2013 IL App (3d) 130325-U
Consolidated with 130390-U

Order filed October 15, 2013

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2013

In re M.G., a Minor,	)	Appeal from the Circuit Court
	)	of the 14th Judicial Circuit,
(The People of the State of Illinois),	)	Rock Island County, Illinois,
	)	
Petitioner-Appellee,	)	
	)	
v.	)	
	)	
MELINDA G.,	)	
	)	
Respondent-Appellant.	)	Appeal No. 3-13-0325, 3-13-0390
_____	)	Circuit No. 11-JA-51
	)	
(The People of the State of Illinois),	)	
	)	
Petitioner-Appellee,	)	
	)	
v.	)	
	)	
COREY M.,	)	Honorable
	)	Raymond J. Conklin,
Respondent-Appellant.	)	Judge, Presiding.

JUSTICE HOLDRIDGE delivered the judgment of the court.
Presiding Justice Wright and Justice Carter concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court properly found respondent parents unfit and terminated their parental rights.

¶ 2 Respondent parents, Melinda G. And Corey M., appeal the orders finding them unfit parents of M.G. (born November 24, 2010) and terminating their parental rights. Respondents contend that the trial court's rulings are against the manifest weight of the evidence. We affirm.

¶ 3 BACKGROUND

¶ 4 On May 4, 2011, the People filed a juvenile petition alleging that M.G., a minor, was neglected and abused. The People alleged the minor was neglected and abused based upon a medical evaluation of healing fractures to the five month old child's arm and leg. The medical examination was precipitated by a head injury report on a two year old sibling. On July 11, 2011, the People filed amended petitions removing allegations of abuse against each of the respondents. The respondents stipulated to the remaining allegations of neglect. On August 9, 2011, the minor was adjudicated neglected and a dispositional hearing was held on September 6, 2011, at which time the minor was placed under the guardianship of the Department of Children and Family Services (DCFS). DCFS placed the child with foster parents.

¶ 5 In September 2011, the respondents, Melinda G, and Corey M., were each ordered to complete several tasks before the child could be returned to their care. As part of an initial client service plan administered by Catholic Charities, each respondent was ordered to: (1) maintain safe and stable housing; (2) obtain a legal form of income to support the child; (3) complete a substance abuse evaluation and cooperate with all recommendations; (4) timely submit to random urinalysis; (5) successfully complete an approved parenting program; (6) complete a

mental health assessment; and (7) maintain a designated visitation schedule. The initial six month plan was scheduled to terminate in March 2012.

¶ 6 Kathie McAdams, the caseworker assigned to the respondents' case, testified that at the end of the initial six-month plan, in March 2012, neither respondent had obtained a substance abuse assessment. Corey had not complied with any random urinalysis screens. Melinda performed 5 of 40 requested screens, all of which were positive for opiates and benzodiazepines. Neither respondent had obtained any legal source of income. Melinda completed parenting classes, while Corey completed an initial six-month class. McAdams also testified that both respondents had failed to secure safe and stable housing. McAdams further testified that the respondents lived together during the entire relevant time period and that she had conducted numerous inspections to determine whether the residence was safe for M.G. She also testified that the home was generally unclean, with debris and mouse droppings clearly visible on the floor. McAdams testified that on one occasion a scheduled visitation was cancelled due to the strong and prevalent odor of marijuana in the residence.

¶ 7 A second six-month service plan covered the period from March 2012 to September 2012. McAdams testified that neither respondent successfully completed the second plan. The home that the respondents shared still did not pass safety inspections. McAdams instructed the respondents to contact her when the residence was cleaned up and ready to be reinspected, but neither respondent ever contacted her regarding a reinspection. McAdams also testified that neither respondent had made any attempts to find legal employment. The only source of legal income for both respondents was selling blood plasma at a local blood bank. Corey did not perform any required drug screens until mid-June when he tested positive for illegal drugs.

McAdams also testified that Cory failed to cooperate with a mental health diagnostic assessment. McAdams also testified that Melinda performed only 13 of 34 required drug screenings.

¶ 8 On November 2, 2012, the People filed supplemental petitions seeking to terminate the parental rights of each of the respondents. Following a hearing on March 8, 2013, the trial court found Melinda G. and Corey M. each unfit for failure to make reasonable progress during the nine-month period from September 6, 2011, to March 6, 2012.

¶ 9 The trial court held a best interest hearing on May 6, 2013, and found that it was in the best interest of the minor that each of the respondents' parental rights be terminated. A best-interest report, prepared by the caseworker, indicated that M.G. was in a thriving environment in her current foster home. The report further indicated that the foster parents were willing and able to adopt M.G. The report recommended that the permanency goal be changed to adoption.

¶ 10 At the best interest hearing, Drake Griffith testified that he was the caseworker who replaced McAdams, and he had assisted in the preparation of the best interest report. Griffith testified that M.G. had been in the same foster home since the initial temporary custody hearing, along with her younger sibling. Griffith testified that M.G. was fully integrated into the foster family and was very happy and affectionate toward her foster parents and their children. The foster parents indicated they were willing to adopt both M.G. and her younger brother. Griffith also reported that the foster mother quit her job to become a stay-at-home mother to care full time for M.G. and her brother.

¶ 11 Each respondent appeals the trial court's findings of unfitness and that it was in the best interest of the minor to terminate their parental rights. The appeals were consolidated by this court.

