2022 IL App (4th) 220610-U

NOS. 4-22-0610, 4-22-0612 cons.

FILED
December 2, 2022
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re A.S., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Henry County
Petitioner-Appellee,	)	No. 19JA14
v. (No. 4-22-0610)	)	
Katelyn M.,	)	
Respondent-Appellant).	)	
_____	)	
In re L.S., a Minor	)	
	)	No. 19JA15
(The People of the State of Illinois,	)	
Petitioner-Appellee,	)	
v. (No. 4-22-0612)	)	Honorable
Katelyn M.,	)	Terence M. Patton,
Respondent-Appellant).	)	Judge Presiding.

JUSTICE TURNER delivered the judgment of the court.
Justices Cavanagh and Zenoff concurred in the judgment.

ORDER

¶ 1 *Held*: The circuit court's finding respondent was unfit under section 1(D)(m)(ii) of the Adoption Act was not against the manifest weight of the evidence.

¶ 2 In March 2021, the State filed motions for the termination of the parental rights of respondent, Katelyn M., as to her minor children A.S. (born in August 2013) and L.S. (born in July 2017). The Henry County circuit court held the fitness hearing and found respondent unfit in April 2022. After the June 2022 best-interests hearing, the court found it was in the minor children's best interests to terminate respondent's parental rights.

¶ 3 Respondent appeals, asserting the circuit court erred by finding her unfit. We

affirm.

¶ 4 I. BACKGROUND

¶ 5 The minor children's father is Thomas S., who is not a party to this appeal. Thomas filed separate appeals in Fourth District case Nos. 4-22-0611 and 4-22-0613.

¶ 6 In February 2019, the State filed petitions for the adjudication of wardship of A.S. and L.S. The petitions alleged the minor children were neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(b) (West 2018)) because their environment was injurious to their welfare in that respondent and Thomas had ongoing substance-abuse issues. After a May 2019 adjudicatory hearing, the circuit court found the minor children neglected. On July 10, 2019, the court held the dispositional hearing. At the conclusion of the hearing, the court made the minor children wards of the court, found both respondent and Thomas unfit, and placed custody and guardianship of the minor children with the Department of Children and Family Services.

¶ 7 On March 8, 2021, the State filed motions to terminate respondent's and Thomas's parental rights to the minor children. As to respondent, the motions asserted respondent failed to make (1) reasonable efforts to correct the conditions that were the basis for the minor children's removal from her during any nine-month period after the neglect adjudication (750 ILCS 50/1(D)(m)(i) (West 2020)) and (2) reasonable progress toward the minor children's return during any nine-month period after the neglect adjudication (750 ILCS 50/1(D)(m)(ii) (West 2020)). The motions alleged the following two nine-month periods for both allegations: (1) July 11, 2019, to April 11, 2020, and (2) April 12, 2020, to January 12, 2021.

¶ 8 On April 29, 2022, the circuit court commenced the fitness hearing. The State

presented the testimony of Tracey White, the caseworker in this case. Respondent testified on her own behalf.

¶ 9 White testified respondent was made aware of the contents of the service plans in this case. Under the service plans during the two relevant nine-month periods, respondent was required to complete a substance-abuse evaluation and recommended treatment, complete a mental-health evaluation and treatment, obtain suitable housing for the return of the minor children, and complete parenting classes. As to substance-abuse treatment, White testified respondent completed the assessment and began treatment. Respondent failed to appear for treatment and was discharged from services. Respondent again completed a substance-abuse evaluation but did not successfully complete services. White testified that, during the COVID-19 pandemic, substance-abuse treatment was offered over the telephone. Respondent's provider had informed White she had tried to reach respondent over the telephone but was unsuccessful. White told respondent about the telephone services. Respondent denied knowing about the telephone appointments.

¶ 10 White further testified that, in addressing substance abuse, respondent was also required to submit random urine drops twice a month. During the two relevant nine-month periods, respondent submitted urine drops less than five times. In September 2019 and June 2020, respondent tested positive for methamphetamine. In August 2020, respondent's urine test was negative but adulterated. Respondent had a negative urine test in November 2019. Respondent stated she had transportation issues in getting to the urine drops. White noted that, during team meetings, respondent's mother and grandmother offered respondent transportation to urine drops.

¶ 11 As to mental-health services, White testified respondent did complete an

evaluation in August 2019, and her case was closed in November 2019 for failing to appear. Respondent did meet with a mental-health professional in November 2020, but White never had information respondent successfully completed mental-health services during the relevant nine-month periods.

