2022 IL App (4th) 210532-U

NOS. 4-21-0532, 4-21-0549 cons.

FILED
February 10, 2022
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re J.H., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Macon County
Petitioner-Appellee,	)	No. 18JA281
v.	)	
Aaron H. and Natasha S.,	)	Honorable
Respondents-Appellants).	)	Thomas E. Little,
	)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Presiding Justice Knecht and Justice Cavanagh concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, concluding the trial court's fitness and best-interest determinations were not against the manifest weight of the evidence.

¶ 2 Respondents, Aaron H. and Natasha S., appeal from the trial court's order terminating their parental rights as to their minor child, J.H. (born December 12, 2018). On appeal, respondents argue the trial court's fitness and best-interest determinations were against the manifest weight of the evidence. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On December 17, 2018, the State filed a petition for adjudication of wardship with respect to J.H., alleging he was an abused and neglected minor pursuant to section 2-3 of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(b)-(c), (2)(ii)

(West 2016)) because both Natasha S. and J.H. tested positive for methamphetamines at the time of J.H.'s birth. The State also alleged J.H. would not be safe if he was discharged to either parent given Natasha S.'s "severe mood swings due to her not taking medications for depression and anxiety" and Aaron H.'s status as a "registered sexual predator." In February 2019, the trial court entered an order finding J.H. to be an abused and neglected minor and making him a ward of the court.

¶ 5 In June 2021, the State filed a petition to terminate respondents' parental rights. The State alleged respondents were unfit pursuant to section 1(D) of the Adoption Act (750 ILCS 50/1(D)(b), (m)(i)-(ii) (West 2020)) because they failed to: (1) maintain a reasonable degree of interest, concern, or responsibility as to J.H.'s welfare (*id.* § 1(D)(b)), (2) make reasonable efforts to correct the conditions that were the basis for J.H.'s removal (*id.* § 1(D)(m)(i)), and (3) make reasonable progress toward J.H.'s return during any nine-month period from February 6, 2019, to June 30, 2021 (*id.* § 1(D)(m)(ii)).

¶ 6 The trial court conducted a fitness hearing on July 15 and 19, 2021. Jason Sudkamp, the caseworker from December 2018 to December 2019, testified Natasha S.'s service plan required her to complete substance abuse and domestic violence assessments, complete an integrated assessment, attend mental health counseling, maintain contact with her attorney, and comply with weekly drug screenings. According to Sudkamp, by December 2019, Natasha S. had completed the integrated assessment but had failed to complete either the substance abuse or domestic violence assessment, "was dropped from [counseling] for in-attendance," and only complied with a single drug screening. Sudkamp further testified Aaron H.'s service plan required him to complete substance abuse and domestic violence assessments, complete an integrated assessment, attend mental health and sexual offender counseling, maintain contact

with his attorney, and comply with drug screenings. As of December 2019, Aaron H.'s only progress consisted of completing the integrated assessment and maintaining contact with his attorney. Sudkamp testified both parents attended visitation with J.H. and the visits went well. On cross-examination, Sudkamp acknowledged that he forgot to hold a required "child and family team meeting" every three months while he was the caseworker.

¶ 7 Jennifer Cooper, who became the caseworker in April 2020, testified the only progress either parent made between December 2019 and December 2020 was Natasha S. reengaging in mental health counseling. Cooper also stated that of the approximately 100 drug screenings requested throughout the duration of the case, Aaron H. had completed one, while Natasha S. had completed three. On cross-examination, Cooper testified Natasha S. completed a domestic violence and substance abuse assessment at some point in 2021. As of June 2021, Natasha S. was "engaged in domestic violence, substance abuse and parenting education."

¶ 8 Natasha S. testified she completed her domestic violence and substance abuse assessments in February or March 2021, and she was currently engaged in those counseling sessions. She asserted she had been attending mental health counseling since sometime in 2019.

¶ 9 At the conclusion of the hearing, the trial court found respondents had been proven to be unfit by clear and convincing evidence.

¶ 10 The trial court conducted a best-interest hearing on September 16, 2021. Jennifer Cooper prepared a best-interest report in anticipation of the hearing. According to the report, J.H. was living with his aunt, uncle, and cousin. J.H. had adjusted well to the placement and "become accustomed to the family and his surroundings." He was also "excelling" in daycare. The foster family was able to meet all of J.H.'s needs and were "committed to provide a permanent, loving, and stable home for [him]."

¶ 11 Jennifer Cooper testified J.H. was placed with his foster family in May 2021. J.H.'s previous foster parents could not continue to care for him because of their advanced age. Cooper testified things were going very well with the foster family and they intended to adopt him. Cooper also testified the visits between Natasha S. and J.H. went well but she did not observe any unique bond between them.

¶ 12 Natasha S. testified she had a special bond with J.H. She asserted J.H. would get upset at the conclusion of their visits and say, "Go mommy," which, according to Natasha S., meant he wanted to leave with her.

¶ 13 At the conclusion of the hearing, the trial court found it was in J.H.'s best interest to terminate respondents' parental rights.

¶ 14 This appeal followed.

¶ 15 II. ANALYSIS

¶ 16 Respondents argue the trial court erred in finding them to be unfit parents and terminating their parental rights.

