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2013 IL App (4th) 120934-U

NO. 4-12-0934

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
February 28, 2013
Carla Bender
4th District Appellate
Court, IL

In re: C.G., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Champaign County
v.)	No. 11JA10
LINDA MOORE,)	
Respondent-Appellant.)	Honorable
)	Richard P. Klaus,
)	Judge Presiding.

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

ORDER

¶ 1 *Held:* The trial court's termination of respondent mother's parental rights was not against the manifest weight of the evidence.

¶ 2 In February 2011, the State filed a petition for adjudication of wardship of C.G. (born October 12, 1998), the minor child of respondent, Linda Moore, and Michael Grayson. In May 2011, the minor was found to be neglected by both parents and custody of the minor was placed in the Illinois Department of Children and Family Services (DCFS).

¶ 3 In February 2012, the State filed a petition to terminate respondent's and Grayson's parental rights to the minor. In August 2012, the trial court found respondent to be unfit on several grounds and later terminated her parental rights in September 2012. Respondent appeals only the finding termination of her parental rights is in the best interests of the minor and does not appeal the finding of unfitness. We affirm.

¶ 4

I. BACKGROUND

¶ 5 On February 3, 2011, DCFS received a hotline report stating C.G. was at risk of harm in the care of her father, Grayson. Grayson was arrested that day for domestic battery to his paramour, Paula Woodruff, and C.G. was in the home at the time of the assault. When Woodruff went out to call for help, Grayson hid in the home and told C.G. to tell the police he had left. Urbana police took protective custody of C.G. as Grayson stated there were no relatives in the area. Moore, her mother, lived in Chicago.

¶ 6 C.G. stated she had been living with Grayson since two days after Christmas 2010. Prior to that, she had been living with Moore in Chicago. She stated she did not want to return to living with Moore as "there was too much drama going on." After taking custody of C.G. from the police, DCFS learned she had a seizure disorder and it was unclear if she was taking her prescribed medication. An investigation was begun in January 2011 in regard to an allegation of medical neglect by Grayson. In addition to C.G.'s seizure disorder, she had cognitive delays. She was receiving special education services at school and displayed behavioral problems both at home and at school, including aggressive behaviors.

¶ 7 On February 4, 2011, the State filed a petition for adjudication of wardship, alleging C.G. was a neglected minor under section 2-3(1)(b) of the Juvenile Court Act of 1987 (705 ILCS 405/2-3(1)(b) (West 2010)) in that, (1) when she resides with Grayson, the environment exposed her to domestic violence; (2) when she resides with Grayson, the environment exposed her to criminal activity; and (3) when she resides with Moore, the environment exposes her to substance abuse.

¶ 8 Moore did not appear at the shelter care hearing on February 7, 2011, where

temporary custody of C.G. was awarded to DCFS. Grayson was in custody on a domestic battery charge and DCFS had an open investigation of him regarding alleged medical neglect of C.G. DCFS was informed Moore had a "profound" alcohol problem and had been indicated for medical neglect.

¶ 9 On February 25, 2011, the State filed an amended petition for adjudication of neglect and added a fourth count of neglect due to an environment injurious to C.G.'s health and well-being as both Moore and Grayson did not provide the medical care necessary for her well-being. On April 15, 2011, Moore stipulated to this fourth count of the amended petition. The trial court heard evidence on the first two counts against Grayson and found those to be proved by a preponderance of the evidence. On May 3, 2011, the court entered its written adjudicatory order finding C.G. to be neglected.

¶ 10 On April 1, 2011, DCFS referred the case to Illinois Mentor. On May 25, 2011, Illinois Mentor filed a home and background report with the court. The report stated Moore had been indicated for medical neglect of C.G. in 2007. The intact family case from that incident was closed by DCFS in 2009. Moore claimed to have completed parenting classes and substance abuse treatment in connection with the medical neglect case and she received help from a DCFS nurse and after-school program to assist with C.G.'s medical appointments and medications. Moore received \$630 per month for disability due to asthma and hypertension. She lived in Section 8 housing in a home described in the report as unclean. Broken glass in Moore's backyard posed a risk of harm to children. Moore admitted "many" incidents of domestic violence during her eight-year relationship with Grayson and also admitted "drinking problems" during that time period. She denied any current problems with alcohol. A 24-year-old daughter,

an 18-year-old son, and a 2-year-old son were living with Moore.

