2024 IL App (4th) 230717-U

NO. 4-23-0717

FILED
January 16, 2024
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re I.C. and A.C., Minors	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	McLean County
Petitioner-Appellee,	)	No. 20JA80
v.	)	
Samantha C.,	)	Honorable
Respondent-Appellant).	)	John Brian Goldrick,
	)	Judge Presiding.

JUSTICE DOHERTY delivered the judgment of the court.
Justices Steigmann and Lannerd concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, concluding the trial court's findings respondent was an unfit parent and it was in the minors' best interest to terminate respondent's parental rights were not against the manifest weight of the evidence.

¶ 2 On July 18, 2023, the trial court entered an order terminating the parental rights of respondent Samantha C. to her minor children, A.C. (born 2016) and I.C. (born 2017). Respondent appeals, arguing the court's findings that she was an unfit parent and that it was in the minors' best interest to terminate her parental rights were against the manifest weight of the evidence. We affirm.

¶ 3 I. BACKGROUND

¶ 4 A. Case Opening

¶ 5 On June 22, 2020, the State filed a petition for adjudication of wardship, alleging A.C. and I.C. were neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Court Act) (750 ILCS 405/2-3(1)(b) (West 2020)) in that their environment was injurious to their welfare due to ongoing domestic violence issues between respondent and Mark S., who is not a party to this appeal. That same day, the trial court entered a temporary custody order placing temporary custody and guardianship of the minors with the Illinois Department of Children and Family Services (DCFS).

¶ 6 A supplemental petition for adjudication of wardship was filed on August 26, 2020, alleging the minors were neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act (750 ILCS 405/2-3(1)(b) (West 2020)) due to an environment that was injurious to their welfare because:

> "[R]espondent *** had previous juvenile court involvement as evidenced by McLean County case Number 16-JA-77. In that case, respondent *** completed her services and attained fitness after it was thought that she had addressed domestic violence issues with [Mark S.] *** after successful closure of that case, she continues to deny that she has been the victim of any domestic violence with [Mark S.]"

¶ 7 On December 3, 2020, the trial court adjudicated A.C. and I.C. neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act (705 ILCS 405/2-3(1)(b) (West 2020)).

¶ 8 Following a January 14, 2021, dispositional hearing, the trial court made A.C. and I.C. wards of the court and granted continued guardianship and custody with DCFS. The court subsequently changed the permanency goal to substitute care pending termination of respondent's parental rights.

¶ 9 On October 4, 2022, the State filed a petition to terminate respondent's parental rights. The petition alleged that respondent was an unfit parent in that she failed to make reasonable progress toward the return of the minors to her care during a nine-month period after they were adjudicated neglected, namely the period of January 3, 2022, through October 3, 2022. 750 ILCS 50/1(D)(m)(ii) (West 2022).

¶ 10 On December 29, 2022, the State filed a supplemental petition to terminate respondent's parental rights. The supplemental petition reasserted the allegation contained in the original petition and included the allegation respondent was an unfit parent in that she failed to make reasonable progress toward the return of the minors to her care during a nine-month period after they were adjudicated neglected, namely the period of April 3, 2021, through January 3, 2022. 750 ILCS 50/1(D)(m)(ii) (West 2022). The State withdrew its October 4, 2022, petition and proceeded on the supplemental petition.

¶ 11 B. Fitness Hearing

¶ 12 The trial court commenced the fitness hearing on April 12, 2023. At the outset of the hearing, the court acceded to the State's request that it take judicial notice of the proceedings in McLean County case No. 16-JA-77 "involving these same respondent parents." Respondent's drug screen results were also admitted into evidence.

¶ 13 The State presented the testimony of Emily Hartman, the minors' caseworker since December 6, 2022. Hartman indicated, as of the date of the fitness hearing, there had been no changes to respondent's initial service plan. Respondent had been inconsistent with drug testing and was unsuccessfully discharged from individual counseling in September 2022. Further, respondent was inconsistent in exercising visitation with the minors and never progressed to receiving unsupervised visitation. Regarding domestic violence, Hartman stated

respondent had “not taken accountability for the reason why the case opened in 2020” and that respondent “minimized the incident in 2016.”

¶ 14 Respondent testified she refused to participate in the integrated assessment appointment because, pursuant to DCFS policy, the assessment team would not allow her to audio record the interview. Respondent agreed that part of her initial service plan required her to complete drug testing. Respondent acknowledged she only participated in five sessions of individual counseling. Respondent asserted since the opening of the case, there had been no instances of domestic violence between her and Mark S.

¶ 15 Chetna Gordhan testified she was a licensed clinical social worker at Chestnut Health Systems. Respondent was referred to Gordhan for “domestic violence Secure Group” and individual counseling. Gordhan indicated respondent successfully completed the Secure Group sessions on January 5, 2022. However, respondent was later referred for individual counseling due to concerns that respondent was “not being honest and open about the domestic violence between her and her partner.” Respondent began weekly individual counseling sessions on February 16, 2022. However, respondent was unsuccessfully discharged from individual counseling on September 26, 2022, for nonattendance. Gordhan indicated respondent last participated in individual counseling on May 11, 2022.

