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2014 IL App (3d) 140340-U

Order filed August 12, 2014

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2014

<i>In re</i> A.W., A.R., A.W., and A.W.,	)	Appeal from the Circuit Court
	)	of the 12th Judicial Circuit,
Minors	)	Will County, Illinois.
	)	
(The People of the State of Illinois,	)	
	)	Appeal Nos. 3-14-0340, 3-14-0341,
Petitioner-Appellee,	)	3-14-0342, and 3-14-0343
	)	Circuit Nos. 08-JA-56, 08-JA-57,
v.	)	08-JA-58, and 08-JA-59
	)	
Cynthia W.,	)	
	)	The Honorable
Respondent-Appellant).	)	Paula Gomora,
	)	Judge, presiding.

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JUSTICE CARTER delivered the judgment of the court.  
Justices Holdridge and O'Brien concurred in the judgment.

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**ORDER**

¶ 1 *Held:* The appellate court affirmed the circuit court's order that found the respondent to be an unfit parent.

¶ 2 The circuit court entered orders finding the respondent to be an unfit parent and terminating her parental rights to the minors, A.W., A.R., A.W., and A.W. On appeal, the respondent argues that the court erred when it found her to be an unfit parent. We affirm.

FACTS

¶ 3

¶ 4

On March 28, 2008, juvenile petitions were filed alleging that the minors, A.W. (born November 18, 1997), A.R. (born February 9, 2002), A.W. (born March 10, 2005), and A.W. (born February 26, 2008), were neglected by reason of an injurious environment. An investigator from the Department of Children and Family Services (DCFS) testified at a hearing on the same date that, *inter alia*, one of the respondent's children had allegedly been raped at gunpoint and had been bleeding from her vagina for two weeks. When the child finally told the respondent, the respondent did not seek medical attention for the child for two to four days. The child apparently was scared to tell the respondent due to a fear of being punished. Additionally, other documents contained in the record on appeal indicated that allegations had arisen that two of the other minors had been molested, that the respondent and her paramour may have had knowledge about the molestation, and that they did not act to protect the minors. The circuit court found the minors to be neglected on April 21, 2009. After a dispositional hearing, on July 28, 2009, the court made the minors wards of the court, found the respondent unfit, and granted guardianship to DCFS.

¶ 5

On January 22, 2013, May 21, 2013, and September 24, 2013, the State filed petitions to terminate parental rights to the minors. With regard to the respondent, the petitions alleged that: (1) she failed to maintain a reasonable degree of interest, concern, and responsibility as to the minors' welfare; (2) she failed to make reasonable efforts to correct the conditions that led to removal; and (3) she failed to make reasonable progress toward the return of two of the minors to her care during the nine-month period from November 15, 2011, to August 31, 2012, and of the other two minors during the nine-month period from March 20, 2012, to December 31, 2012.

¶ 6 On March 26, 2014, the circuit court held a hearing on the termination petitions. Wendy Barnoski testified that she had been the caseworker since December 2010. She testified that the children came into care after reports of two of the minors being molested by an individual residing with the respondent and the minors. She stated that visitation had been suspended around September 2011 due to the respondent's inappropriate behavior, which included blaming one of her children for the case being brought into care and taunting the child who had been sexually abused by asking her whether she missed Glenn, who was the man that abused her. Visitation resumed in April 2012.

¶ 7 Barnoski also testified that as of March 2012, the respondent had completed a substance abuse evaluation and substance abuse outpatient treatment, but she had shown up to visits intoxicated. While the respondent had completed some of her services, she had not implemented what she had learned through those services during visitation or during communication with the agency. The respondent often did not reciprocate affection with the children and at times appeared disinterested with them. At several successive visits during the summer of 2012<sup>1</sup>, the respondent "either was clearly intoxicated or there was concern that she may be under the influence." Barnoski also had a conversation with one of the minors in which he said that the respondent persuaded him to tell his younger brother "to act up in his foster home" and that the respondent had promised him that they were coming home soon. One of the minors also told Barnoski that the respondent tried whispering to her while agency staff was not looking; the

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<sup>1</sup> We note that there is an inconsistency between Barnoski's testimony and the service plan from August 30, 2012—Barnoski stated in court that the incidents of intoxication at visits occurred in the summer of 2012, but the service plan evaluation from August 30, 2012, stated that the respondent had not appeared at visits while under the influence of alcohol or drugs over the previous six months.

respondent was trying to get information on where the foster parents lived. Visits were suspended again in November 2012.