¶ 12 As to the service plans' other requirements for respondent, White testified respondent never obtained suitable housing during the relevant nine-month periods. White explained she had done several safety checks on respondent's various residences and none of them passed. White did consider respondent as successfully completing parenting classes, even though respondent did not attend all of the sessions. Additionally, respondent had her visitation reduced from three times a week to once a week in July 2020 due to respondent's lack of progress in services. Respondent never received unsupervised visits with the minor children. White further testified it was not possible to return the minor children to respondent during the relevant nine-month periods because respondent did not complete substance-abuse treatment, tested positive for methamphetamine the few times respondent submitted urine drops, and did not complete mental-health services. White testified respondent was no closer to the minor children's return in January 2021 than she was in July 2019.

¶ 13 Respondent testified she was six classes away from completing substance-abuse treatment when the COVID-19 pandemic hit. She did one telephone class and then had no contact with the service provider because her telephone number changed three times. Respondent eventually got a letter from the service provider stating her case had been closed. After receiving the letter, respondent reenrolled in August 2020 and was still in substance-abuse treatment at the time of the fitness hearing. She also testified she had done some drug testing since August 2020 and all of the results were negative. Respondent admitted she used

methamphetamine from July 2019 to April 2020. Respondent also acknowledged her mental-health service provider closed her case in December 2019 for missing appointments. She did not reengage in services until September 2020 and was again discharged. Respondent did restart mental-health services and was currently receiving them. Additionally, respondent admitted her visitation was reduced after she and Thomas got into an argument in front of the minor children.

¶ 14 At the conclusion of the hearing, the circuit court found respondent unfit on all bases alleged in the petition. The court also found Thomas unfit.

¶ 15 On June 29, 2022, the circuit court held the best-interests hearing. The State presented the best-interests report. Respondent stipulated to the report's content, which found termination of respondent's parental rights was in the minor children's best interests. After finding respondent's stipulation was done knowingly and voluntarily, the circuit court found it was in the minor children's best interests to terminate respondent's parental rights. The court also terminated Thomas's parental rights to the minor children. On July 5, 2022, the court entered the written termination order.

¶ 16 On July 14, 2022, respondent filed a timely notice of appeal in sufficient compliance with Illinois Supreme Court Rule 303 (eff. July 1, 2017). See Ill. S. Ct. R. 660(b) (eff. Oct. 1, 2001) (providing the rules governing civil cases also govern appeals from final judgments in all proceedings under the Juvenile Court Act, except for delinquency cases). Thus, this court has jurisdiction of the appeal pursuant to Illinois Supreme Court Rule 307(a)(6) (eff. Nov. 1, 2017).

¶ 17 II. ANALYSIS

¶ 18 Under section 2-29(2) of the Juvenile Court Act (705 ILCS 405/2-29(2) (West 2020)), the involuntary termination of parental rights involves a two-step process. First, the

State must prove by clear and convincing evidence the parent is "unfit," as that term is defined in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2020)). *In re Donald A.G.*, 221 Ill. 2d 234, 244, 850 N.E.2d 172, 177 (2006). If the circuit court makes a finding of unfitness, then the State must prove by a preponderance of the evidence it is in the minor children's best interests that parental rights be terminated. *In re D.T.*, 212 Ill. 2d 347, 366, 818 N.E.2d 1214, 1228 (2004). On appeal, respondent only challenges the circuit court's unfitness finding.

¶ 19 Since the circuit court has the best opportunity to observe the demeanor and conduct of the parties and witnesses, it is in the best position to determine the credibility and weight of the witnesses' testimony. *In re E.S.*, 324 Ill. App. 3d 661, 667, 756 N.E.2d 422, 427 (2001). Further, in matters involving minors, the circuit court receives broad discretion and great deference. *E.S.*, 324 Ill. App. 3d at 667, 756 N.E.2d at 427. Thus, a reviewing court will not disturb a circuit court's unfitness finding unless it is contrary to the manifest weight of the evidence. See *In re Gwynne P.*, 215 Ill. 2d 340, 354, 830 N.E.2d 508, 516-17 (2005). A circuit court's decision is against the manifest weight of the evidence only where the opposite conclusion is clearly apparent. *Gwynne P.*, 215 Ill. 2d at 354, 830 N.E.2d at 517.

