2018 IL App (4th) 180486-U

NO. 4-18-0486

FILED
November 6, 2018
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re S.E., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Vermilion County
Petitioner-Appellee,	)	
v.	)	No. 17JA3
Kalee E.,	)	
Respondent-Appellant).	)	Honorable
	)	Thomas M. O'Shaughnessy,
	)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.
Justices Holder White and Turner concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed the trial court's termination of parental rights.

¶ 2 I. BACKGROUND

¶ 3 Respondent, Kalee E., is the mother of S.E. (born December 27, 2016). In June 2017, the trial court found S.E. to be a neglected minor, placed her in the guardianship of the Department of Children and Family Services (DCFS), and authorized DCFS to determine who would have custody of S.E. In January 2018, the State filed a petition to terminate respondent's parental rights. In June 2018, the court conducted a termination hearing and determined that respondent was an unfit parent. In July 2018, the court conducted a best-interest hearing and concluded that it was in S.E.'s best interest to terminate respondent's parental rights.

¶ 4 Respondent appeals, arguing that the trial court's (1) fitness determination and (2)

best-interest determination were against the manifest weight of the evidence. We disagree and affirm.

¶ 5 A. The Adjudication of Wardship

¶ 6 Respondent is the mother of S.E. In June 2017, the trial court found S.E. to be a neglected minor, placed her in the guardianship of DCFS, and authorized DCFS to determine who would have custody of S.E. In a written order, the court admonished respondent that she risked the termination of her parental rights unless she cooperated with DCFS, complied with the terms of her service plan, and corrected the conditions that required S.E. to be placed in the care of DCFS.

¶ 7 B. The Petition to Terminate Parental Rights

¶ 8 In January 2018, the State filed a petition to terminate respondent's parental rights. In pertinent part, the State alleged that respondent was an unfit parent because she (1) abandoned S.E., (2) failed to maintain a reasonable degree of interest, concern, or responsibility as to S.E.'s welfare, and (3) deserted S.E. for more than three months preceding the commencement of this action. 750 ILCS 50/1(D)(a), (b), (c) (West 2016).

¶ 9 C. The Termination Hearings

¶ 10 The trial court conducted a termination hearing in May and June of 2018. After the presentation of evidence, the court concluded that respondent was an unfit parent because she "abandoned the minor. She has failed to maintain a reasonable degree of interest, and concern, and responsibility as to the minor's welfare, and she deserted the minor for more than three months preceding the commencement of this action."

¶ 11 D. The Best-Interest Hearing

¶ 12 In July 2018, the trial court conducted a best-interest hearing. Gwendolyn Parker,

S.E.'s case manager, testified that S.E. was placed in a traditional foster home and that she had bonded with her foster family. She testified that the foster home was willing to provide permanency for S.E. and that it was in S.E.'s best interest to remain in the foster home. The best-interest report also recommended that S.E. remain in her foster home. No additional evidence was presented. Ultimately, the court concluded that it was in S.E.'s best interest to terminate respondent's parental rights.

¶ 13 This appeal followed.

¶ 14 II. ANALYSIS

¶ 15 Respondent appeals, arguing that the trial court's (1) fitness determination and (2) best-interest determination was against the manifest weight of the evidence. We address these issues in turn.

¶ 16 A. The Fitness Determination

¶ 17 Respondent argues that the trial court's finding that she failed to maintain a reasonable degree of interest, concern or responsibility as to S.E.'s welfare was against the manifest weight of the evidence. We conclude that this issue is moot.

¶ 18 1. *The Applicable Law and the Standard of Review*

¶ 19 The State must prove unfitness as defined in section 1(D) of the Adoption Act by clear and convincing evidence. 750 ILCS 50/1(D) (West 2016); *In re D.D.*, 196 Ill. 2d 405, 417, 752 N.E.2d 1112, 1119 (2001). Section 1(D) of the Adoption Act defines an unfit person as "any person whom the court shall find to be unfit to have a child, without regard to the likelihood that the child will be placed for adoption." 750 ILCS 50/1(D) (West 2016). Applicable to this case, the grounds of parental unfitness are any one or more of the following:

"(a) Abandonment of the child.

* * *

(b) Failure to maintain a reasonable degree of interest, concern[,] or responsibility as to the child's welfare.

(c) Desertion of the child for more than 3 months next preceding the commencement of the Adoption proceeding." *Id.* § 1(D)(a), (b), (c).

¶ 20 "As the grounds for unfitness are independent, the trial court's judgment may be affirmed if the evidence supports the finding of unfitness on any one of the alleged statutory grounds." *In re H.D.*, 343 Ill. App. 3d 483, 493, 797 N.E.2d 1112, 1120 (2003). "A determination of parental unfitness involves factual findings and credibility assessments that the trial court is in the best position to make." (Internal quotation marks omitted.) *In re Richard H.*, 376 Ill. App. 3d 162, 165, 875 N.E.2d 1198, 1201 (2007). A reviewing court will not reverse the trial court's finding of parental unfitness unless the finding was against the manifest weight of the evidence. *In re D.D.*, 196 Ill. 2d at 417. A decision regarding parental fitness is against the manifest weight of the evidence when the opposite conclusion is clearly the proper result. *In re Nylani M.*, 2016 IL App (1st) 152262, ¶ 48, 51 N.E.3d 1067.

