SECOND DIVISION
MARCH 15, 2011

1-10-2112

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

IN THE INTEREST OF: EVAN O., a Minor,	)	Appeal from the
Respondent-Appellee,	)	Circuit Court of
	)	Cook County.
(The People of the State of Illinois,	)	
	)	No. 05 JA 1198
Petitioner-Appellee,	)	
v.	)	
	)	Honorable
Takaro O.,	)	Maureen L. Delehanty,
Respondent-Appellant).	)	Judge Presiding.

PRESIDING JUSTICE CUNNINGHAM delivered the judgment of the court.
Justices Connors and Harris concurred in the judgment.

ORDER

Held: The respondent forfeited the sole issue she is raising on appeal from a judgment terminating her parental rights because she did not raise the issue in the trial court.

On June 22, 2010, the circuit court of Cook County determined that T.O. was an unfit parent pursuant to the pertinent provisions of the Illinois Adoption Act, (750 ILCS 50/1(D)(b); (D)(m) (West 2008)) and it was in the best interests of her minor son E.O. to terminate T.O.'s parental rights. 705 ILCS 405/2-29(2) (West 2008). Further, the court held that it was in the best interests of E.O. that a guardian with right to consent to an adoption be appointed for E.O.

T.O. filed a timely appeal from this decision and raises the following single issue: whether the trial court erred by terminating her parental rights because she was not provided the required services mandated by a 1994 consent decree enacted to protect persons, like herself, who are minor parents and wards of the Department of Children and Family Services (DCFS).

For the reasons stated below, we affirm the judgment of the circuit court of Cook County.

BACKGROUND

T.O. was 16 years old and a ward of the State when she gave birth to E.O. on August 30, 2005. T.O. was living at the Maryville Teen Parenting Center at that time. On November 19, 2005, a staff worker at the center observed T.O. slap E.O.'s face and the back of his head with her open hand and twist both of E.O.'s arms behind his back. T.O. was overheard telling the baby E.O. to "shut up" while complaining that he cries too much.

On November 23, 2005, the State filed a petition for adjudication alleging that E.O. was neglected and abused because of the perceived substantial risk of physical injury to him. 705 ILCS 405/2-3(1)(b) (West 2004). Temporary custody of E.O. was then taken by the State and T.O. was granted supervised visitation rights. E.O.'s paternity was not established and the putative father's whereabouts were not known.

On December 1, 2005, a temporary custody hearing was held in the circuit court of Cook County and the court took temporary custody of E.O. On June 28, 2006, the court adjudicated E.O. a ward of the court and found T.O. unable to care for E.O. for reasons other than financial considerations. The putative father, who did not come forward, was also found to be unable and unwilling to care for E.O.

During the first permanency hearing on October 13, 2006, the circuit court found that T.O. had made substantial progress toward the goal of having her son returned to her. A goal of having E.O. return to T.O. within 12 months was made part of the permanency order. A finding that T.O. had made progress, but not substantial progress, was noted in the September 7, 2007, permanency hearing and an order was entered that included a goal that E.O. return to T.O. within 12 months. The court noted that T.O. had not been offered services and was herself a ward of the State who needed extra support. The court ordered that T.O. be given therapy, drug and alcohol and psychiatric evaluations and a bonding assessment.

At the conclusion of the February 29, 2008, permanency hearing, the circuit court found that T.O. had not engaged in services or visitation with E.O. for several months. T.O. was ordered to submit to a drug test and to a Juvenile Court Assessment Protocol (JCAP). T.O. was eligible for residential treatment for her alcohol and cannabis use, but refused the residential referral. She made an appointment with an intensive outpatient program, but did not keep her appointment.

At the September 10, 2008, permanency hearing, the trial court found that T.O. had not participated in the services to help her reunite with E.O., nor had she visited him. E.O. was living in a pre-adoptive home. The court entered an order of "substitute care pending a court determination regarding the termination of parental rights."