¶ 20 Respondent contends the circuit court erred by finding her unfit. In this case, the circuit court found respondent unfit on multiple bases, including under section 1(D)(m)(ii) of the Adoption Act (750 ILCS 50/1(D)(m)(ii) (West 2020)), which provides a parent may be declared unfit if he or she fails "to make reasonable progress toward the return of the child[ren] to the parent during any 9-month period following the adjudication of neglected or abused minor under Section 2-3 of the Juvenile Court Act." Illinois courts have defined "reasonable progress" as "demonstrable movement toward the goal of reunification." (Internal quotation marks omitted.) *In re Reiny S.*, 374 Ill. App. 3d 1036, 1046, 871 N.E.2d 835, 844 (2007). Moreover, they have

explained reasonable progress as follows:

> " '[T]he benchmark for measuring a parent's "progress toward the return of the child[ren]" under section 1(D)(m) of the Adoption Act encompasses the parent's compliance with the service plans and the court's directives, in light of the condition which gave rise to the removal of the child[ren], and in light of other conditions which later became known and which would prevent the court from returning custody of the child[ren] to the parent.' " *Reiny S.*, 374 Ill. App. 3d at 1046, 871 N.E.2d at 844 (quoting *In re C.N.*, 196 Ill. 2d 181, 216-17, 752 N.E.2d 1030, 1050 (2001)).

Additionally, this court has explained reasonable progress exists when a circuit court "can conclude that *** the court, in the *near future*, will be able to order the child[ren] returned to parental custody. The court will be able to order the child[ren] returned to parental custody in the near future because, at that point, the parent *will have fully complied* with the directives previously given to the parent in order to regain custody of the child[ren]." (Emphases in original.) *In re L.L.S.*, 218 Ill. App. 3d 444, 461, 577 N.E.2d 1375, 1387 (1991). We have also emphasized " 'reasonable progress' is an 'objective standard.' " *In re F.P.*, 2014 IL App (4th) 140360, ¶ 88, 19 N.E.3d 227 (quoting *L.L.S.*, 218 Ill. App. 3d at 461, 577 N.E.2d at 1387).

¶ 21 In determining a parent's fitness based on reasonable progress, a court may only consider evidence from the relevant time period. *Reiny S.*, 374 Ill. App. 3d at 1046, 871 N.E.2d at 844 (citing *In re D.F.*, 208 Ill. 2d 223, 237-38, 802 N.E.2d 800, 809 (2003)). Courts are limited to that period "because reliance upon evidence of any subsequent time period could improperly allow a parent to circumvent her own unfitness because of a bureaucratic delay in

bringing her case to trial." *Reiny S.*, 374 Ill. App. 3d at 1046, 871 N.E.2d at 844. In this case, one of the nine-month periods alleged in the petition was July 11, 2019, to April 11, 2020.

¶ 22 The service plan required respondent to obtain a substance-abuse assessment and follow all recommended treatment, submit to urine drops twice a month, obtain a mental-health assessment and follow all recommended treatment, complete parenting classes, and obtain suitable housing for the minor children. Respondent admitted continuing to use methamphetamine during the entire relevant nine-month period. She also acknowledged only attending a few urine drops. While respondent cited a lack of transportation for her failure to do the urine drops, White testified respondent's mother and grandmother offered respondent help with transportation during team meetings. During the relevant nine-month period, respondent did complete the substance-abuse assessment and attended a few treatment sessions but was discharged for missing appointments. Respondent's issues with telephone visits occurred in June 2020, which was after the relevant time period. Respondent did not complete substance-abuse treatment during the relevant nine-month period. She also did not complete recommended mental-health treatment. Moreover, respondent did not complete parenting classes until July 2021, which was after the relevant nine-month period. She also did not obtain suitable housing during the relevant nine-month period. White testified respondent never received unsupervised visitation and respondent was not closer to the return of the minor children to her at the end of the period than she was at the beginning of it. Accordingly, the State provided sufficient evidence for the circuit court to find by clear and convincing evidence respondent unfit for failing to make reasonable progress towards the minor children's return during the nine-month period of July 11, 2019, to April 11, 2020.

¶ 23 Given the above evidence, the circuit court's finding respondent failed to make

reasonable progress during the nine-month period of July 11, 2019, to April 11, 2020, was not against the manifest weight of the evidence. Since we have upheld the circuit court's determination respondent met the statutory definition of an "unfit person" on the basis of respondent's failure to make reasonable progress (750 ILCS 50/1(D)(m)(ii) (West 2020)) during the nine-month period of July 11, 2019, to April 11, 2020, we do not address the other bases for the circuit court's unfitness finding. See *In re Tiffany M.*, 353 Ill. App. 3d 883, 891, 819 N.E.2d 813, 820 (2004).

¶ 24 III. CONCLUSION

¶ 25 For the reasons stated, we affirm the Henry County circuit court's judgment.

¶ 26 Affirmed.