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2012 IL App (3d) 110836-U

Order filed July 11, 2012

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2012

<i>In re</i> R.S., M.K., M.K., and M.K.,)	Appeal from the Circuit Court
Minors)	of the 10th Judicial Circuit,
)	Peoria County, Illinois,
)	
(The People of the State of Illinois,)	
)	Appeal No. 3-11-0836
Petitioner-Appellee,)	Circuit Nos. 11-JA-211, 11-JA-212, 11-JA-
)	213, 11-JA-214
v.)	
)	
Lakeisha S.,)	Honorable
)	Mark E. Gilles,
Respondent-Appellant).)	Judge, Presiding.

JUSTICE O'BRIEN delivered the judgment of the court.
Justice Wright concurred in the judgment.
Presiding Justice Schmidt specially concurred.

ORDER

¶ 1 *Held:* The trial court's order that a mother submit to two random drug drops per month, as part of the order finding the mother dispositionally unfit, was not against the manifest weight of the evidence nor an abuse of discretion when the mother stipulated to the allegations of neglect and where it was unresolved whether the mother's history of domestic violence stemmed from substance abuse.

¶ 2 On the State's petitions, the trial court found the respondent, Lakeisha S., unfit to parent the minors, R.S., M.K., M.K., and M.K. Lakeisha appeals, arguing that the provision in the trial court's dispositional order requiring her to submit to two random drug drops per month was against the manifest weight of the evidence and an abuse of discretion. We affirm.

¶ 3 **FACTS**

¶ 4 Four juvenile petitions were filed by the State on September 1, 2011, all alleging that Lakeisha's four minor children were neglected as to medical care and neglected in that their environment was injurious to their welfare. The State took protective custody, and the minors were placed in foster homes when the trial court granted temporary custody to the Department of Children and Family Services (DCFS).

¶ 5 Lakeisha stipulated to the allegations contained in the petitions, and the minors were adjudicated neglected. At the dispositional hearing, a dispositional report was submitted. That report indicated that all of the minors were ill and had not been seen by a doctor, the three-year old minor had wandered to a gas station four blocks away from home, and another minor had been burned by an iron and had stitches that were weeks overdue for removal. The recommendations for Lakeisha included individual counseling, domestic violence counseling, and random drug testing. The integrated assessment indicated a history of domestic violence, and indicated that Lakeisha rarely consumed alcohol, but had increased her alcohol intake since DCFS became involved. Also, the father of three of the minors, Matthew K., had a history of heroin use. Lakeisha objected to the recommendation that she submit to random drug drops twice a month. The guardian *ad litem* indicated that the drug screens were recommended because the caseworker was unsure whether some of the domestic violence issues stemmed from

substance abuse.

¶ 6 The trial court found Lakeisha to be dispositionally unfit, made the minors wards of the court, and placed guardianship with DCFS. The trial court adopted all of the services recommended for Lakeisha, including the random drug drops. Lakeisha appealed.

¶ 7

ANALYSIS

¶ 8 Lakeisha argues that the State failed to prove by a preponderance of the evidence that she needed to submit to two random drug drops per month, and the trial court's order to that effect was against the manifest weight of the evidence and an abuse of discretion. Although Lakeisha does not specifically make the argument, the State addresses whether the finding that Lakeisha was dispositionally unfit was against the manifest weight of the evidence. The State argues that the trial court's finding of unfitness and the order regarding the drug screens were not against the manifest weight of the evidence nor an abuse of discretion.

¶ 9 A trial court may make a child a ward of the court if the trial court finds that the parents are unfit, unwilling, or unable for some reason, other than financial circumstances alone, to care for, protect, train, or discipline the minor and that the health, safety, and best interest of the minor will be jeopardized if the minor remains in the custody of the parents. 705 ILCS 405/2-27(1) (West 2008). At this stage, where a finding of unfitness will not result in a complete termination of parental rights, the State has the burden of proving unfitness by a preponderance of the evidence. *In re April C.*, 326 Ill. App. 3d 245 (2001). On review, the trial court's dispositional decision will be reversed only if the findings of fact are against the manifest weight of the evidence or the trial court committed an abuse of discretion by selecting an inappropriate disposition. *In re Ta.A.*, 384 Ill. App. 3d 303 (2008). A determination will be found to be

against the manifest weight of the evidence only if the record shows that the opposite conclusion is clearly evident. *April C.*, 326 Ill. App. 3d at 257.

¶ 10 First, whether or not the finding that Lakeisha was dispositionally unfit was against the manifest weight of the evidence is not before this court because Lakeisha did not make such an argument. In any event, since Lakeisha stipulated to the allegations of neglect in the petitions, the finding of unfitness was not an abuse of discretion. Secondly, we find that the trial court's order requiring Lakeisha to submit to random drug drops twice per month was not against the manifest weight of the evidence nor an abuse of discretion. The evidence showed that Lakeisha had a history of domestic violence, with a person who had an admitted history of drug use. The question of whether the domestic violence stemmed from substance abuse was unresolved, and it would only be resolved through drug testing.

¶ 11 **CONCLUSION**

¶ 12 The judgment of the circuit court of Peoria County is affirmed.

¶ 13 Affirmed.

2012 IL App (3d) 110836-U, *In re R.S., M.K., M.K. & M.K., Minors*

¶ 14 PRESIDING JUSTICE SCHMIDT, specially concurring:

¶ 15 I concur in the judgment.