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2014 IL App (4th) 140188-U

NO. 4-14-0188

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

July 11, 2014

Carla Bender

4th District Appellate

Court, IL

In re: C.S., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Sangamon County
v.)	No. 12JA26
BESSIE DIXON,)	
Respondent-Appellant.)	Honorable
)	Esteban F. Sanchez,
)	Judge Presiding.

JUSTICE POPE delivered the judgment of the court.
Presiding Justice Appleton and Justice Harris concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court did not err in terminating respondent's parental rights.

¶ 2 On October 31, 2013, the trial court found respondent, Bessie Dixon, unfit to parent C.S. (born March 15, 2012) for termination purposes. On February 20, 2014, the court found it was in C.S.'s best interest to terminate respondent's parental rights. Respondent appeals, arguing the court erred in (1) changing C.S.'s permanency goal in May 2013 from return home to substitute care pending court decision on termination, (2) finding in October 2013 respondent unfit for termination purposes, and (3) finding in February 2014 it was in C.S.'s best interest to terminate respondent's parental rights. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On March 15, 2012, the Department of Children and Family Services (DCFS) began investigating allegations of abuse involving C.S. The State's initial petition alleged C.S.'s

environment was injurious to her welfare because her sibling had previously been adjudicated neglected and respondent failed to make reasonable progress toward return of the sibling. On April 25, 2012, respondent stipulated C.S. was neglected. Respondent had not completed services and her performance had been rated unsatisfactory with regard to the service plan for the other child, specifically in the area of mental-health services for respondent, parenting, and visitation. Respondent had surrendered her rights to C.S.'s sibling.

¶ 5 Respondent was living with both her mother—who had a lengthy DCFS history, which included having several children removed from her care—and C.S.'s father, William Spencer, who had attempted suicide in the family home in December 2011 and was using cocaine and abusing alcohol. Respondent's DCFS history included indicated allegations of inadequate supervision, substantial risk of harm, and cuts, bruises, welts, or abrasions in 2010, presumably with respect to C.S.'s sibling. C.S. was taken into protective custody on March 16, 2012.

¶ 6 On May 11, 2012, DCFS filed a service plan with the trial court with a permanency goal of return home within 12 months. The report noted respondent needed to do the following: (1) develop parenting skills to be able to appropriately care for C.S.; (2) cooperate in individual counseling services to maintain stability in her life and continually monitor her mental-health status; (3) locate and maintain a legal source of income to have a level of financial stability; and (4) locate appropriate housing for herself and C.S. to provide a safe living environment for C.S. These tasks remained in place throughout this case.

¶ 7 On May 23, 2012, the trial court entered a dispositional order, making C.S. a ward of the court and placing guardianship and custody with the Guardianship Administrator for

DCFS.

¶ 8 On October 26, 2012, DCFS filed a new family-service plan with the trial court. The plan noted C.S. was placed in the same foster home as her older half-sister. According to the report, respondent had been living with a friend in Springfield who was not charging her rent or making her pay any bills. However, she was given an eviction notice and planned on moving in with her mother or staying at a shelter. She was unemployed at the time of the report, with no income. She had applied for disability benefits and was waiting for a hearing. She had not consistently attended individual counseling with Cynthia Wadsworth as recommended and had not attended an appointment since July. The report noted respondent had not made progress on the service-plan goals. The report included an additional task, *i.e.*, for respondent to maintain good hygiene at all times to assure the safety of C.S. The report noted respondent attended each visit as scheduled but incidents occurred at the visits requiring redirection, such as giving C.S., an infant, soda and not closely supervising C.S. while she was on a diaper changing table.

¶ 9 In April 2013, a permanency-hearing report filed with the trial court noted respondent had been living at the Helping Hands homeless shelter in Springfield since January 2013. Because respondent was not making progress, her visitation with C.S. was reduced from two hour visits twice a week to once per week. Due to respondent's unsatisfactory progress, DCFS recommended a goal change from return home to substitute care pending court determination. The report noted respondent was (1) still homeless, without a source of income, and unable to maintain appropriate housing for almost three years; (2) unsuccessfully discharged from counseling because of inconsistent attendance; and (3) not attending her parenting-support program. The report also noted concern with respondent's ability to make safe and appropriate

decisions for herself and C.S. On May 23, 2013, at a permanency hearing, Tiffany Gronewold testified the permanency report was accurate to the best of her knowledge. The trial court accepted the report as Gronewold's sworn testimony on direct examination. The trial court changed the permanency goal for C.S. to substitute care pending court determination.