¶ 21 In *In re T.Y.*, 334 Ill. App. 3d 894, 905, 778 N.E.2d 1212, 1219-20 (2002), the First District concluded as follows:

"[Respondent] challenges only two of the three grounds upon which the court based his finding of unfitness. Due to his failure to challenge the trial courts finding that he was unfit for failing to maintain a reasonable degree of responsibility for the children under section 1(D)(b) of the Adoption Act, his appeal is moot. See *In re D.L.*, 191 Ill.2d 1, 8, 727 N.E.2d 990 (2000). Evidence of a single statutory ground is sufficient to uphold a finding of parental unfitness.

329 Ill.App.3d 18, 768 N.E.2d 367 (2002). Therefore, even if the court erred in finding [respondent] unfit under sections 1(D)(m) and 1(D)(k), the termination of his parental rights may be upheld solely on the grounds of section 1(D)(b)."

¶ 22 2. *This Case*

¶ 23 In this case, the State alleged that respondent was an unfit parent because she (1) abandoned S.E., (2) failed to maintain a reasonable degree of interest, concern, or responsibility as to S.E.'s welfare, and (3) deserted S.E. for more than three months preceding the commencement of this action. 750 ILCS 50/1(D)(a), (b), (c) (West 2016).

¶ 24 The trial court later concluded that respondent "abandoned the minor. She has failed to maintain a reasonable degree of interest, and concern, and responsibility as to the minor's welfare, and she deserted the minor for more than three months preceding the commencement of this action." See *id.*

¶ 25 On appeal, respondent argues that the trial court's finding that she failed to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare was against the manifest weight of the evidence. However, respondent does not challenge the trial court's finding that she "abandoned the minor" and that she "deserted the minor for more than three months preceding the commencement of this action."

¶ 26 Evidence of a single statutory ground is sufficient to uphold a finding of parental unfitness. *In re H.D.*, 343 Ill. App. 3d at 493. Because respondent only challenges one of the three grounds upon which the trial court based its finding of unfitness, her argument is moot. *In re T.Y.*, 334 Ill. App. 3d at 905. (We note that had respondent challenged the sufficiency of the evidence to sustain either of the trial court's other findings that she had abandoned or deserted S.E. as the petition alleged, those challenges on this record would most probably have failed.)

Accordingly, we affirm the court's fitness determination.

¶ 27 B. The Best-Interest Determination

¶ 28 Respondent argues that the trial court's best-interest determination was against the manifest weight of the evidence. We disagree.

¶ 29 1. *The Applicable Law and the Standard of Review*

¶ 30 "At the best-interest stage of a termination proceedings, the State bears the burden of proving by a preponderance of the evidence that termination of parental rights is in the child's best interest." *In re Jay. H.*, 395 Ill. App. 3d 1063, 1071, 918 N.E.2d 284, 290-91 (2009). In reaching a best-interest determination, the trial court must consider, within the context of the child's age and developmental needs, the following factors:

> "(1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's familial, cultural[,] and religious background and ties; (4) the child's sense of attachments, including love, security, familiarity, continuity of affection, and the least disruptive placement alternative; (5) the child's wishes and long-term goals; (6) the child's community ties; (7) the child's need for permanence, including the need for stability and continuity of relationships with parent figures and siblings; (8) the uniqueness of every family and child; (9) the risks related to substitute care; and (10) the preferences of the person available to care for the child." *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1072, 859 N.E.2d 123, 141 (2006); see also 705 ILCS 405/1-3(4.05) (West 2016).

¶ 31 A reviewing court affords great deference to a trial court's best-interest finding because the trial court is in the superior position to view the witnesses and judge their credibility. *In re K.B.*, 314 Ill. App. 3d 739, 748, 732 N.E.2d 1198, 1206 (2000). An appellate court "will

not reverse the trial court's best-interest determination unless it was against the manifest weight of the evidence." *Jay. H.*, 395 Ill. App. 3d at 1071. A best-interest determination is against the manifest weight of the evidence only if the facts clearly demonstrate that the trial court should have reached the opposite result. *Id.*

¶ 32 2. *This Case*

¶ 33 In this case, Parker testified that (1) S.E. was placed in a traditional foster home, (2) S.E. had bonded with her foster family, (3) the foster home was willing to provide permanency, and (4) that it was in S.E.'s best interest to remain in her foster home. The best-interest report also recommended that S.E. remain in her foster home. No other evidence was presented.

¶ 34 On appeal, respondent argues only that she "had been re-engaging in services and should have been allowed to rebuild her bond with S.E." This lone argument fails to demonstrate that the trial court should have reached the opposite result. *Id.* Accordingly, we conclude that the trial court's best interest determination was not against the manifest weight of the evidence. *Id.*

¶ 35 III. CONCLUSION

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

¶ 37 Affirmed.