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2013 IL App (3d) 120560-U

Order filed March 20, 2013

IN THE APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2013

In re A.A.,	)	Appeal from the Circuit Court
	)	of the 10th Judicial Circuit,
a Minor	)	Peoria County, Illinois,
	)	
(The People of the State of Illinois,	)	
	)	Appeal No. 3-12-0560
Petitioner-Appellee,	)	Circuit No. 12-JA-59
	)	
v.	)	
	)	
Aaron M.,	)	Honorable
	)	Mark E. Gilles,
Respondent-Appellant).	)	Judge, Presiding.

JUSTICE CARTER delivered the judgment of the court.
Justices Lytton and Schmidt concurred in the judgment.

ORDER

¶ 1 *Held*: In a case in which the respondent was found to be an unfit parent at a dispositional hearing held pursuant to section 2-27 of the Juvenile Court Act of 1987 (705 ILCS 405/2-27 (West 2010)), the appellate court held that the circuit court's finding of unfitness was not against the manifest weight of the evidence.

¶ 2 The circuit court entered orders finding the minor, A.A., to be neglected and the respondent, Aaron M., to be an unfit parent. On appeal, the respondent argues that the circuit court erred when it found him to be an unfit parent. We affirm.

¶ 3 FACTS

¶ 4 On March 20, 2012, the State filed a juvenile petition alleging that the minor, born March 13, 2012, was neglected by reason of an injurious environment. The petition alleged that the minor's meconium tested positive for cocaine and cannabis on March 14, 2012, and that the minor's mother tested positive for cocaine and cannabis at the time of the minor's birth. The petition also alleged that the minor's mother and the respondent had been involved in several incidents of domestic violence:

> "(1) On January 1, 2011, the mother and [the respondent] struck each other with bottles and the mother was spitting up blood and had blood running down her forehead and [the respondent] had a large laceration on his head with blood running into his eye and [the respondent] was intoxicated and the mother was intoxicated;
>
> (2) On June 5, 2010, the mother stuck a pen in [the respondent] repeatedly causing cuts on his arm, forehead and stomach and the mother reported being choked by [the respondent] and police observed scratched [sic] on her face; and
>
> (3) On October 4, 2009, [the respondent] punched the mother on the head, grabbed her by the neck, punched her in the mouth, and police observed a large bump on her head and scratches on [her] neck and the mother and [the respondent] had been drinking."

In addition, the petition alleged that the respondent had a criminal history that included possession of cannabis in 2004 and possession of a controlled substance in 2000. The mother

stipulated to the petition's allegations and the respondent stipulated to the allegations involving him.

¶ 5 The caseworker had prepared a dispositional hearing report on May 31, 2012. Among other things, the report indicated that the mother had been living in Peoria "with [the respondent] and his mother and also with her cousin Tiffany, also in Peoria, intermittently." Also filed with the dispositional hearing report was an Integrated Assessment, which was completed on April 27, 2012. Among other things, the Integrated Assessment stated that the respondent admitted using cannabis sporadically in social situations. He also admitted that he might have cannabis in his system at that time.

¶ 6 On June 18, 2012, the circuit court entered an order finding the minor neglected. By agreement of the parties, the case proceeded immediately to a dispositional hearing. The caseworker testified that the respondent had performed his first drug drop several days earlier, which came back negative. The respondent also completed a domestic violence assessment one week earlier, and his domestic violence classes were scheduled to start in July 2012. In addition, the respondent had scheduled his substance abuse assessment for July 6, 2012. The caseworker testified that the respondent had been cooperative, and she asked that the respondent be found fit.

¶ 7 The respondent's attorney asked that the respondent be found fit, arguing that the respondent had been cooperative and was on his way to addressing his substance abuse and domestic violence issues. The respondent's attorney also argued that the respondent's recent negative drug drop was proof that the respondent had already made progress on his issues.

¶ 8 At the close of the hearing, the circuit court found, in relevant part, that the respondent was an unfit parent as suggested by the State and the GAL. The court noted that the respondent

should not let that finding discourage him from continuing to pursue services so that he could possibly be found fit in the future. The court also made the minor a ward of the court and named the Department of Children and Family Services as guardian. The respondent appealed.

¶ 9 ANALYSIS

¶ 10 On appeal, the respondent argues that the circuit court erred when it found him to be an unfit parent.

¶ 11 At a dispositional hearing held pursuant to section 2-27 of the Juvenile Court Act of 1987 (705 ILCS 405/2-27 (West 2010)), the State must prove parental unfitness by a preponderance of the evidence. *In re K.B.*, 2012 IL App (3d) 110655, ¶ 22. With regard to the circuit court's finding after a dispositional hearing that a parent is unfit, we will not disturb that finding unless it is against the manifest weight of the evidence. See *K.B.*, 2012 IL App (3d) 110655, ¶ 23. Such a finding is against the manifest weight of the evidence if the record " 'clearly demonstrates' that the opposite result was proper." *In re Lakita B.*, 297 Ill. App. 3d 985, 994 (1998).

¶ 12 In this case, the record supports the circuit court's finding that the respondent was an unfit parent. While the caseworker recommended that the court find the respondent fit, we note that a court is not obligated to adopt the caseworker's fitness recommendation (*In re R.R.*, 409 Ill. App. 3d 1041, 1046 (2011)). The respondent had been identified as having domestic violence issues and substance abuse issues that, at the time of the dispositional hearing, were only in the very beginning stages of being addressed. The respondent's initial negative drug drop was promising, but the Integrated Assessment indicated that the respondent admitted to sporadic social use of cannabis and that he may have had cannabis in his system as of April 27, 2012, which was only approximately seven weeks prior to the initial drug drop. In addition, especially in light of the

fact that the mother, with whom the respondent had the domestic violence incidents, was still living most of the time with the respondent, we agree with the circuit court's conclusion that the respondent needed to continue participating in services before a fitness finding could possibly be made. See *R.R.*, 409 Ill. App. 3d at 1046 (noting that a parent may not necessarily be fit even if some services had actually been completed, "particularly where other required services are still ongoing"). Under the circumstances of this case, we hold that the circuit court's unfitness finding was not against the manifest weight of the evidence.

¶ 13 CONCLUSION

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

¶ 15 Affirmed.