

NOTICE

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2016 IL App (4th) 160565-U
NOS. 4-16-0565, 4-16-0566 cons.
IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

December 20, 2016
Carla Bender
4th District Appellate
Court, IL

In re: A.C., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Vermilion County
v. (No. 4-16-0565))	No. 15JA51
CATHY ATKINSON,)	
Respondent-Appellant.)	
-----)	
)	
In re: J.L., a Minor,)	
THE PEOPLE OF THE STATE OF ILLINOIS,)	
Petitioner-Appellee,)	
v. (No. 4-16-0566))	No. 15JA52
CATHY ATKINSON,)	Honorable
Respondent-Appellant.)	Claudia S. Anderson,
)	Judge Presiding.

JUSTICE APPLETON delivered the judgment of the court.
Presiding Justice Knecht and Justice Harris concurred in the judgment.

ORDER

- ¶ 1 *Held:* The trial court's order terminating respondent mother's parental rights, based on the court's finding respondent was an unfit parent and it was in the minors' best interests to terminate, was not against the manifest weight of the evidence.
- ¶ 2 Respondent mother, Cathy Atkinson, appeals from the trial court's order terminating her parental rights. She challenges both the trial court's finding of unfitness and the court's best-interests finding. We affirm.

¶ 3

I. BACKGROUND

¶ 4

Respondent is the mother of A.C., born October 23, 2010, and J.L., born July 23, 2013. Each minor has a different father; neither of whom is a party to this appeal. In May 2015, the minors were taken into protective custody after respondent was arrested for domestic violence and child endangerment. Respondent was seen beating her boyfriend in the street in the presence of the minors.

¶ 5

In June 2015, the State filed a petition for the adjudication of neglect, alleging the minors' environment was injurious to their welfare due to the issues of domestic violence, drug use, and respondent's mental health. As part of her case plan, respondent was to participate in the following services: (1) a substance-abuse assessment, (2) parenting classes, (3) individual counseling, (4) a psychiatric evaluation, (5) a domestic-violence assessment, and (6) visitation with the minors. However, the trial court ordered no visits with the minors until respondent could submit a clean drug drop. Before that could happen, in October 2015, respondent was arrested on methamphetamine-related charges. She was sentenced to 4 1/2 years in prison.

¶ 6

Between the time the minors were taken into protective custody in May 2015 and respondent's arrest in October 2015, respondent had not performed any of her required tasks. On September 17, 2015, the trial court adjudicated the minors neglected on the grounds alleged in the petition. On October 29, 2015, the court found respondent unfit and made the minors wards of the court. The court awarded custody and guardianship to the Illinois Department of Children and Family Services (DCFS). The minors had initially been placed in relative placement, but they were moved to a traditional foster home in February 2016.

¶ 7 On July 27, 2016, the trial court conducted a fitness hearing on the State's April 2016 petition to terminate respondent's parental rights. The State alleged respondent was unfit in that she: (1) failed to maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare (750 ILCS 50/1(D)(b) (West 2014)); (2) abandoned the minors (750 ILCS 50/1(D)(a) (West 2014)); (3) was depraved (750 ILCS 50/1(D)(i) (West 2014)); and (4) was incarcerated at the time the petition was filed, has had little or no contact with the minors or provided little or no support for the minors prior to her incarceration, and her incarceration will prevent her from discharging her parental responsibilities for over two years (750 ILCS 50/1(D)(r) (West 2014)).

¶ 8 In open court, the State, over respondent's objection, was allowed to add two additional grounds of unfitness. The State alleged respondent was unfit in that she (1) failed to make reasonable efforts to correct the conditions that were the basis for the removal of the minors during the nine-month period following the adjudication of neglect, between September 17, 2015, and June 17, 2016 (750 ILCS 50/1(D)(m)(i) (West 2014)); and (2) failed to make reasonable progress toward the return of the minors during that same time period (750 ILCS 50/1(D)(m)(ii) (West 2014)).

¶ 9 Rebecca Woodard, the DCFS caseworker, testified that respondent had not participated in any recommended services or visits prior to her incarceration. Since she had been in prison, Woodard had received letters from respondent to her and the minors "almost daily." According to Woodard's conversations with the assistant warden, respondent was currently involved in parenting classes and was on a waiting list for substance-abuse treatment. She was working toward her general equivalency diploma (GED) and was involved in a women's group. However, Woodard said she had not received anything to verify the completion of any programs.

¶ 10 Woodard testified the relevant time frame within which to evaluate respondent's reasonable efforts or progress was September 17, 2015, through June 15, 2016. Respondent was incarcerated beginning in October 2015, and she will remain incarcerated until February 2018 at the earliest. Before October 2015, respondent had not performed any task related to her case plan.

¶ 11 Respondent testified on her own behalf. She said she had a baby in September 2015. She testified she had missed her first substance-abuse-evaluation appointment, which was scheduled at the Prairie Center in July 2015, because she had to walk and was pregnant. She appeared approximately 20 minutes late. She made another appointment in September 2015, but she "wound up in the hospital," giving birth. (She relinquished her parental rights to the baby.) Respondent recalled she had signed releases to begin services, but when she had a positive drug drop for methamphetamine in October 2015, she was arrested and incarcerated. Respondent claimed she was taking Sudafed for a cold, which resulted in the false positive. However, she did admit in August 2015, while pregnant, she tested positive for methamphetamine because she "was dirty."