¶ 12 ANALYSIS

¶ 13 A. Fitness Determination

¶ 14 The respondents were found to be unfit parents due to their failure to make reasonable progress toward the return of the minor to their custody within nine months of an adjudication of neglect. 750 ILCS 50/1(D)(m)(ii) (West 2010). As an initial matter, we note that the trial court considered the period from September 6, 2011, to June 6, 2012. The respondents maintain that the period should have begun August 9, 2011. See *In re D.F.*, 208 Ill. 2d 223, 241 (2003). We find no error in the calculation of the appropriate nine-month period particularly in light of the fact that the error actually enured to the benefit of the respondents, giving them an extra month to demonstrate progress toward the return of the child.

¶ 15 A trial court's determination that a parent is unfit will not be reversed on appeal unless it is against the manifest weight of the evidence. *In re D.D.*, 196 Ill. 2d 405, 417 (2001). For a finding to be against the manifest weight of the evidence, the opposite conclusion must be clearly evident from the review of the evidence. *Id*. The standard of proof to be applied by the trial court in determining parental unfitness is whether the proposition has been proven by clear and convincing evidence. *Id*. On review, we must give the factual findings of the trial court great deference since it had the opportunity to view and evaluate the testimony of all witnesses. *In re K.H.*, 346 Ill. App. 3d 443, 456 (2004).

¶ 16 The reasonableness of a parent's progress toward the child's return is measured objectively by the amount of movement toward the goal of reunification. *In re D.J.S.*, 308 Ill. App. 3d 291, 294-95 (1999). To find that a respondent is making progress toward that goal, there must be, at a minimum, some measurable and demonstrable movement toward the objective of

returning the child to the respondent's custody. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1067 (2006). Our courts have repeatedly held that the benchmark for measuring progress toward reunification has been the respondent's compliance with court directives and social service plans developed specifically to address the conditions which gave rise to the court's finding of neglect. *In re C.N.*, 196 Ill. 2d 181, 216-17 (2001). Progress is reasonable when a trial court can conclude that it will be able to return the child to parental custody in the near future because the parents have fully complied with the court's directives and the appropriate service plans. *In re A.L.*, 409 Ill. App. 3d 492, 500 (2011).

¶ 17 Here, we find that the trial court's findings of unfitness as to each respondent are not against the manifest weight of the evidence. Neither respondent made any efforts toward securing a safe and stable housing. The evidence established that the residence failed several safety inspections and both respondents were instructed to clean up the residence and call the caseworker when the place was ready for an inspection. Neither respondent ever contacted the caseworker to request an inspection. Additionally, on at least one occasion during the nine-month period, the caseworker observed evidence of drug use in the residence. Likewise, neither respondent exhibited any progress toward correcting obvious substance abuse issues. Corey completed only one of numerous required drug screenings, and that screen tested positive for illegal drugs. Melinda complied with approximately half of her required screens, but all tests were positive for illegal drugs. The respondents both evidenced a total lack of cooperation with the plan requirement that they cooperate with efforts to end their use of illegal drugs. In addition, neither respondent made any attempt, other than occasionally selling blood plasma, to secure a legal source of income.

¶ 18 The respondents maintain that they demonstrated reasonable progress by completing parenting classes and actively participating in visitation. While the record does establish that the respondents made some effort to attend and successfully complete parenting classes, that fact stands in stark contrast to their complete failure to comply with any other requirements for the return of M.G. The trial court noted these steps, but it nonetheless found that the entire record showed a significant lack of progress toward reunification. The trial court's conclusion is not against the manifest weight of the evidence.

¶ 19 We also note that Corey raised two procedural challenges to the trial court's finding that he was an unfit parent. First, he maintains that he was not given the results of a paternity test until July 6, 2011, and therefore was not obligated to comply with a service plan until that date. We do not agree. The relevant nine-month period did not begin until September 6, 2011, thus the record clearly established that Corey was the father of M.G at the time and he was properly made a party to the proceedings. Corey also maintains that his ability to comply with the service plan was compromised by that fact that he was not represented by counsel until September 14, 2012. While this fact is true, the record shows that Corey was personally present at the dispositional hearing when the tasks were first ordered, and Corey has failed to establish how his lack of counsel prevented him from complying with the plan.

¶ 20 Based upon the overwhelming weight of the evidence, we find that the trial court properly concluded that M.G. could not be safely returned to the respondents in the near future, and, thus, the respondents were unfit parents.

¶ 21 B. Best-Interest Finding

¶ 22 After a trial court has found a parent unfit, it shifts its focus to the best interest of the child. *In re D.T.*, 212 Ill. 2d 347, 364 (2004). At this stage, a "parents interest in maintaining the parent-child relationship must yield to the child's best interest in a stable, loving home life." *In re D.T.*, 212 Ill. 2d 347, 364 (2004). Before a court may terminate a parent's rights, it must find the People have proven by a preponderance of the evidence that it is in the best interest of the child to terminate those rights. *Id*. This court will not disturb a decision terminating parental rights unless the decision is against the manifest weight of the evidence. *In re T.A.*, 359 Ill. App. 3d 961 (2005).

¶ 23 Respondents argue that the trial court's order terminating their parental rights is against the manifest weight of the evidence. We disagree. The record clearly established that M.G. was in a safe, stable, and loving environment with her foster parents. The child had bonded with the natural children of the foster parents and fully integrated in the foster family. The foster parents expressed a desire to make M.G. a permanent member of their family and were willing to adopt M.G. and her younger brother. The best interest of M.G. requires a safe, stable and nurturing environment, something that neither respondents will be able to provide at any time in the near future. We, therefore, find no error in the trial court's determination that the best interest of M.G. lies in the termination of the respondents' parental rights.

¶ 24 CONCLUSION

¶ 25 For the foregoing reasons, the judgment of the circuit court of Rock Island County is affirmed.

¶ 26 Affirmed.