2019 IL App (2d) 190353-U
No. 2-19-0353
Order filed August 12, 2019

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re J.B. and T.W., Minors.	)	Appeal from the Circuit Court
	)	of Winnebago County.
	)	
	)	Nos. 17-JA-211
	)	17-JA-212
	)	
(The People of the State of Illinois,	)	Honorable
Petitioner-Appellee, v. Sunshine H.,	)	Francis M. Martinez,
Respondent-Appellant).	)	Judge, Presiding.

JUSTICE JORGENSEN delivered the judgment of the court.
Justices McLaren and Spence concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's unfitness finding was not contrary to the manifest weight of the evidence. Affirmed.

¶ 2 On March 11, 2019, the trial court found that the State had established by clear and convincing evidence that respondent, Sunshine H., is unfit to parent her two children, J.B. and T.W. Further, on April 1, 2019, the court found that it was in the children's best interests that respondent's parental rights be terminated. Respondent appeals only the court's unfitness finding. For the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 According to the record, in 2013, respondent caught T.W., then age eight, "humping his sister" (not J.B.). She did not take any action with respect to that incident. In November 2016, T.W., then age 11, was found anally penetrating a non-related 6-year-old child in respondent's home. The children were alone in T.W.'s bedroom. The agency intervened in the home and implemented a safety plan, which included T.W. not being left alone and unsupervised with younger children. Respondent was alleged to have violated the plan, however, and a neglect petition followed.

¶ 5 On November 7, 2017, the minors were adjudicated neglected based on respondent not providing appropriate supervision of the minors after T.W. committed sexual acts against another child. At the December 20, 2017, dispositional hearing, respondent waived her right to be present, the children were made wards of the court, and DCFS was appointed as the minors' guardian.[1]

¶ 6 On September 24, 2018, the State petitioned for termination of respondent's parental rights. It alleged that respondent was unfit for failing to protect the children from conditions within their environment injurious to their welfare (750 ILCS 50/1(D)(g) (West 2016)). Further, it alleged that respondent failed to make reasonable efforts to correct the conditions which formed the basis for removal of the children from her care or to make reasonable progress toward their return to her care during the following nine-month periods: (1) November 7, 2017, to August 7, 2018; and (2) January 17, 2018, to September 17, 2018 (750 ILCS 50/1(D)(m)(i), (ii) (West 2016)).

[1] The record reflects that respondent lost guardianship and custody of a different son in 2005 and, after DCFS involvement in 2009, her daughter lives with the daughter's biological father.

¶ 7 At the unfitness hearing, caseworker Megan Denk testified that she was assigned to the case in September 2017. The services required of respondent included parenting education, individual counseling, and a "Helping Abusive Parenting Assessment," which was recommended because, when the case first opened, there were abuse allegations with respect to her treatment of T.W. Respondent completed the parenting class in December 2017. Although respondent attended two group adult counseling sessions in June 2018, she did not attend two other sessions, alleging transportation issues. Denk offered to pick up respondent at home and take her to the sessions, if she could find a ride home; respondent did not take her up on the offer. Denk offered to give respondent bus passes; respondent said that she would not ride the Rockford bus. Denk testified that respondent applied for Paratransit, a bus system that would come to respondent's home and take her to a specific destination, but respondent apparently did not provide required medical documentation.

¶ 8 In July 2018, respondent was referred to Youth Services Network (YSN), where she completed a mental health assessment. Again, individual counseling was recommended, but the counselor's multiple attempts to meet with respondent resulted in one session. Respondent never attended her scheduled appointments for the Helping Abusive Parents class. For the first two months, respondent was inconsistent with visitation. She was later consistent and visits took place within her home, although visitation was never unsupervised and respondent had a difficult time engaging with both children. At times, respondent blamed T.W. for the case's existence. Denk testified that, if respondent had received individual counseling, the reasons for which the case came into care would have been addressed with her. Denk agreed, however, that once the goal changed, visitation improved, in that respondent fed the children dinner each visit and tried to engage with both children.

¶ 9 Denk testified that she is aware that respondent supports herself with social security benefits, reportedly due to heart issues. Respondent told Denk a couple of times that she went to the hospital, although Denk did not recall asking for or seeing documents related to those visits. According to Denk, respondent reported that, to attend other appointments, she received rides from friends, took taxis, and that she has taken the bus to visit family in Chicago. Denk agreed that YSN sends counselors to clients' homes; after respondent received an assessment from YSN, the goal was changed and, thereafter, the agency did not pay for services. Respondent did not engage with YSN after the goal changed.