¶ 10 On June 19, 2013, the State filed a motion for termination of parental rights. The State alleged respondent was unfit for the following reasons: she failed to (1) maintain a reasonable degree of interest, concern, or responsibility as to the minor's welfare; (2) make reasonable efforts to correct the conditions which were the basis of the removal of the minor from her; and (3) make reasonable progress toward the return of the minor to her in the nine months between April 25, 2012, and January 25, 2013. The State alleged it was in C.S.'s best interest to terminate respondent's parental rights.

¶ 11 On October 31, 2013, the trial court held a hearing on the State's petition to terminate respondent's parental rights. The court took judicial notice of the April 25, 2012, adjudicatory order and the May 23, 2012, dispositional order. Tiffany Gronewold testified she was assigned respondent's case on March 16, 2012, and remained the caseworker. A service plan for respondent was initiated in this case in April 2012. As of October 24, 2012, respondent's progress had been rated unsatisfactory with regard to the goals of the service plan. In April 2013, respondent's progress was still rated as unsatisfactory on her original assigned goals. However, she was rated satisfactory with regard to a goal added in October 2012 to maintain good hygiene prior to visits with C.S.

¶ 12 In March 2013, respondent's visits with C.S. were cut from twice per week to once per week because of a lack of progress on the service plan. Gronewold testified respondent

did attend 98 of 106 scheduled visits with C.S. Respondent regularly brought things for C.S. during visits. However, the visitation specialist reported respondent often sat and watched C.S. play instead of interacting with C.S. Further, C.S. often went to the visitation specialist for interaction and attention. Gronewold testified on at least one occasion an issue arose with the way respondent was feeding C.S. and respondent was not willing to take advice from the visitation specialist or Gronewold.

¶ 13 Gronewold testified she was never close to returning C.S. to respondent because respondent had not completed the tasks on her service plan. For example, respondent was discharged unsuccessfully from the Addus program, which provided an umbrella of services such as parenting classes and help finding employment. Gronewold believed the child would not be safe with respondent. However, Gronewold acknowledged respondent maintained satisfactory contact with her and her attendance rate at the visits with C.S. was also satisfactory. Gronewold testified respondent had maintained interest and concern for C.S.'s well-being, and a bond existed between C.S. and respondent, but Gronewold said she would not classify it as a mother-child bond.

¶ 14 Respondent testified she worked at four or five different places since March 2012, with her longest stretch of employment lasting 4½ months. From April 2012 until October or November 2012, she lived with a roommate at 532 West Carpenter Street. Respondent then stayed at the SOS shelter from January to March or April 2013. She then lived at the Helping Hands shelter and then with her mother. Thereafter, she had an apartment for two months but could not afford the rent so she moved back in with her mother. She never completed parenting classes or counseling after C.S. was taken into protective custody.

¶ 15 The trial court found the State failed to establish respondent did not maintain a reasonable degree of interest, concern, or responsibility as to C.S.'s welfare or make reasonable efforts to correct the conditions that led to C.S.'s removal. However, the court found respondent failed to make reasonable progress toward the child's return. According to the court:

"[Respondent's] not had steady housing even for herself, let alone suitable housing for her and her child. She has not maintained employment that is of any length to be able to support this child and support herself. She has not completed her counseling and she has not completed her parenting classes, which is [sic] the four things that were required since the moment this child was removed from her the day after the child was born. To this day she recognizes that she needs to complete those.

For how long should we have to wait? How long should [C.S.] have to wait for [respondent] to get her act together to do these things so she can be returned to her in a safe and appropriate environment? [Respondent] has failed to do that, and for that reason I find that she is an unfit mother and the State has proven the petition. It's very sad, but we cannot wait."

¶ 16 On October 31, 2013, William Spencer, C.S.'s father, surrendered his parental rights to C.S.

¶ 17 On February 20, 2014, the trial court held a hearing to determine whether it was in C.S.'s best interest to terminate respondent's parental rights. Gronewold testified C.S. had

been placed with the same foster parents since March 16, 2012, and was making progress in that placement. She was on target developmentally, attended church on a regular basis with her foster parents, and was involved in church and community activities with her foster parents and their family. The foster parents had also indicated to Gronewold they wanted to adopt C.S. and had signed a permanency-commitment form.