¶ 12 Respondent testified it was possible she could be released from prison in 2017, depending on her "grade level." She planned to enroll in other classes, which would serve to expedite her release date. She completed the parenting course, and she was working toward her GED. She said she completed a "telepsych" evaluation in prison, where she was diagnosed with antisocial personality disorder.

¶ 13 After considering the evidence and arguments of counsel, the trial court found respondent unfit. The court stated respondent knew at the beginning of the case "what exactly needed to be done in order to regain custody of [the minors]. She pretty much ignored that." The

court noted respondent's effort in sending the minors gifts did not provide sufficient evidence to show respondent's "interest in being a parent." The court noted respondent "picked drugs over [the minors]." The court found respondent unfit on all grounds alleged except depravity and issues related to her current incarceration, finding that evidence insufficient to support a finding of unfitness.

¶ 14 The trial court proceeded immediately to a best-interests hearing. Rebecca Woodard again testified. She said the minors were placed together in a traditional foster placement, which also served as a permanent option for them. She said the minors were "doing very well." A.C., who was currently five years old, attended weekly intensive therapy to address various issues, such as separation anxiety and other adjustment issues. The letters A.C. received from respondent were intercepted by the therapist, who will review the letters with A.C. at the appropriate time. J.L., who was currently three years old, attended weekly occupational therapy. She said the two-parent foster home provided love and stability for the minors. The parents show the minors affection and the minors reciprocate. Both minors were also doing well in day care. The foster parents have expressed their desire to adopt the minors.

¶ 15 After considering the evidence, the trial court found it in the minors' best interests to terminate respondent's parental rights. This appeal followed.

¶ 16 II. ANALYSIS

¶ 17 A. Unfitness Finding

¶ 18 Respondent appeals from the trial court's order terminating her parental rights. Specifically, she claims the State did not sufficiently prove her unfit on the grounds she had (1) failed to maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare; (2) failed to make reasonable progress toward the return of the minors; (3) failed to

make reasonable efforts to correct the conditions that caused removal; or (4) abandoned the minors. Any one ground properly proved is sufficient to support a finding of unfitness. *In re C.W.*, 199 Ill. 2d 198, 210 (2002).

¶ 19 After addressing only the sufficiency of the evidence related to the allegation that respondent failed to maintain a reasonable degree of interest, concern, or responsibility toward the minors, we affirm. “[I]n determining whether a parent showed reasonable concern, interest or responsibility as to a child's welfare, we have to examine the parent's conduct concerning the child in the context of the circumstances in which that conduct occurred.” *In re Adoption of Syck*, 138 Ill. 2d 255, 278 (1990). In this case, respondent was incarcerated during the majority of the life of the case. Because of this, she was unable to visit the minors in person beginning in October or November 2015. However, between May 2015 and her incarceration, respondent did not visit with children because she was unable to provide the court with a negative drug test. She had approximately six months to demonstrate her desire to resume parental responsibilities. She chose otherwise.

¶ 20 After she was incarcerated, respondent sent many letters and gifts to the minors. However, those letters could not make up for the time respondent chose drugs over her relationship with the minors. She failed to engage in *any* services prior to her incarceration. This complete lack of involvement fully supports the trial court's finding of unfitness on these grounds. By committing her crimes, respondent had placed herself in a position to be away from the minors for a significant amount of time. It was only after her incarceration that she attempted to demonstrate an interest to keep in touch with the minors or inquire as to their well-being. Unfortunately, at that point, her interest cannot be deemed “reasonable.” She had sufficient time prior to her arrest to demonstrate a genuine interest, concern, or responsibility as to the welfare

of the minors. She failed to do so. As such, the State successfully proved by clear and convincing evidence respondent failed to maintain a reasonable degree of interest, concern, or responsibility toward the minors' well-being.

¶ 21

B. Best-Interests Hearing

¶ 22

Respondent also contends the trial court erred in finding it was in the minors' best interests to terminate her parental rights. She claims the letters, cards, and gifts she sent to the minors and the various inquiries directed to the caseworker tend to negate the court's best-interests finding. She insists it was not in the minors' best interests to terminate her parental rights, and a finding to the contrary was indeed against the manifest weight of the evidence. We disagree.

¶ 23

Woodard testified the minors had been placed with their foster parents since February 2016. She said the foster parents were meeting all of the minors' needs and had provided them love, support, and stability. She said the minors were doing well in the home and doing well in their day care setting. Both minors were involved in therapy and were thriving. The foster parents and the minors all showed each other affection. The foster parents had expressed a desire to provide the minors with permanency through adoption. Woodard said she had no concerns regarding this placement. After considering Woodard's testimony, the trial court agreed with the State's recommendation that termination of respondent's parental rights would be in the minors' best interests. Our review of the record supports the court's decision, and therefore, we find the order terminating respondent's parental rights was not against the manifest weight of the evidence.

¶ 24

III. CONCLUSION

¶ 25

For the reasons stated, we affirm the trial court's judgment.

¶ 26

Affirmed.