

NOTICE

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2015 IL App (4th) 140931-U
NOS. 4-14-0931, 4-14-0933 cons.
IN THE APPELLATE COURT

FILED
March 17, 2015
Carla Bender
4th District Appellate
Court, IL

OF ILLINOIS

FOURTH DISTRICT

In re: J.P., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Vermilion County
v. (No. 4-14-0931))	No. 12JA67
MARK PEASLEE,)	
Respondent-Appellant.)	
_____)	
In re: E.P., a Minor,)	No. 12JA68
THE PEOPLE OF THE STATE OF ILLINOIS,)	
Petitioner-Appellee,)	
v. (No. 4-14-0933))	Honorable
MARK PEASLEE,)	Claudia S. Anderson,
Respondent-Appellant.)	Judge Presiding.

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

ORDER

¶ 1 *Held:* The decision to terminate respondent's parental rights to his two children is not against the manifest weight of the evidence.

¶ 2 Respondent, Mark Peaslee, appeals from the trial court's decision to terminate his parental rights to J.P. (born September 27, 2012) and E.P. (born September 19, 2008). He challenges the court's findings that he was an "unfit person" and that it was in the children's best interest to terminate his parental rights. Because those findings are not against the manifest weight of the evidence, we affirm the trial court's judgment.

¶ 3 I. BACKGROUND

¶ 4

A. The Petitions for Adjudication of Wardship

¶ 5 In November 2012, the State petitioned the trial court to make the two children wards of the court. The State alleged that J.P. had been physically abused (see 705 ILCS 405/2-3(2)(i) (West 2012)) and that, given the physical abuse inflicted on him, his sibling, E.P., was in an environment injurious to his welfare and hence was neglected (see 705 ILCS 405/2-3(1)(b) (West 2012)).

¶ 6

B. The Adjudicatory Hearing

¶ 7 In January 2013, the trial court held an evidentiary hearing on the petitions for adjudication of wardship, and at the conclusion of the hearing, the court found all counts of the petitions to be proved. Because this appeal does not challenge the court's findings in the adjudicatory hearing, we need not exhaustively recount the testimony therein. Instead, we will briefly summarize the testimony of two of the witnesses, Jessica Vella and Tricia Peoples, so as to explain the circumstances leading the Illinois Department of Children and Family Services (DCFS) to take the children into protective custody.

¶ 8

1. *The Testimony of Jessica Vella*

¶ 9 Jessica Vella testified she was a registered nurse and that she worked in the emergency department of Presence United Samaritans Medical Center, in Danville, Illinois.

¶ 10

At 10:30 a.m. on November 2, 2012, while Vella was on duty, Ashley Peaslee brought her five-week-old son, J.P., to the emergency room. Her reason for bringing him was that he had swelling and bruising on the side of his head. Ashley Peaslee said she had noticed some swelling the previous evening but that J.P. had been acting normally. By morning, however, the swelling had grown worse, so she decided to bring him in.

¶ 11 A doctor in the emergency room determined that J.P. had a depressed skull fracture.

¶ 12 Vella and other nurses wanted to know how J.P. had sustained this injury. Ashley Peaslee, who was anxious and distraught, gave them three different stories. The first story was that she was walking through the house the previous evening, with J.P. in her arms, when another child threw a toy. She did not know whether the toy had hit J.P. in the head. The second story was that she actually had seen another child hit J.P. in the head with a plastic toy. The third story was that another child, who was being weaned off a pacifier, had hit J.P. in the head with a flashlight in order to take his pacifier.

¶ 13 Vella called the child-abuse hotline of DCFS.

¶ 14 *2. The Testimony of Tricia Peoples*

¶ 15 In response to the hotline call, a DCFS investigator, Tricia Peoples, began an investigation, and she located respondent at his father's house. When Peoples arrived there, the police had respondent in handcuffs. Respondent gave Peoples two different explanations for J.P.'s skull fracture: (1) one of the other children threw a toy at J.P.; and (2) J.P. was lying on a bed, a two-year-old was jumping on the bed, and her knee landed on J.P.'s head. It was not until the next morning that respondent noticed any injury to J.P.