¶ 18 The foster parents lived in a three-bedroom home with a backyard. They had already adopted C.S.'s three-year-old half-sister and had another eight-year-old foster child living with them. C.S. shared a bedroom with her half-sister. She was attached to the foster parents, referred to them as "mommy" and "daddy," and went to them for comfort when she was upset. Gronewold testified C.S. appeared to be very happy in the home.

¶ 19 Gronewold testified C.S. was not attached to respondent, and C.S. was not upset to leave visits. In her opinion, C.S. would not be harmed if respondent's parental rights were terminated. On cross-examination, Gronewold admitted she had spent more time observing the interactions between C.S. and the foster parents than C.S. and respondent. During the visits she observed between respondent and C.S., respondent often sat and observed C.S. playing. C.S. often went to the visitation specialist for interaction. When asked by the trial court about the extent of the relationship between C.S. and the visitation specialist, Gronewold responded the visitation specialist's only interaction with C.S. outside of the visits with respondent was transporting C.S. to and from those visits. Respondent brought gifts and food for the child on a regular basis, although some issues arose with regard to how respondent fed C.S.

¶ 20 Gronewold testified it was her opinion termination of respondent's parental rights was in C.S.'s best interest. According to Gronewold, respondent had not shown stability with

regard to her housing and income. She also stated concerns for C.S.'s safety because of respondent's resistance to taking direction from people with regard to C.S.'s care. On cross-examination, Gronewold stated her opinion would not change even if she had information respondent had recently obtained employment and housing.

¶ 21 Respondent testified she played with C.S., but she admitted C.S. interacted more with the visitation specialist. She stated C.S. occasionally called her "mom." Her visits with C.S. were cut to once per month from once per week after she was found unfit. After being found unfit, she completed parenting classes and had gone to counseling sessions. She was starting a temporary job at the Department of Revenue on the following Monday.

¶ 22 Respondent testified termination of her parental rights was not in C.S.'s best interest. According to her testimony, she would be able to take care of C.S. with time. She believed in three to six months she could provide a stable place for her and C.S. to live, find day care, and establish a better bond with C.S.

¶ 23 The trial court noted this case was almost two years old, and respondent admitted she was not ready to care for C.S. The court found no evidence to suggest respondent would be able to provide a stable, healthy, and loving environment for C.S. if the court returned the child to her. On the other hand, C.S.'s foster parents would be able to provide a stable home to C.S. and her half-sister. In addition, the court found the foster parents loved C.S. and provided for her basic needs, education, and health. Further, C.S. and her foster parents were bonded to each other. The court stated it was not going to keep C.S. waiting for stability. As a result, the court found termination of respondent's parental rights was in C.S.'s best interest.

¶ 24 This appeal followed.

¶ 25

II. ANALYSIS

¶ 26

A. Unfitness

¶ 27 The State alleged respondent was unfit for three reasons: she failed to (1) maintain a reasonable degree of interest, concern, or responsibility as to C.S.'s welfare; (2) make reasonable efforts to correct the conditions which were the basis of C.S.'s removal; and (3) make reasonable progress toward C.S.'s return to her in the nine months between April 25, 2012, and January 25, 2013. Although the court found the State failed to establish respondent did not maintain a reasonable degree of interest or failed to make reasonable efforts, the court did find respondent was unfit because the State established she failed to make reasonable progress toward C.S.'s return.

¶ 28 Respondent argues the trial court's unfitness finding was against the manifest weight of the evidence. According to respondent, both she and Gronewold testified respondent had been consistent with visitation, was presently employed, had attended some counseling, and had her own housing for a short period of time. According to respondent, "[T]he court's review of the evidence adduced at the unfitness hearing, combined with an observation or acknowledgment that the child had been in protective custody less than two years, the finding [respondent] failed to make reasonable progress during that nine month period was against the manifest weight of the evidence."

¶ 29 A parent will be deemed unfit if the State proves, by clear and convincing evidence, one or more of the grounds of unfitness enumerated in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2012)). See *In re A.L.*, 409 Ill. App. 3d 492, 499, 949 N.E.2d

1123, 1128 (2011). We note the State need only prove one statutory ground to establish parental unfitness. *In re Donald A.G.*, 221 Ill. 2d 234, 244, 850 N.E.2d 172, 177 (2006).