¶ 11 Moore stated her family had a history of mental illness and she used to take medication for depression. She admitted C.G. was "sometimes *** difficult to handle" and "she was afraid [C.G.] will call the police on her ***." On May 19, 2011, Moore was referred for parenting classes, urine drops/Breathalyzer tests, substance abuse evaluation and treatment, and domestic violence services.

¶ 12 C.G. was initially placed in a foster home in Urbana. She threatened her foster parents with scissors and was hospitalized at Lincoln Prairie Behavioral Health from February 13, 2011, to February 24, 2011. Upon her release, she was returned to the same foster home. On March 31, 2011, C.G. was placed with her paternal aunt, Artist Grayson, in Calumet City, Illinois. Also living in the home were Artist's fiancée, Lee Houston, and their children, Lee and Tyre. C.G. was in sixth grade and received special education services. C.G. was diagnosed with seizure disorder, disruptive behavior, and depressive disorders and prescribed Depakote, Tegretol, and Celexa. She received weekly therapy services from Illinois Mentor and visited with Moore once per week in a supervised visit.

¶ 13 On June 1, 2011, the trial court held a dispositional hearing. Most of the evidence presented was from the intact family medical neglect case. Moore admitted in an earlier assessment she had a learning disability and had difficulty reading and comprehending. She attended special education classes and graduated from high school. Moore also admitted to being hospitalized in a psychiatric facility on three occasions for depression and she had taken Zoloft and Haldol in the past. She admitted being a social drinker but the caseworker suspected she was a long-term alcoholic. It was noted a friend of Moore telephoned the DCFS caseworker and said

Moore drinks every day and is an alcoholic, but Moore believes she is a good mother and takes care of C.G. In April 2008, Moore enrolled in an outpatient substance abuse treatment center and completed 30 hours before withdrawing due to the birth of her son in July 2008. Moore received Section 8 benefits to assist her in renting an apartment. Her home had electricity but no heat. Moore's boyfriend denied any domestic violence issues in his relationship with Moore despite a recent report Moore had thrown a chemical substance on him which burned his neck, chest, and leg.

¶ 14 A January 22, 2008, psychological assessment presented at the dispositional hearing concluded C.G. was unable to handle emotional complexities and painful feelings without acting out. "She failed to receive the nurturance and acceptance she needed to feel safe expressing her thoughts and feelings." The psychologist recommended C.G. receive an individualized education program evaluation and individual counseling to develop effective problem-solving and decision-making skills and to increase her understanding of the consequences of her behavior.

¶ 15 On June 2, 2011, the trial court filed its written dispositional order making C.G. a ward of the court and finding Moore unfit and unable to care for C.G. The court found Moore had a history of alcohol abuse and a history of medical neglect of C.G. Custody and guardianship was given to DCFS. Moore was ordered to cooperate fully with a psychological and drug-alcohol use evaluation within 60 days, to successfully complete any course of counseling ordered, to comply with terms of the service plans, to complete any parenting class recommended, to refrain completely from the use of alcohol and drugs with the exception of prescription medication, to submit to alcohol and drug testing, and to maintain an appropriate, clean

residence.

¶ 16 The client service plan established on March 15, 2011, required Moore to (1) attend drug and alcohol treatment; (2) participate in a domestic violence evaluation and learn to interact with others without engaging in acts of domestic violence, putting her children in actual or risk of harm; (3) meet C.G.'s health needs by attending medical appointments and demonstrating knowledge of her diagnosis and medication regimen; (4) attend mental health counseling and achieve understanding of her mental illness and its effect on her parenting and relationships; (5) maintain safe, appropriate housing; and (6) maintain a source of income in order to provide for herself and her children. On August 17, 2011, Moore's overall progress was rated unsatisfactory. She made only minimal progress in alcohol treatment and had not demonstrated a willingness to attend medical appointments with C.G. She received food stamps and Section 8 housing as well as Social Security assistance. Moore did visit C.G. weekly and kept two appointments in August with a therapist, completing a mental health assessment.

