aunt. Our review of the testimony reveals the following.

¶ 10 1. *Integrated Assessment*

¶ 11 On September 20, 2014, respondent completed an integrated assessment, which recommended he maintain adequate housing, attend weekly parent-child visits, participate in individual counseling, complete a substance-abuse assessment, and complete parenting classes.

¶ 12 2. *Adequate Housing*

¶ 13 After his release from prison in May 2014, respondent resided with Kennedy-Calabro in Decatur, Illinois, for approximately three months. Respondent left Kennedy-Calabro's residence after DCFS placed F.K. in Kennedy-Calabro's care.

¶ 14 Between September 2014 and March 2015, respondent resided (1) at his grandmother's home in Florida for two weeks, (2) at Heritage Behavioral Center (Heritage) in Illinois for three weeks, and (3) with friends.

¶ 15 In March 2015, respondent moved to Alabama with his paramour, Jaimie Lillpop, in search of employment. Respondent and Lillpop resided at a campsite for approximately a month. Both eventually obtained employment and rented a two-bedroom trailer. After approximately two months of employment, respondent and Lillpop were terminated. Respondent and Lillpop then moved to Georgia in search of employment.

¶ 16 After two weeks of failing to obtain employment in Georgia, respondent and Lillpop moved to Massachusetts in search of employment. They initially resided with Lillpop's father, and later, with friends. At the time of the fitness hearing, respondent and Lillpop resided in an efficiency apartment. Respondent was unemployed but continued to search for employment. Respondent indicated he was unaware of funds for housing. Respondent acknowledged he had inadequate housing.

¶ 17 3. *Visitation*

¶ 18 Since May 2014, respondent had visited with K.K. 14 times and F.K. 16 times. When respondent was in Illinois for court, he requested visitation. Visitations went well, but Churchill expressed concern regarding certain topics of discussion. Respondent called F.K. daily and made efforts to call K.K. K.K struggled emotionally with the relationship and, in October 2014, indicated she no longer wished to visit with respondent.

¶ 19 4. *Counseling*

¶ 20 In November 2014, respondent was admitted to Heritage due to mental-health issues. While at Heritage, respondent participated in counseling. Respondent left Heritage before completing treatment.

¶ 21 5. *Additional Services*

¶ 22 Prior to March 2015, respondent reported difficulties in receiving services. Churchill and respondent discussed respondent's responsibility to seek services outside of Illinois. During his time in Alabama and Georgia, respondent did not seek services. At a September 8, 2015, meeting, respondent reported visiting a community-health clinic in Massachusetts. Churchill requested documentation of services received on at least three occasions, which respondent did not provide. Respondent also indicated he spoke with an individual with DCFS in Massachusetts but misplaced the contact information. Respondent had scheduled an appointment with a psychiatrist. At the time of the fitness hearing, respondent had failed to complete parenting classes or a substance-abuse assessment.

¶ 23 6. *Trial Court's Findings*

¶ 24 The trial court found the State proved by clear and convincing evidence respondent was an unfit parent as he failed to (1) maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare; (2) make reasonable efforts to correct the conditions that were the basis for the removal of the minor during any nine-month period following the adjudication of neglect; and (3) make reasonable progress toward the return of the minor during any nine-month period following the adjudication of neglected (May 30, 2014, to February 28, 2015, and September 23, 2014, to June 23, 2015).

¶ 25 B. The Best-Interest Hearing

¶ 26 On November 30, 2015, the trial court held a best-interest hearing. The court considered an October 2, 2015, best-interest report and heard testimony from Churchill, respondent, and Lillpop. Our review of the testimony reveals the following.

¶ 27 Since May 2015, K.K. had been residing at a behavioral-treatment facility in

Champaign, Illinois. The McMillens, K.K.'s potential foster family, had been involved in K.K.'s life for approximately six years. In July 2015, the McMillens began weekly visits with K.K. in Champaign, and K.K. began weekend visits at the McMillens' home in Decatur. In September 2015, K.K. began overnight weekend visits with the McMillens. K.K. attended the McMillens' family functions. The McMillens and K.K. attended family counseling together. K.K's behavior improved, but she continued to struggle with oppositional defiance disorder. K.K. respected and bonded with the McMillens. The McMillens expressed interest in adopting K.K. The McMillens intended to assist in rekindling K.K. and F.K.'s relationship with each other. Churchill had no concerns with the McMillens. K.K. did not want to be in contact with respondent. Churchill opined the least disruptive placement for K.K. was with the McMillens.

¶ 28 F.K. had been residing with her maternal grandmother, step-grandfather, and uncle. F.K. was happy and doing well in school. Although she struggled in social studies, F.K. was being tutored by her great-aunt, Kennedy-Calabro. F.K. indicated she would prefer to live with her grandmother, who indicated a willingness to adopt. Respondent spoke with F.K. daily and visited with her while in Illinois. Churchill opined the least disruptive placement for F.K. was with her grandmother.

¶ 29 Respondent resided in Massachusetts with Lillpop in an efficiency apartment. Lillpop indicated they were in the process of obtaining a larger apartment. Respondent was unemployed and found it difficult to find employment due to his criminal record and mental-health history. Respondent left Illinois in search of employment and to better himself. Respondent maintained telephone contact with F.K. but had inconsistent visitation. In 2008 and 2011, respondent served sentences of imprisonment. From 2011 through spring 2014,

respondent was imprisoned for driving with a revoked driver's license. Respondent's driver's license continued to be revoked. Since the fitness hearing, respondent had completed parenting classes and a psychological evaluation, which directed respondent to complete a 12-week course for anger management. Respondent had commenced the anger-management course and expected it to be completed in three months.

¶ 30 Following this evidence, the trial court found it was in the minors' best interests to terminate respondent's parental rights.