On January 21, 2009, the State filed a supplemental petition in the circuit court requesting that a guardian with the right to consent to adoption be appointed for E.O. The petition alleged that T.O. and the putative father were unfit parents and asked that their parental rights be terminated. The petition further alleged that it was in the best interest of E.O. that he be adopted by his foster parent

with whom he had resided since January 26, 2006.

At the April 21, 2009, permanency hearing, the trial court found T.O. non-compliant with the services offered her, and entered the goal of "substitute care pending a court determination of termination of parental rights." The same goal was entered at the permanency hearing held on October 9, 2009.

The trial regarding whether E.O.'s biological parents' rights should be terminated concluded on June 22, 2010. Testimony was given by two social workers involved in the case and T.O.[1] The trial court determined that, by clear and convincing evidence, the State had proved that T.O. was an unfit parent on these grounds: (1) she failed to maintain a reasonable degree of interest, concern or responsibility as to E.O.'s welfare, (750 ILCS 50/1(D)(1)(b) (West 2008)); and (2) she failed to make reasonable efforts to correct the conditions that were the basis for E.O.'s removal from her custody, (750 ILCS 50/1(D)(1)(m) (West 2008)). During the second part of the bifurcated hearing, the trial court determined it was in E.O.'s best interests to terminate the parental rights of T.O. and appoint a guardian with right to consent to E.O.'s adoption. 705 ILCS 405/2-29(2) (West 2008). On July 16, 2010, T.O. filed her timely notice of appeal.

ANALYSIS

T.O.'s sole issue on appeal is whether the trial court erred by terminating her parental rights since DCFS failed to provide her with the required services as mandated by the circuit court of Cook County in a 1994 consent decree. In her opening brief before this court, T.O. argues that:

[1]E.O.'s father did not attend the proceedings, nor had he ever been involved with E.O., and thus his parental rights were terminated by the trial court. He is not a party to this appeal.

> "The trial court terminated [T.O.'s] parental rights because of her sporadic involvement with E.O. and services. Lack of participation is usually a legitimate reason to terminate parental rights. T.O., however, belongs to a protected class because she was a parenting ward of the Illinois Department of Children and Family Services ("DCFS"), and was living in a residence for parenting wards."

T.O. refers to a 1988 class action lawsuit brought on behalf of a class of pregnant and parenting minors who were wards of DCFS, *Hill v. Erickson*, No. 88 CO 296 (Cir. Ct. Nov. 15, 1988). The named defendants were the director of a children's center, the director of DCFS and the director of the Illinois Department of Mental Health and Developmental Disabilities. The plaintiffs alleged that they had been inappropriately separated from their children when they were placed in temporary facilities. They further alleged that the defendants had failed to provide them with appropriate treatment and services. As a result of the class action lawsuit, the parties agreed in a 1994 consent decree that DCFS would evaluate and develop programs to better serve that particular class of plaintiffs.

The issue regarding the requirements of the consent decree was not raised by T.O. until her appeal to this court. The attorneys for both E.O. and the State contend that this issue should not be considered by this court. We agree. An issue raised for the first time on appeal is considered forfeited. *In re Brandon A.*, 395 Ill. App. 3d 224, 233, 916 N.E.2d 890, 898 (2009). Further, the consent decree upon which T.O. bases the sole issue on appeal was never offered as evidence in the

trial and is not part of the trial record[2] and the trial court never had an opportunity to consider it.

The attorneys for E.O. and the State argue that DCFS did not violate the mandate of the consent decree. They further contend that if a violation is found, the appropriate remedy would be to bring an action against DCFS.

We need not address the issue that T.O. raises on appeal because it has been forfeited. We note, however, that we have reviewed the record and the briefs of the parties and conclude that the trial court's decision to terminate T.O.'s parental rights is clearly supported by the record.

For the reasons stated above, the judgment of the circuit court of Cook County is affirmed.

Affirmed.

[2]We note that T.O. has provided an incomplete copy of the consent decree in her opening brief.