¶ 17 On August 29, 2011, the trial court found Moore had made reasonable efforts but not reasonable progress toward C.G.'s return home. The court found she had housing issues and was unsuccessfully terminated from her domestic violence program because she attended intoxicated. She refused to attend counseling and tested positive for alcohol at least once.

¶ 18 On February 6, 2012, the State filed a petition for a finding of unfitness and to terminate Moore's and Grayson's parental rights. As to Moore, the petition alleged three grounds for unfitness: (1) she failed to make reasonable efforts to correct the conditions that were the basis for C.G.'s removal (750 ILCS 50/1(D)(m)(i) (West Supp. 2011); (2) she failed to make reasonable progress toward C.G.'s return within nine months after the adjudication of neglect

(750 ILCS 50/1(D)(m)(ii) (West Supp. 2011); and (3) she failed to maintain a reasonable degree of interest, concern, or responsibility as to C.G. (750 ILCS 50/1(D)(b) (West Supp. 2011).

¶ 19 Moore did not personally appear at the February 7, 2012, permanency review hearing. The report filed at that time included information Moore's house was not clean and her 19-year-old son who lived with her may be involved with substance abuse. Illinois Mentor had referred Moore again to individual therapy on December 16, 2011, and her assigned therapist had contacted her to offer services but Moore refused the therapy. She was referred for residential substance abuse program housing where she could take her 2-year-old son with her, but following the intake interview on December 27, 2011, Moore refused to cooperate. She was referred again for inpatient treatment and agreed to attend the intake on February 1, 2012. This inpatient center required a psychological assessment to determine Moore's parental capacity and mental health issues, and she was referred for an evaluation on December 19, 2011. The evaluation was pending. Moore expressed her desire Artist Grayson become C.G.'s guardian, but C.G. was not aware of this and wanted to return home to Moore. The report indicated C.G. had become physically aggressive with her cousin in the foster home after he said "bad things" about Moore. C.G. continued to see a neurologist to monitor her seizure disorder and a psychiatrist but no longer took medication for depression. The trial court entered a permanency order of substitute care pending termination of parental rights, finding Moore had not made either reasonable progress or reasonable efforts toward C.G.'s return home.

¶ 20 On April 13, 2012, the guardian ad litem (GAL) filed a motion to compel the guardian to provide individual counseling to C.G. The motion alleged in March 2011 a Court Appointed Special Advocate (CASA) volunteer visited with C.G. and she was talkative,

outgoing, animated, and spoke openly and willingly. In March 2012, a CASA volunteer found C.G. to be nonresponsive and unwilling to answer questions or discuss her situation. In response to a direct question, she indicated someone in the foster home was hurting her but would not elaborate. The social worker at C.G.'s school noted her becoming reticent and withdrawn. The GAL noted C.G. had a history of depression and behavioral disorder, had been hospitalized for her behavior, and displayed indications of a child in need of counseling, but her guardian was not providing it. This motion was never ruled upon but simply continued after being brought to the attention of DCFS.

¶ 21 On May 11, 2012, DCFS filed a status report with the court revealing on February 6, 2012, Moore entered inpatient treatment for alcohol abuse. On March 8, 2012, she wanted to be released because she was concerned about her housing inspection with Section 8. In April 2012, Moore was released from the program "due to loss of funding." As of May 2012, she was attending intensive outpatient treatment four days a week. All her urine drops had been negative. Moore had two-hour visits with C.G. once a week. C.G. was bonded with Moore and wanted to return home to live with her. C.G. had not had any seizures. She was not taking medication for depression. She was reported to be doing well in special education classes. C.G.'s individual therapy services had been discontinued "due to inconsistent availability of the foster parent." C.G. was to begin individual therapy within the foster home on May 7, 2012, to address issues of returning home and separation from Moore and her siblings.