¶ 16 Peoples spoke with a physician, Dr. Napolez, in the emergency room, and he regarded J.P.'s injury as inconsistent with all the explanations the parents had given.

¶ 17 *C. The Dispositional Hearing*

¶ 18 In a March 2013 dispositional hearing, the trial court made the children wards of the court.

¶ 19 *D. The Petitions To Terminate Parental Rights*

¶ 20 In April 2014, the State filed petitions to terminate respondent's parental rights to J.P. and E.P. Each of the petitions alleged that respondent met four of the statutory definitions of an "unfit person." First, he had abandoned the child. See 750 ILCS 50/1(D)(a) (West 2012). Second, he had failed to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare. See 750 ILCS 50/1(D)(b) (West 2012). Third, within nine months after the adjudication of neglect or abuse, that is, from January 25 to September 25, 2013, he failed to make reasonable efforts to correct the conditions that were the basis for removing the child from him. See 750 ILCS 50/1(D)(m)(i) (West 2012). Fourth, within nine months after the adjudication of neglect or abuse, he failed to make reasonable progress toward the return of the child. See 750 ILCS 50/1(D)(m)(ii) (West 2012).

¶ 21 **E. The Hearing on the Issue of
Whether Respondent Was an "Unfit Person"**

¶ 22 In August 2014, the trial court held an evidentiary hearing on the question of whether respondent was an "unfit person" as alleged in the petitions to terminate his parental rights.

¶ 23 **1. *The Testimony of Zach Maring***

¶ 24 One of Zach Maring's duties as a Vermilion County probation officer was to do drug testing for DCFS clients. On April 24, 2014, he collected a urine sample from respondent. The sample was positive for opiates. Maring was unaware that respondent had any prescription to take opiates.

¶ 25 **2. *The Testimony of Gwendolyn Parker***

¶ 26 In its service plans, DCFS had required respondent not only to take parenting classes and undergo individual counseling but also to undergo substance-abuse counseling and receive domestic-violence education. Respondent's caseworker, Gwendolyn Parker, testified that

respondent had completed parenting classes but that he never completed substance-abuse counseling or domestic-violence education.

¶ 27 In June 2013, Parker referred respondent to a domestic-violence program: "[t]he PEACE program through the 'Y.'" He attended some classes there, but ultimately, in December 2013, he was "unsuccessfully discharged" because of "several absences." The assistant State's Attorney asked Parker:

"Q. Did you refer Mr. Peaslee to another domestic violence program upon his unsuccessful completion?

A. No.

Q. Why not?

A. I spoke with the provider there. He could have returned to that same provider. He just had to go back and do—go back and meet with Miss Cravens to get set back up for those.

Q. Did you inform Mr. Peaslee of that?

A. Yes.

Q. When did you inform Mr. Peaslee of that?

A. When I received the discharge letter in December of 2013.

Q. And after you talked to Mr. Peaslee about the fact that he could return to the PEACE program, he just had to go there, did Mr. Peaslee reengage in the domestic violence program?

A. No."

¶ 28 Not only did respondent fail to reengage in the domestic-violence program, but in February 2014, he was arrested for the domestic battery of the children's mother, Ashley Peaslee. Even after respondent was released from jail in April 2014, he did not reengage in domestic-violence services.

¶ 29 Nor did respondent engage in substance-abuse treatment. In April 2014, when opiates were detected in his urine, he did not have a prescription for any opiates. When Parker referred him for a substance-abuse assessment after his drug test came back positive, he attended the assessment, but he never followed through with the treatment. His stated reason was that he did not need any treatment.

¶ 30 In sum, the only services respondent completed were parenting services. Because of his failure to cooperate with domestic-violence services and substance-abuse services, Parker did not think it would be safe to return the children to him.