¶ 10 Respondent testified that she has received social security income since 2014, on account of congestive heart failure. Since the case opened in 2017, respondent has had health problems and testified that she was hospitalized. Over the State's and guardian *ad litem*'s objections, the court admitted respondent's exhibit of records from Mercy Health; although not certified, the court described them as rather technical printouts that appeared authentic and the court did not think respondent capable of creating such documents. Respondent testified that she completed the required parenting class, attending two group counseling sessions, and once met with the YSN counselor at her home. Respondent explained that, when the counselor was going to return, respondent was in the hospital. She could not, however, recall the time frame. Respondent testified that, after she was released from the hospital, she attempted to re-engage with YSN, but was told that she needed another referral. Respondent claimed that she spoke to her caseworker, but another referral was not issued. Respondent testified that she also missed other assessments and appointments because she was in the hospital. Again, however, she was not able to identify the dates of her hospital stays; she testified that she had been "in and out," "several times," sometimes for three or four days and sometimes for one week. She could not recall how often

she had been in the hospital and did not always tell her caseworker when she was going to the hospital.

¶ 11 As for transportation, respondent explained that she sometimes takes cabs or gets rides from her cousin; she pays for the cabs and gives her cousin gas money. If offered to her, she would not use a Rockford bus pass because she does not take busses due to her condition and her medication makes her drowsy and sometimes weak. Respondent agreed that she has visited family in Chicago; her cousin would take her to Chicago and then she "might get on a bus back" with a cousin or friend. Respondent attends doctor's appointments using transportation through her insurance; friends and relatives go to the grocery store for her. Since the goal has changed, respondent visits the children once each month, talks with them in between visits, and communicates with their foster parents.

¶ 12 On March 11, 2019, the trial court found that the State met its burden of establishing unfitness on all three counts alleged in the petition to terminate. The court explained that there were three services prescribed for respondent and, although one was completed in December 2017, after that, there was a failure to make efforts and progress and "the train seemed to go off the tracks." The court did not find credible respondent's assertions that transportation issues prevented her from making progress, as the agency offered passes and rides and respondent turned them down. "Frankly, [respondent's] testimony concerning her issues are not convincing to the [c]ourt. The assertion that her medication prevented her from using public transportation simply did not seem reasonable to the [c]ourt, and there was no explanation as to which medication caused her to be so debilitated as she could not ride a bus." The court further noted that respondent could have arranged transportation through the Paratransit system, but did not

provide required information. The court found it clear and convincing that respondent failed to make reasonable efforts or progress after the initial parenting education class.

¶ 13 Further, as to the count that respondent failed to protect the children from conditions within their environment injurious to their welfare, the court found that respondent was on notice that T.W. was acting out sexually, but did not take any action to correct that circumstance and, thereafter, left children unsupervised with him. The court explained that it was not taking into consideration anything that happened after the children came into care. The court also noted that there was no evidence presented to the court to rebut that count. Respondent appeals.

¶ 14 II. ANALYSIS

¶ 15 Respondent argues that the court erred in finding that the State's evidence was clear and convincing on all three counts. However, for purposes of evaluating respondent's arguments on appeal, we must bear in mind that, even if we were to find persuasive some of respondent's potential arguments attacking the unfitness finding, *any one ground*, properly proved, is sufficient to affirm. *In re Janine M.A.*, 342 Ill. App. 3d at 1049. Here, at a minimum, the court's findings that respondent failed to make reasonable progress toward the return of the children to her home were not contrary to the manifest weight of the evidence.

¶ 16 The question of reasonable progress is an objective one, which requires the court to consider whether the parent's actions reflect that the court will be able to return the child home in the near future. See *In re Phoenix F.*, 2016 IL App (2d) 150431, ¶ 7. In order for there to be reasonable progress, there must be some "demonstrable movement toward the goal of reunification." *In re C.N.*, 196 Ill. 2d 181, 211 (2001). In assessing progress, the court may consider compliance with service plans, in light of the conditions which gave rise to the removal

of the minors from respondent's care, as well as any other conditions which later prevented the trial court from returning the minors to respondent. *Id.*

¶ 17 Here, as the court pointed out, respondent completed only one of the three tasks assigned to her. She did not complete any individual counseling, having had only one individual session and two group sessions, and she never took the Helping Abusive Parents class. Respondent presently suggests that she should not have been referred to the abusive parents class or counseling, but she does not allege that she ever challenged that requirement in her service plan via an appeal with the agency or otherwise below. The evidence reflected that respondent missed numerous appointments, declined transportation assistance, and, to the extent that she experienced medical issues, respondent did not keep her caseworker informed or present to the court specifics about why her condition prevented her from taking the bus to these appointments or when her treatment interfered with required services. Respondent never progressed to unsupervised visitation. Accordingly, in light of the foregoing evidence, the court's findings that it would be able to return the children home in the near future (*In re Phoenix F.*, 2016 IL App (2d) 150431, ¶ 7) or that there existed "demonstrable movement toward the goal of reunification" (*In re C.N.*, 196 Ill. 2d 181, 211 (2001)) were not contrary to the manifest weight of the evidence.

¶ 18 Respondent does not appeal the court's best-interest finding. As such, the termination decision is affirmed.

¶ 19 III. CONCLUSION

¶ 20 For the reasons stated, the judgment of the circuit court of Winnebago County is affirmed.

¶ 21 Affirmed.