¶ 22 An updated status report on June 25, 2012, revealed Moore was twice referred for parenting classes but "did not make herself available" for them. In January 2012, she was referred for a psychological evaluation but, again, did not make herself available for scheduled

appointments. Moore's subsidized housing was due to an agreement allowing the home to be inspected. Her home did not pass the March 2012 inspection due to "violations" and the home was not "sanitary." On June 19, 2012, Moore was referred for homemaking services as she did not know how to maintain a clean, healthy environment. On June 21, 2012, Moore hired a contractor to make needed repairs to the home. Moore maintained her sobriety in April and May 2012 by attending outpatient treatment but did not follow through on attending at least three Alcoholics Anonymous meetings a week. On June 20, 2012, she was intoxicated when she arrived for outpatient treatment. It was recommended she enter a 90-day residential treatment and she was told she could bring her then three-year-old son with her. Moore's visits with C.G. did not involve any verbal or physical altercations but their interactions were described as those of "friends" and not like a parent and child.

¶ 23 C.G. had withdrawn from her foster family and spent most of her time in her room with frequent outbursts of crying. She missed her mother. C.G. had become violent with her cousin. In separate incidents she hit him in the head with a skillet and intentionally burned his arm with a spoon she heated on the stove. Following the second incident, the foster parents requested C.G. be removed from their home as they stated C.G. would become angry quickly. C.G. admitted she had a "short temper." The foster parents ultimately agreed to supervise C.G. and her cousin more closely, and C.G. was warned she would be removed from the home if she threatened or caused physical harm to any member of the household. C.G. was only intermittently receiving individual therapy to address depression and separation, loss, and anger issues. She would be reevaluated to see if she needed medication for depression.

¶ 24 On August 21, 2012, a hearing was held on the petition to terminate parental

rights. Moore did not appear. Grayson voluntarily surrendered his parental rights to C.G. The evidence submitted was the permanency reports and status reports referred to earlier, as well as stipulations, if called, the witnesses would testify as they reported. The trial court found Moore unfit on all three grounds alleged in the petition.

¶ 25 On September 27, 2012, a best interest hearing was held. In its report prepared for the hearing, DCFS recommended Moore's parental rights be terminated. DCFS observed C.G.'s placement with her aunt did not appear to meet her emotional needs. C.G. had a clear bond with Moore and this might make placement difficult. However, Moore had not addressed issues requiring placement of C.G. and still had an untreated alcohol-abuse problem. DCFS acknowledged Illinois Mentor did not recommend Moore's parental rights be terminated even though the prognosis for C.G. ever going home to Moore was extremely poor. DCFS also acknowledged "if continued contact with [] Moore is deemed to be therapeutically advantageous for [C.G.], arrangements can be made for therapeutic visits even if [] Moore's parental rights are terminated."

¶ 26 Illinois Mentor's report indicated C.G. was sad and angry when told she would not be reunified with her mother because her mother had not made progress in services. C.G. becomes physically aggressive when she is angry. The foster parents violated the safety plan to supervise C.G. around their son. They did say they were willing to be C.G.'s guardians. C.G. received therapy from May 2012 to August 2012 to treat depression, anger, and aggression. Illinois Mentor was looking for another therapist. In June 2012, C.G. was diagnosed with major depressive disorder. She was taking Depakote and Tegretol for her seizure disorder and had not had a seizure in over nine months. Illinois Mentor was opposed to C.G. remaining in her aunt

and uncle's home given her acts of physical violence toward her cousin and the lack of adequate supervision. The agency was also concerned C.G. would be emotionally damaged if she was not allowed to maintain a relationship with Moore despite Moore's failure to complete any services. Illinois Mentor recommended a guardianship be entered and C.G. be placed in an environment meeting her needs for safety, security, and love.