¶ 31 The trial court found respondent to be unfit as alleged in the petitions to terminate his parental rights. The court stated:

"As to Mr. Peaslee[,] *** I do find that it has been proved that Mr. Peaslee has failed to maintain, again, a reasonable degree of interest, concern, or responsibility as to his child's welfare. Showing up in court doesn't necessarily demonstrate a reasonable degree of interest, concern, or responsibility to the children. I also find that the State has proved by clear and convincing evidence Paragraphs (c) and (d) relative to reasonable efforts and reasonable progress."

¶ 32 F. The Hearing on the Children's Best Interest

¶ 33 In October 2014, the trial court held a best-interest hearing. The evidence tended to show the following.

¶ 34 DCFS placed both children with their paternal grandmother. The children had been with her since June 2013. An uncle also lived with them. The children were close to both their grandmother and their uncle, and the grandmother wanted to adopt the children.

¶ 35 J.P. was receiving services to address his developmental delays. E.P. was in kindergarten and was receiving individual counseling. He played Little League football in Hoopeston.

¶ 36 II. ANALYSIS

¶ 37 A. The Issue of Whether Respondent Was an "Unfit Person"

¶ 38 The trial court found that respondent met several of the statutory definitions of an "unfit person." See 750 ILCS 50/1(D)(a), (D)(b), (D)(m)(i), (D)(m)(ii) (West 2012). We need not review the evidence pertaining to all those definitions. Conformance to one of the definitions is enough to make a parent an "unfit person." *In re Tiffany M.*, 353 Ill. App. 3d 883, 891 (2004). Therefore, we will choose one of the definitions of an "unfit person"—failure to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare (750 ILCS 50/1(D)(b) (West 2012))—and we will ask whether the trial court made a finding that was against the manifest weight of the evidence when it found that respondent had failed to maintain a reasonable degree of interest, concern, or responsibility as to his children's welfare (see *Tiffany M.*, 353 Ill. App. 3d at 890).

¶ 39 The service plan required respondent to attend domestic-violence classes. This service was relevant to respondent, considering that a skull fracture inflicted on a five-week-old baby could be the result of domestic violence, especially if shifting, implausible explanations are

offered for the injury. Respondent was unsuccessfully discharged from the domestic-violence program because of poor attendance. The trial court could have reasonably regarded his failure to cooperate with domestic-violence services as a failure to maintain a reasonable degree of interest, concern, or responsibility as to the children's welfare. See *In re Jaron Z.*, 348 Ill. App. 3d 239, 259 (2004).

¶ 40 Likewise, the use of illegal drugs, together with the refusal to undergo substance-abuse treatment, could be regarded as a failure to maintain a reasonable degree of interest, concern, or responsibility as to the children's welfare. *Id.* Not caring enough to go to domestic-violence classes or substance-abuse classes, on which the return of the children depends, is arguably a failure to maintain a reasonable amount of interest, concern, or responsibility.

¶ 41 We conclude, therefore, that the trial court did not make a finding that was against the manifest weight of the evidence when it found that respondent conformed to the definition of an "unfit person" in section 50(D)(b) of the Adoption Act (750 ILCS 50/1(D)(b) (West 2012)).

¶ 42 B. The Issue of Whether It Was in the Children's Best Interest
To Terminate Respondent's Parental Rights

¶ 43 According to respondent, the trial court also made a finding that was against the manifest weight of the evidence when it found that terminating his parental rights would be in the children's best interest. See *In re N.T.*, 2015 IL App (1st) 142391, ¶ 27. His only reason for that assertion is as follows: "[Respondent] was loving and nurturing towards his children during visits and was bonded with them." Good visitations are not enough. Parental love must express itself in practical measures to keep the children safe. See 705 ILCS 405/1-3(4.05)(a) (West 2012). In respondent's case, taking domestic-violence classes and undergoing substance-abuse treatment would have been among those practical measures.

¶ 44

III. CONCLUSION

¶ 45 For the foregoing reasons, we affirm the trial court's judgment.

¶ 46 Affirmed.