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2012 IL App (3d) 110490-U

Order filed June 6, 2012

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IN THE  
APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2012

<i>In re</i> M.B. and X.B., Jr.,	)	Appeal from the Circuit Court
	)	of the 10th Judicial Circuit,
Minors,	)	Peoria County, Illinois
	)	
(The People of the State of Illinois,	)	
	)	
Petitioner-Appellee,	)	Appeal No. 3-11-0490
	)	Circuit Nos. 11-JA-84
v.	)	11-JA-85
	)	
S.B.,	)	
	)	Honorable Mark E. Gilles,
Respondent-Appellant).	)	Judge, Presiding.

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PRESIDING JUSTICE SCHMIDT delivered the opinion of the court.  
Justices Carter and Wright concurred in the judgment.

**ORDER**

¶ 1 *Held:* The trial court's finding that appellant was unfit is not against the manifest weight of the evidence. Affirmed.

¶ 2 The State filed petitions alleging that X.B and M.B were neglected. Appellant, S.B., stipulated to the contents of the petition. Following an adjudicatory hearing, the trial court found appellant unfit, made the minors wards of the court, and granted custody to the father. Appellant appeals the trial court's finding that she was unfit. The State argues that the finding of unfitness was not against the manifest weight of the evidence where the evidence indicated that appellant remained in an abusive relationship and encouraged the children to lie about the relationship to investigators. We affirm.

¶ 3 BACKGROUND

¶ 4 The State filed petitions alleging M.B. and X.B. were neglected minors in that appellant left her children in the care of her boyfriend, Tonnie Brown, while she worked. On February 16, 2011, Peoria police officers and detectives found 33 grams of cannabis in 18 packages in the home. They also found drug paraphernalia and smelled a strong odor of burnt cannabis. Brown and two other men were present with the children. Brown was arrested. M.B. reported seeing Brown selling the packages to people who came to the home. She also reported seeing others smoking cannabis in the house. Both children remembered seeing Brown assault the mother in November 2010.

¶ 5 The petition indicated that Brown's criminal history included convictions for: resisting a police officer in 2002 and 2003; criminal trespass to a building in 2006; aggravated battery in 2007; and possession of cannabis in 2010.

¶ 6 The petition also alleged that the Department of Children and Family Services (DCFS)

became involved with the family after the incident on February 16. Appellant entered into an agreement with DCFS that she would not allow Brown to reside in the home or stay overnight. Appellant violated this agreement by allowing Brown to return to the home after he was released from jail. After the petition was filed, an order of protection was entered prohibiting Brown from having any contact with the children or from entering their residence.

¶ 7 Appellant stipulated to the contents of the petition. The trial court found that the children were neglected and the environment was injurious to their welfare. The court also found that the children's father did not contribute to the injurious environment. An adjudicatory hearing was then held. Appellant did not attend the hearing.

¶ 8 Caseworker Shirril Lawson testified that the children were doing well the week prior to the hearing and that the mother meets the minimum parenting standards. Lawson was concerned that she was going to remain in a relationship with Brown. She noted that during an unannounced visit to the home, she saw appellant getting out of Brown's car. Lawson admitted that she had not seen any contact between Brown and the children.

¶ 9 The report prepared by the caseworker indicated that appellant did not believe Brown was selling drugs, even though he had been arrested with the drugs and paraphernalia in her home. She also described the assault seen by the children as playing around. The report recommended that appellant needed education about providing a safe environment and recognizing domestic violence. The report indicated concern for the children's safety if Brown were to return to the home without any counseling.

¶ 10 Following the hearing, the court found appellant unfit, made the children wards of the court and placed the children with their father. This appeal followed.

¶ 11 ANALYSIS

¶ 12 A trial court may remove a child from the custody of his or her parents if it determines the parents “are unfit or are unable, for some reason other than financial circumstances alone, to care for, protect, train or discipline the minor or are unwilling to do so \*\*\*.” 705 ILCS 405/2-27 (West 2010); *In re Stephen K.*, 373 Ill. App. 3d 7, 25 (2007). We will affirm the trial court’s determination unless we find it was against the manifest weight of the evidence. *Id.* The trial court’s finding is against the manifest weight of the evidence “only if the opposite conclusion is clearly evident or the determination is unreasonable, arbitrary, or not based on the evidence presented.” *In re J’America B.*, 346 Ill. App. 3d 1034, 1045 (2004). “[A] reviewing court will not overturn the trial court’s findings merely because the reviewing court may have reached a different decision.” *Stephen K.*, 373 Ill. App. 3d at 25.

¶ 13 Here, the trial court’s determination that appellant was unfit was not against the manifest weight of the evidence. Appellant left her children in the care of Brown, who sold drugs and smoked cannabis in the presence of the children. Brown also assaulted appellant in the presence of the children. After agreeing to prohibit Brown from returning to the home, appellant allowed him to return when he was released from jail.

¶ 14 Appellant relies on the fact that the caseworker stated her parenting skills met the minimum parenting standards and could not say whether she was allowing Brown to violate the

protective order. However, appellant stipulated to the fact that after agreeing to keep the children from Brown, she let him back into the home and told the children to lie about it. The caseworker's statement that appellant met the minimum parenting standards does not require a finding that appellant was fit.

¶ 15 In light of all the evidence presented to the court, its determination that appellant is unfit was not against the manifest weight of the evidence.

¶ 16 **CONCLUSION**

¶ 17 For the foregoing reasons, the judgment of the circuit court of Peoria County is affirmed.

¶ 18 Affirmed.