¶ 17 A. Fitness Determination

¶ 18 Respondents argue the trial court erred in determining they were unfit parents under the Adoption Act. The State, on the other hand, maintains the evidence supports the court's finding that respondents failed to make reasonable progress towards J.H.'s return during any nine-month period since the adjudication of neglect. See 750 ILCS 50/1(D)(m)(ii) (West 2020). We will not disturb a trial court's fitness finding on appeal unless it was against the manifest weight of the evidence, "meaning that the opposite conclusion is clearly evident from a review of the record." See, *e.g.*, *In re A.L.*, 409 Ill. App. 3d 492, 500, 949 N.E.2d 1123, 1129 (2011).

¶ 19 Section 2-29 of the Juvenile Court Act (705 ILCS 405/2-29 (West 2020)) "delineates a two-step process in seeking termination of parental rights involuntarily." *In re J.L.*, 236 Ill. 2d 329, 337, 924 N.E.2d 961, 966 (2010). The first step in that process requires the trial court to find, by clear and convincing evidence, that the parent is "unfit," as defined in the Adoption Act. *Id.* (citing 705 ILCS 405/2-29(2), (4) (West 2008); see also 750 ILCS 50/1(D) (West 2008)). A parent is considered unfit, in relevant part, where they fail "to make reasonable progress toward the return of the child *** during any 9-month period following the adjudication" of neglect. 750 ILCS 50/1(D)(m)(ii) (West 2020). If a service plan has been established, then "failure to make reasonable progress *** includes the parent's failure to substantially fulfill his or her obligations under the service plan and correct the conditions that brought the child into care ***." (Internal quotation marks omitted.) *Id.*; see also *In re C.N.*, 196 Ill. 2d 181, 216-17, 752 N.E.2d 1030, 1050 (2001) ("[T]he benchmark for measuring a parent's 'progress toward the return of the child' *** 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, and in light of other conditions which later become known and which would prevent the court from returning custody of the child to the parent.").

¶ 20 Here, the court's fitness findings were not against the manifest weight of the evidence, as the evidence shows both parents failed to substantially fulfill their obligations under their respective service plans. Beginning with Aaron H., his service plan required him to complete substance abuse and domestic violence assessments, complete an integrated assessment, attend mental health and sexual offender counseling, maintain contact with his attorney, and comply with drug screenings. Between February 2019 and the July 2021 fitness hearing, Aaron H. had only completed the integrated assessment and maintained contact with his

attorney and completed only one of approximately one hundred requested drug screenings. As for Natasha S., her service plan required her to complete substance abuse and domestic violence assessments, complete an integrated assessment, attend mental health counseling, maintain contact with her attorney, and comply with weekly drug screenings. Although Natasha S. did engage in domestic violence and substance abuse services in early 2021, prior to that, she had completed only the integrated assessment, some mental health counseling, and completed a single drug screening.

¶ 21 Because respondents made essentially no progress towards reunification between February 2019 and early 2021, we cannot say the trial court's fitness determination was against the manifest weight of the evidence. See, *e.g.*, *In re Gwynne P.*, 215 Ill. 2d 340, 349, 830 N.E.2d 508, 514 (2005) (stating that a parent's rights may be terminated if even a single alleged ground for unfitness is supported by the evidence).

¶ 22 B. Best-Interest Determination

¶ 23 Respondents also argue the trial court erred in determining termination of their parental rights was in J.H.'s best interest. We will not reverse a best-interest determination unless it was against the manifest weight of the evidence, which occurs "only if the facts clearly demonstrate that the court should have reached the opposite result." *In re Jay. H.*, 395 Ill. App. 3d 1063, 1071, 918 N.E.2d 284, 291 (2009).

¶ 24 Once a trial court has determined a parent is "unfit," it must next determine whether termination of parental rights is in the minor's best interest. See 705 ILCS 405/2-29(2) (West 2020). At the best-interest stage, the focus shifts from the parent to the child, and the issue is "whether, in light of the child's needs, parental rights should be terminated." (Emphasis omitted.) *In re D.T.*, 212 Ill. 2d 347, 364, 818 N.E.2d 1214, 1227 (2004). Thus, "the parent's

interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life." *Id.* Section 1-3 of the Juvenile Court Act (705 ILCS 405/1-3(4.05) (West 2020)) sets forth the best-interest factors for the court to consider, in the context of the minor's age and developmental needs, when making its best-interest determination: (1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's background and ties; (4) the child's sense of attachments; (5) the child's wishes and long-term goals; (6) the child's community ties; (7) the child's need for permanence; (8) the uniqueness of every family and child; (9) the risks associated with substitute care; and (10) the preferences of the persons available to care for the child.

¶ 25 Here, the trial court's best-interest determination was not against the manifest weight of the evidence. According to the best-interest report, J.H. "has adjusted so well" to his placement and "become accustomed to the family and his surroundings." J.H. was "excelling" in day care. His foster family met all of his needs and intended to provide him with permanence through adoption. While Natasha S. testified she had a special bond with J.H., Jennifer Cooper maintained that she did not observe a unique bond between the two. Accordingly, we cannot say the trial court's best-interest determination was against the manifest weight of the evidence.

¶ 26 III. CONCLUSION

¶ 27 For the reasons stated, we affirm the trial court's judgment.

¶ 28 Affirmed.