¶ 27 Moore appeared at the hearing but did not present any evidence. As noted in Illinois Mentor's report, Moore still refused to go to inpatient alcohol abuse treatment even though her three-year-old son would be allowed to go with her. Moore's counsel stated if the case could be continued for three months, Moore was now ready to enter inpatient treatment.

¶ 28 The State recommended Moore's parental rights be terminated. The GAL admitted Moore was not an appropriate person to have custody of C.G. but declined to recommend Moore's parental rights be terminated. The GAL noted in May she had filed a motion to compel C.G. be given individual counseling to address the issues she was facing with the possibility of a permanent severance of her relationship with Moore. Given the bond she had with her mother, it was the GAL's opinion C.G. needed professional help to process the breaking of this bond. The GAL was disheartened to learn the individual counseling provided C.G. between May and September had been intermittent and no progress reports of that therapy had been provided.

¶ 29 The trial court noted the several different recommendations. However, the court stated it agreed with DCFS. C.G. was beyond needing counseling and needed permanency. The court found there was a bond between C.G. and Moore but it was not parental in nature. Further, the prognosis for Moore ever being able to safely parent C.G. or provide any meaningful

permanency was extremely poor. The court found by "a preponderance of the evidence and by clear and convincing evidence" it was in the best interest of C.G. Moore's parental rights be terminated. DCFS was appointed guardian with authority to consent to adoption. This appeal followed.

¶ 30

II. ANALYSIS

¶ 31 Respondent appeals only the termination of her parental rights. Once a court has found a parent to be unfit, whether that parent's rights should be terminated is determined by the best interest of the child, and that decision also will not be reversed unless it is against the manifest weight of the evidence. *In re Jaron Z.*, 348 Ill. App. 3d 239, 259-60, 810 N.E.2d 108, 125 (2004).

¶ 32 Once parental unfitness has been found, the parent's rights must yield to the children's best interest. *In re D.T.*, 212 Ill. 2d 347, 352, 818 N.E.2d 1214, 1220 (2004). The State bears the burden of proving by a preponderance of the evidence termination is in the children's best interest. *In re T.A.*, 359 Ill. App. 3d 953, 961, 835 N.E.2d 908, 914 (2005). Although the parent still possesses an interest in maintaining the parent-child relationship, the force of that interest is lessened by the trial court's finding the parent is unfit to raise her child. *T.A.*, 359 Ill. App. 3d at 959, 835 N.E.2d at 912.

¶ 33 There were ample reasons for terminating Moore's parental rights. She had severe parenting deficiencies and an unwillingness to comply with rehabilitative services offered to her. Her known medical neglect of C.G. dated back to 2007. C.G. had developed a seizure disorder and Moore failed to keep C.G.'s follow-up appointments, to administer her antiseizure medication, and to respond to medical emergencies, in large part because of her alcoholism. Moore did

not follow through on any of the alcohol-abuse treatment options given to her. She did not follow through on any of the tasks required of her to allow reunification with C.G. except for engaging in visitation, which served to preserve her bond with C.G. This may have been to C.G.'s ultimate detriment because it made it more difficult for her to deal with their eventual permanent separation. It would have been possible for the trial court to continue the termination proceeding to allow for feedback on individual counseling for C.G. prior to terminating Moore's parental rights. That was a choice for the court to make, and the court concluded the case had lingered long enough.

¶ 34 Respondent presented no evidence at the termination hearing. C.G. needed permanency in her placement and would be eligible to receive this by terminating respondent's parental rights. It was in the best interests of the minor and was not against the manifest weight of the evidence for the trial court to terminate respondent's parental rights.

¶ 35 Respondent appeals only the finding termination of her parental rights is in the best interests of the minor and does not appeal the finding of unfitness.

¶ 36 III. CONCLUSION

¶ 37 We conclude the trial court's judgment as to the best interests of C.G. was not against the manifest weight of the evidence. We affirm.

¶ 38 Affirmed.