

NOTICE
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2012 IL App (4th) 120081-U

Filed 6/1/12

NO. 4-12-0081

IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

In re: K.B., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Vermilion County
v.)	No. 10JA99
MARK A. DUPREY,)	
Respondent-Appellant.)	Honorable
)	Craig H. DeArmond,
)	Judge Presiding.

Justice Cook delivered the judgment of the court.
Presiding Justice Turner and Justice McCullough concurred in the judgment.

ORDER

¶ 1 *Held:* Trial court properly found respondent to be unfit and terminated his parental rights.

¶ 2 K.B. was born July 5, 2010. The State filed a petition for adjudication of wardship on July 7, 2010, alleging that K.B.'s environment was injurious to his welfare due to his mother having prior cases with the Department of Children and Family Services (Department) and having her parental rights terminated as to some of her children due to lack of progress. The court entered a temporary custody order on July 9, 2010, granting custody to the Department. On December 8, 2010, the mother executed a final and irrevocable surrender for purposes of adoption.

¶ 3 After paternity tests were conducted, the trial court entered an order December 8, 2010, finding respondent, Mark Duprey, to be the father. On January 20, 2011, K.B. was made a

ward of the court and placed in the custody of the Department. The dispositional order stated that respondent had just been released from the penitentiary, had had no prior contact with the child, and needed to engage in services. On October 14, 2011, the State filed a petition to terminate parental rights. Following a fitness hearing on December 14 and December 16, 2011, respondent was found to be an unfit parent. After a hearing on January 18, 2012, the court entered a dispositional order terminating respondent's parental rights. Respondent appeals. We affirm.

¶ 4

I. BACKGROUND

¶ 5 Cherylanda Trice, the caseworker since February 2011, testified at the fitness hearing. Respondent's April 12, 2011, client service plan reported that respondent had tested positive for drugs three times in the past month, was still unemployed and residing with his mother, had failed to implement lifestyle changes, and had missed a few appointments because he did not have transportation; although he had missed three visits due to positive drug tests, he was very loving and nurturing toward K.B. Respondent's October 5, 2011, client service plan reported that respondent did not have stable employment and was not cooperating with services, respondent had been unsuccessfully discharged from substance-abuse treatment, had stopped attending parenting classes and had not visited with his son since July 2011. Respondent had moved from living with his mother to a two-bedroom trailer in August or September 2011, but four people already lived there, including respondent's paramour, a convicted felon with a history of drug charges who had been released from prison in November 2010.

¶ 6 James Dixon, an alcohol and drug counselor, testified that respondent had been attending individual sessions and group sessions and had good attendance.

¶ 7 At the close of the hearing, the trial court found respondent to be unfit in that he had failed to maintain a reasonable degree of concern or responsibility in K.B., and had not made reasonable progress toward K.B.'s return home.

¶ 8 At the best interests hearing January 18, 2012, Trice testified K.B. was doing well in his foster home, where he had been since the day after his birth. He was bonded with his foster parents and they were willing to provide permanency through adoption. Respondent had a visit with the minor on January 5, 2012. K.B. showed no fear of respondent, but the caseworker was not sure K.B. remembered him. Trice testified it was obvious respondent loved K.B. Respondent tested positive for drugs prior to the visit, and had had no visits in the last six months primarily because of his positive drug tests or lack of participation in services. On January 20, 2012, the trial court entered an order terminating respondent's parental rights.

¶ 9 II. ANALYSIS

¶ 10 A. Finding of Unfitness

¶ 11 Respondent's attorney argues the trial court erred in finding him to be an unfit parent. Because the termination of parental rights constitutes a complete severance of the parent-child relationship, proof of parental unfitness must be clear and convincing. *In re C.N.*, 196 Ill. 2d 181, 208, 752 N.E.2d 1030, 1045 (2001). Because the circuit court is in the best position to assess the credibility of witnesses, a reviewing court may reverse a circuit court's finding of unfitness only where it is against the manifest weight of the evidence. *In re C.N.*, 196 Ill. 2d at 208, 752 N.E.2d at 1045.

¶ 12 A parent may be found to be unfit when he fails "to make reasonable progress toward the return of the child to the parent within 9 months after an adjudication of neglected or

abused minor under Section 2-3 of the Juvenile Court Act of 1987[.]” 750 ILCS 50/1(D)(m)(ii) (West 2008). “[A]ny 9-month period *** following the adjudication of neglected or abused minor” may also be considered. 750 ILCS 50/1(D)(m)(iii) (West 2008). Respondent's attorney argues that (1) he was cooperative with the Department and services, (2) although he did not maintain stable employment he did have odd jobs and other employment, (3) he maintained a stable residence with his mother for a good deal of the case, (4) he began counseling and substance-abuse treatment, and (5) he was loving and concerned with K.B. and sought visitation whenever he could. However, he was denied visitation for positive drug drops. He no longer maintains “a stable residence with his mother” but resides in an inadequate residence with a convicted drug dealer. Although he began counseling and substance-abuse treatment he failed to complete those programs. Whether a small amount of progress is reasonable must be determined with proper regard for the best interests of the child. Such an inquiry might well involve consideration of the possibility that the child might be forced to indefinitely reside with a succession of impermanent foster parents. *In re Edmonds*, 85 Ill. App. 3d 229, 233, 406 N.E.2d 231, 235 (1980).

¶ 13 A parent's “[f]ailure to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare” is a ground for finding the parent unfit. 750 ILCS 50/1(D)(b) (West 2008). Evidence that a parent's compliance with a service plan was very sporadic or that he failed to participate in a service plan and was unfit is sufficient to show that he failed to maintain a reasonable degree of interest, concern, or responsibility for the welfare of his child. *In re L.M.*, 189 Ill. App. 3d 392, 400, 545 N.E.2d 319, 325 (1989).

¶ 14 Any one ground, properly proved, is sufficient to enter a finding of unfitness. *In*

re C.W., 199 Ill. 2d 198, 210, 766 N.E.2d 1105, 1113 (2002). The trial court's findings that respondent failed to demonstrate a reasonable degree of concern or responsibility and failed to make reasonable progress toward the return of the child from December 8, 2010, to September 8, 2011, were not contrary to the manifest weight of the evidence.

¶ 15 B. Termination of Parental Rights

¶ 16 Respondent's attorney also argues the trial court erred in terminating respondent's parental rights, stating that "Mark loved K.B. as was obvious to the caseworker." However, once a parent is found unfit, the focus changes from the parent to whether it is in the best interests of the child to terminate parental rights. 705 ILCS 405/2-29(2) (West 2010); *In re D.T.*, 212 Ill. 2d 347, 364, 818 N.E.2d 1214, 1227 (2004). K.B. has never lived with respondent, and the foster parents, to whom he is bonded, are willing to provide permanency. Despite being given every opportunity, respondent has not overcome his drug addiction, testing positive just recently and never completing substance-abuse treatment. The trial court did not err in terminating parental rights.

¶ 17 III. CONCLUSION

¶ 18 We affirm the trial court's judgment.

¶ 19 Affirmed.