¶ 30 This court will not overturn a finding of parental unfitness unless the finding is against the manifest weight of the evidence, meaning "the correctness of the opposite conclusion is clearly evident from a review of the evidence." *In re T.A.*, 359 Ill. App. 3d 953, 960, 835 N.E.2d 908, 913 (2005). The trial court's finding respondent failed to make reasonable progress is clearly not against the manifest weight of the evidence.

¶ 31 C.S. was taken into DCFS custody in March 2012. The trial court found respondent unfit at the end of October 2013. During the intervening 18-month period, respondent had four primary goals: (1) develop parenting skills to be able to appropriately care for C.S.; (2) cooperate in individual counseling services to maintain stability in her life and continually monitor her mental-health status; (3) locate and maintain a legal source of income to have a level of financial stability; and (4) locate appropriate housing for herself and C.S. to provide a safe living environment for C.S.

¶ 32 This court judges reasonable progress according to an objective standard. See *In re Jordan V.*, 347 Ill. App. 3d 1057, 1067, 808 N.E.2d 596, 605 (2004). For a court to find progress was reasonable, the record must show, at a minimum, measurable or demonstrable movement toward the goal of returning the child to the parent. See *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1067, 859 N.E.2d 123, 137 (2006). A court will find progress to be reasonable when it can conclude it will be able to return the child to parental custody in the near future. *A.L.*, 409 Ill. App. 3d at 500, 949 N.E.2d at 1129 (quoting *In re L.L.S.*, 218 Ill. App. 3d 444, 461, 577 N.E.2d 1375, 1387 (1991)).

¶ 33 The trial court did not err in finding C.S. could not be returned to respondent in the near future. From the record, respondent made no real progress prior to the unfitness finding during the pendency of this case, let alone the nine-month period between April 2012 and January 2013. As the court noted, respondent had not been able to find suitable housing for herself, let alone for her and C.S. She had not completed counseling or parenting classes. In addition, she had not maintained steady employment to give herself a level of financial stability.

¶ 34 B. Best Interest

¶ 35 Respondent also argues the trial court's finding it was in C.S.'s best interest to terminate respondent's parental rights should be reversed because the State failed to sustain its burden of proof. After a parent is found unfit, the trial court shifts its focus in termination proceedings to the child's interests. *In re D.T.*, 212 Ill. 2d 347, 364, 818 N.E.2d 1214, 1227 (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. Before a parent's rights may be terminated, a court must find the State proved, by a preponderance of the evidence, it is in the child's best interest those rights be terminated. See *D.T.*, 212 Ill. 2d at 366-67, 818 N.E.2d at 1228.

¶ 36 When considering whether termination of parental rights is in a child's best interest, the trial court must consider a number of factors within "the context of the child's age and developmental needs." 705 ILCS 405/1-3(4.05) (West 2012). These include the following:

"(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."

Daphnie E., 368 Ill. App. 3d at 1072, 859 N.E.2d at 141.

See also 705 ILCS 405/1-3 (4.05) (West 2012).

¶ 37 A trial court's finding termination of parental rights is in a child's best interest will not be reversed on appeal 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). A decision will be found to be against the manifest weight of the evidence "if the facts clearly demonstrate that the court should have reached the opposite conclusion." *Daphnie E.*, 368 Ill. App. 3d at 1072, 859 N.E.2d at 141.

¶ 38 The trial court's best-interest finding is clearly not against the manifest weight of the evidence. C.S. had been with the same foster family essentially her entire life, and the foster parents had expressed a desire to adopt C.S. The foster parents had already adopted C.S.'s half-sister. C.S. was bonded to the foster parents and called them "mommy" and "daddy." Unlike respondent, the foster parents were able to provide a stable environment for C.S., and C.S. was happy in their home. Respondent essentially conceded she was not ready to take care of C.S. at that time but thought she might be able to in three to six months. However, based on the record

in this case, it is very unlikely C.S. could be returned to respondent's custody within that time frame.

¶ 39 C. Change in Permanency Goal

¶ 40 Although the heading for defendant's argument states the State failed to satisfy its burden of proof at the shelter care hearing, respondent argues the State failed to submit sufficient evidence for the trial court to change C.S.'s permanency goal from return home to substitute care pending court decision in May 2013. Considering the trial court's permanency order was not final, and the court did not err in terminating respondent's parental rights, this argument is moot and need not be addressed.

¶ 41 III. CONCLUSION

¶ 42 For the reasons stated, we affirm the trial court's order terminating respondent's parental rights to C.S.

¶ 43 Affirmed.