¶ 16 Dr. Michelle Thompson-Iyamah, a clinical psychologist, conducted a psychological evaluation of respondent. Dr. Iyamah testified respondent showed symptoms of posttraumatic stress disorder and depressive disorder. Further, respondent did not have the ability to independently and safely discharge parental responsibilities due to unresolved mental health issues and “because of [respondent’s] relationship issues wherein she was accepting violence perpetrated on her and blaming herself.”

¶ 17 The trial court found respondent unfit as to paragraphs 9(a) and (b) of the State's supplemental petition. Specifically, the court noted "[a]ttendance of visitation has been an issue" and observed that, between April 3, 2021, and January 3, 2022, 31 visits were scheduled, and respondent missed 10 visits. During that same time period, the court indicated that respondent also missed 29 drug screens. Regarding domestic violence, which the court characterized as "the primary issue in this case," the court noted respondent's unsuccessful discharge from individual counseling. The court acknowledged respondent's completion of domestic violence classes. However, "when asked to address the specifics of their history specifically, confront those issues on a personal level, [respondent] and [Mark S.] deflect, avoid, and minimize." The court concluded, "it's clear the domestic violence issues remain unresolved at this time."

¶ 18 C. Best Interest Hearing

¶ 19 During the July 18, 2023, best interest hearing, the reports of the court appointed special advocates, as well as the best interest report filed on July 18, 2023, were admitted without objection. The authors of the best interest report noted A.C. and I.C. had been in the care of their maternal grandmother, Christina R., since June 2020. According to the report, Christina R. was "able to meet [the minors'] needs consistently."

¶ 20 Christina R. testified the minors had previously been in her care for approximately 18 months during the pendency of proceedings in the McLean County case. Christina R. noted that since coming into her care, the minors were bonded to her and they felt more secure and happy in their current placement. Both minors were successfully discharged from individual counseling. Christina R. agreed to provide permanency for the minors through adoption.

¶ 21 Respondent testified she was presently employed and lived in an apartment with Mark S. If the minors were returned to her care, respondent opined she would be able to provide food, clothing, and shelter for them. Regarding potential future instances of domestic violence, respondent did "not have any concerns about that. There will not be any domestic violence."

¶ 22 Following arguments, the trial court found termination of respondent's parental rights was in the minors' best interest. Specifically, the court noted "a little more than six months after the return home" in case No. 16-JA-77, the minors were placed in temporary custody again "for issues of domestic violence." The court emphasized that the minors had been in care for three years during the pendency of the present proceedings. Specifically, the court highlighted that "[Christina R.] has had a significant hand in developing the [minors'] identity." With regard to physical safety and welfare of the minors, the court concluded, "the history of this case, the issues that are present, *** that weighs in favor of termination of parental rights."

¶ 23 This appeal followed.

¶ 24 II. ANALYSIS

¶ 25 A. Unfitness Finding

¶ 26 On appeal, respondent first argues that the trial court's finding of unfitness was against the manifest weight of the evidence.

¶ 27 Termination of parental rights under the Juvenile Court Act (705 ILCS 405/1-1 *et seq.* (West 2022)) is a two-step process. *In re Julian K.*, 2012 IL App (1st) 112841, ¶ 1. Parental rights may not be terminated without the parent's consent unless the trial court first determines, by clear and convincing evidence, that the parent is unfit as defined in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2022)). *In re Gwynne P.*, 215 Ill. 2d 340, 354 (2005). Pursuant to section 1(D)(m)(ii) of the Adoption Act (750 ILCS 50/1(D)(m)(ii) (West

2022)), a parent may be found unfit if she fails to "make reasonable progress toward the return of the child to the parent during any 9-month period following the adjudication of neglected *** minor." A "parent's failure to substantially fulfill his or her obligations under the service plan and correct the conditions that brought the child into care during any 9-month period following the adjudication" constitutes a failure to make reasonable progress for purposes of section 1(D)(m)(ii). 750 ILCS 50/1(D)(m)(ii) (West 2022). "As the grounds for unfitness are independent, the trial court's judgment may be affirmed if the evidence supports the finding of unfitness on any one of the alleged statutory grounds." *In re H.D.*, 343 Ill. App. 3d 483, 493 (2003).

¶ 28 We will not disturb a finding of unfitness unless it is against the manifest weight of the evidence. *In re J.H.*, 2020 IL App (4th) 200150, ¶ 68. "A finding is against the manifest weight of the evidence only if the evidence clearly calls for the opposite finding [citation], such that no reasonable person could arrive at the [trial] court's finding on the basis of the evidence in the record [citation]." (Internal quotation marks omitted.) *Id.* "This court pays great deference to a trial court's fitness finding because of [that court's] superior opportunity to observe the witnesses and evaluate their credibility." (Internal quotation marks omitted.) *In re O.B.*, 2022 IL App (4th) 220419, ¶ 29.