¶ 31 This appeal followed.

¶ 32 II. ANALYSIS

¶ 33 On appeal, respondent argues the trial court's unfitness findings and best-interest determinations were against the manifest weight of the evidence. In response, the State asserts at least one of the court's unfitness findings and both of its best-interest determinations were not against the manifest weight of the evidence.

¶ 34 A. Unfitness Findings

¶ 35 The involuntary termination of parental rights involves a two-step process. 705 ILCS 405/2-29(2) (West 2012)). First, the State must prove by clear and convincing evidence the parent is "unfit" with respect to each child as defined in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2012)). *In re Donald A.G.*, 221 Ill. 2d 234, 244, 850 N.E.2d 172, 177 (2006); *In re D.C.*, 209 Ill. 2d 287, 300, 807 N.E.2d 472, 479 (2004). Only one ground for a finding of unfitness is necessary if it is supported by clear and convincing evidence. *In re Gwynne P.*, 215 Ill. 2d 340, 349, 830 N.E.2d 508, 514 (2005); *In re M.R.*, 393 Ill. App. 3d 609, 613, 912 N.E.2d 337, 342 (2009). We will not disturb a trial court's unfitness findings unless

they are against the manifest weight of the evidence. See *Gwynne P.*, 215 Ill. 2d at 354, 830 N.E.2d at 516-17. A decision is against the manifest weight of the evidence only where the opposite conclusion is clearly apparent. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1072, 859 N.E.2d 123, 141 (2006).

¶ 36 The trial court found respondent was an unfit parent as defined in Section 1(D)(b) of the Adoption Act (750 ILCS 50/1(D)(b) (West 2012)). Section 1(D)(b) provides a parent will be considered an "unfit person" if he or she fails to "to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare." 750 ILCS 50/1(D)(b) (West 2012). "Because the language of section 1(D)(b) of the Adoption Act is in the disjunctive, any of the three elements may be considered on its own as a basis for unfitness: the failure to maintain a reasonable degree of interest or concern or responsibility as to the child's welfare." *In re C.E.*, 406 Ill. App. 3d 97, 108, 940 N.E.2d 125, 136 (2010). Courts must examine the parent's conduct in the context of the parent's circumstances. *C.E.*, 406 Ill. App. 3d at 108, 940 N.E.2d at 136. Noncompliance with services may be sufficient to warrant a finding of unfitness under section 1(D)(b). *In re Jaron Z.*, 348 Ill. App. 3d 239, 259, 810 N.E.2d 108, 125 (2004).

¶ 37 The evidence presented at the fitness hearing demonstrated, in the year following his integrated assessment, respondent failed to (1) attend weekly parent-child visits, (2) complete a substance-abuse assessment, (3) complete individual counseling, (4) maintain adequate housing, or (5) complete parenting classes. Given respondent's failure to comply with the recommendations of his integrated assessment, the trial court's finding of unfitness for respondent's failure to maintain a reasonable degree of responsibility as to the minors' welfare was not against the manifest weight of the evidence. See *Jaron Z.*, 348 Ill. App. 3d at 259, 810

N.E.2d at 125; *In re M.J.*, 314 Ill. App. 3d 649, 657, 732 N.E.2d 790, 796 (2000).

¶ 38 As only one ground for a finding of unfitness is necessary to uphold the trial court's judgment, we need not review the other bases for the court's unfitness findings. See *In re Tiffany M.*, 353 Ill. App. 3d 883, 891, 819 N.E.2d 813, 820 (2004).

¶ 39 B. Best-Interest Determinations

¶ 40 Following a finding of unfitness, the State must prove by a preponderance of the evidence it is in the child's best interest parental rights be terminated. *In re D.T.*, 212 Ill. 2d 347, 366, 818 N.E.2d 1214, 1228 (2004). At the best-interest stage, a parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life. *D.T.*, 212 Ill. 2d at 364, 818 N.E.2d at 1227.

¶ 41 The trial court must consider the following factors, in the context of the minor's age and developmental needs, in determining whether termination is in a child's best interest: (1) the physical safety and welfare of the child, including food, shelter, health, and clothing; (2) the development of the child's identity; (3) the child's background and ties, including familial, cultural, and religious; (4) the child's sense of attachments; (5) the child's wishes and long-term goals; (6) the child's community ties, including church, school, and friends; (7) 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; (8) the uniqueness of every family and child; (9) the risks attendant to entering and being in substitute care; and (10) the preferences of the persons available to care for the child. 705 ILCS 405/1-3(4.05) (West 2012).

¶ 42 This court will not reverse a trial court's best-interest determination unless it is against the manifest weight of the evidence. *In re Anaya J.G.*, 403 Ill. App. 3d 875, 883, 932

N.E.2d 1192, 1199 (2010). As previously stated, a decision will be found to be against the manifest weight of the evidence only if the facts clearly demonstrate the court should have reached the opposite conclusion. *Daphnie E.*, 368 Ill. App. 3d at 1072, 859 N.E.2d at 141.

¶ 43 K.K. was transitioning from a treatment facility to the McMillens' care. The McMillens visited K.K. weekly, participated in family counseling, and expressed a desire to adopt. K.K. respected and bonded with the McMillens.

¶ 44 F.K. had been residing with her maternal grandmother, step-grandfather, and uncle. F.K was happy and her needs were being addressed. F.K. indicated a preference of living with her grandmother, who expressed a willingness to adopt.

¶ 45 Conversely, the record demonstrates respondent was unable to provide the minors with permanency and stability. Given the evidence presented, the trial court's determinations it was in the minors' best interest to terminate respondent's parental rights were not against the manifest weight of the evidence.

¶ 46 III. CONCLUSION

¶ 47 We affirm the trial court's judgment.

¶ 48 Affirmed.