¶ 29 Here, the State proved by clear and convincing evidence that respondent failed to make reasonable progress toward the return of the minors during the nine-month period of January 3, 2022, to October 3, 2022, as alleged in paragraph 9(a) of the State's supplemental petition to terminate. Pursuant to respondent's integrated assessment, she was to, *inter alia*, engage in drug testing, complete domestic violence classes, complete individual counseling, and attend visits with the minors. Respondent failed to appear for 38 drug drops during the time

period of January 3, 2022, to October 3, 2022. While respondent did initially complete domestic violence group classes, she was later recommended for additional individual counseling treatment based on concerns of ongoing domestic violence. Respondent was unsuccessfully discharged from individual counseling due to nonattendance in September 2022. Moreover, during the time period between January 3, 2022, to October 3, 2022, respondent did not attend 15 of the 38 scheduled visits with the minors.

¶ 30 Based on this evidence, respondent did not "substantially fulfill *** her obligations under the service plan" and therefore did not make reasonable progress toward the return of the minors to her care. 750 ILCS 50/1(D)(m)(ii) (West 2022). Because the grounds of unfitness are independent, we need not address the remaining grounds. See *H.D.*, 343 Ill. App. 3d at 493 ("As the grounds for unfitness are independent, the trial court's judgment may be affirmed if the evidence supports the finding of unfitness on any one of the alleged statutory grounds.").

¶ 31 B. Best Interest Findings

¶ 32 Respondent next asserts that the trial court's best interest findings were against the manifest weight of the evidence. Specifically, respondent asserts the court placed too much emphasis on the minors' need for permanency and "too little weight to a potential relationship" between the minors and respondent. Initially, we observe the trial court reviewed each of the statutory best-interest factors in making its decision. Respondent essentially asks this court to reweigh the evidence and arrive at a different conclusion, which we cannot do. See *In re S.M.*, 314 Ill. App. 3d 682, 687 (2000) ("The reviewing court does not reweigh the evidence or reassess the credibility of the witnesses.").

¶ 33 When a trial court finds a parent unfit, it "then determines whether it is in the best interests of the minor that parental rights be terminated." *In re D.T.*, 212 Ill. 2d 347, 352 (2004). "[A]t a best-interests hearing, the parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life." *Id.* at 364. The State must prove by a preponderance of the evidence that termination of parental rights is in the minor's best interest. *Id.* at 366. In making the best interest determination, the court must consider the factors set forth in section 1-3(4.05) of the Juvenile Court Act (705 ILCS 405/1-3(4.05) (West 2022)). These factors include:

> "(1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's background and ties, including familial, cultural, and religious; (4) the child's sense of attachments, including love, security, familiarity, and continuity of affection, and the least-disruptive placement alternative; (5) the child's wishes; (6) the child's community ties; (7) the child's need for permanence, including the need for stability and continuity of relationships with parental figures and siblings; (8) the uniqueness of every family and child; (9) the risks related to substitute care; and (10) the preferences of the persons available to care for the child." *In re Jay. H.*, 395 Ill. App. 3d 1063, 1071 (2009) (citing 705 ILCS 405/1-3(4.05) (West 2008)).

"The court's best interest determination [need not] contain an explicit reference to each of these factors, and a reviewing court need not rely on any basis used by the trial court below in affirming its decision." *In re Tajannah O.*, 2014 IL App (1st) 133119, ¶ 19. On review, "[w]e

will not disturb a court's finding that termination is in the child[ ]'s best interest unless it was against the manifest weight of the evidence." *In re T.A.*, 359 Ill. App. 3d 953, 961 (2005).

¶ 34 Here, the trial court's best interest findings were not against the manifest weight of the evidence. The best interest report showed the minors were thriving in their current placement. The minors were bonded with Christina R. and "[t]hey have become a family and all love and support one another very much." The report indicated the minors' needs were being met by Christina R. and that "the [minors] have been in care for 33 months and lived with [Christina R.] the whole time." Christina R. agreed to provide permanency for the minors through adoption. Respondent had been inconsistent in attending visitations, and the court described those absences as "significant." Moreover, at the time of the best interest hearing, respondent still had not completed individual counseling. The court additionally observed, "I think parents deflect and will not discuss underlying issues of domestic violence."

¶ 35 At the time of the best interest hearing, the minors had been in Christina R.'s care for three years. In her brief, respondent acknowledges the minors' "current placement with [Christina R.] appears to be stable and healthy. [Christina R.] has provided for all their needs." The minors should not be made to wait for a permanent home and permanent parents. *In re J.L.*, 236 Ill. 2d 329, 344-45 (2010). Noting the time the minors spent in their foster placement, the trial court determined "the need for permanency for the [minors], that's the greatest concern to this Court." The court's focus on their sense of security and attachment, as well as their need for permanency, was entirely proper given the unique circumstances of this case.

¶ 36 III. CONCLUSION

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

¶ 38 Affirmed.