¶ 8 On cross-examination, Barnoski stated that at the time of the case review on March 20, 2012, the respondent was attending individual counseling and was following through with her psychiatric appointments.

¶ 9 The State introduced copies of the service plans prepared for the respondent. One of the service plans indicated an evaluation date of March 20, 2012. In part, the service plan detailed developments in the case since the last evaluation in September 2011, including that the respondent and her husband, who was the father of one of her children, had an unstable relationship, as evidenced by repeated reports of separation, reconciliation, and talk of divorce. They had "not completed couples counseling to address marital conflicts and domestic violence and there are concerns as to issues not being addressed by them for reunification to be safe and appropriate." In addition, the caseworker reported that two of the minors were in counseling to address issues including "feelings associated with being blamed by their mother for DCFS involvement." The caseworker also noted that the minors had been returned to the respondent in December 2010, but had been removed from her care again in January 2011<sup>2</sup> "due to lack of supervision, domestic conflicts occurring in the presence of children, and hotline calls regarding a weapon in the home and use of corporal punishment."

¶ 10 The service plan also evaluated the respondent on her tasks. First, she received a satisfactory rating on her task to maintain adequate housing, but the caseworker had concerns about the respondent's living situation, including the aforementioned instability in her marriage.

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<sup>2</sup> The service plan listed January 2012, but other documents filed with the record on appeal confirmed that the minors had in fact been removed in January 2011.

The respondent was living in her husband's trailer, which was not big enough for the return home of her children. Second, she received an unsatisfactory rating on her task to complete parenting and counseling services to help with her parenting issues. The caseworker noted that the respondent was engaging in counseling services, but also that visitation had been suspended since late 2011 "due to inappropriate behavior and comments toward her children." Third, she received a satisfactory rating on her task to "address and understand safety concerns and risks to her children due to their history of abuse." The caseworker noted that the respondent had been participating in individual counseling, although she had not done couples counseling with her husband. The caseworker also noted that the respondent was given an additional task of participating in family counseling services. Fourth, the respondent received a satisfactory evaluation on her task to engage in psychiatric services. Fifth, she received an unsatisfactory rating on her task to address her alcohol abuse and the effects of her drinking on her visits and her relationships with her children. The caseworker noted that the respondent had successfully completed outpatient substance abuse treatment, but also that visitation had been suspended. Sixth, she received an unsatisfactory rating on her visitation task, as visits had been suspended in late 2011 due to the respondent's inappropriate behaviors toward her children and the agency's staff.

¶ 11 Another service plan indicated an evaluation date of August 30, 2012. With regard to developments in the case since the March 2012 evaluation, the caseworker reported:

"[The respondent] has minimal interaction with [A.W.] and [A.W.] during the visits. On several occasions, [the respondent] and [her husband] were observed whispering into the children's ears, asking their children for their foster parent's home phone number and making inappropriate comments to them. [The respondent] has

made comments about termination of parental rights, telling her children that the agency 'wants to take you from us' and has also told them that they are going home soon. Several times [A.W.] has reported to his foster parent after a visit that he was told not to like his caregivers because he was going home soon. [A.W.] has also reported that his mother told his brother, [A.W.], to tell him to be mean to his foster parents because 'they're not your family.' "

Further, the caseworker noted that two of the minors had been experiencing anxiety and other behavioral problems before, during, and after visits, and that the respondent did not attempt to comfort or talk to A.W. when he would behave poorly at visits. Also, the caseworker noted that the respondent continued to interact very little with one of the other minors at visits. That minor had been experiencing behavioral problems after visits as well, including increased aggression toward others in his summer school program and other behavioral problems in his foster home. Further, the caseworker noted that the respondent had been assigned a parenting coach in June 2012, who attended the visits the respondent had with her children. The parenting coach stated that the respondent did not respond to any of the parenting coach's recommendations to the respondent and was not making progress toward her treatment goals. In addition, the service plan detailed that two of the respondent's children had told their counselor that they had told the respondent and her husband about the sexual abuse when it was happening, but nothing was done "because they were receiving monthly rent from the perpetrator."

¶ 12 The service plan also evaluated the respondent on her tasks. First, the respondent received an unsatisfactory rating on her task to maintain adequate housing. The caseworker stated that the respondent's home was not suitable for the return home of her children. Second, she received an unsatisfactory rating on her task to complete parenting and counseling services to

help with her parenting issues. The caseworker noted that the respondent had not been able to implement recommendations made by the parenting coach or make progress toward her associated identified goals. Third, she received an unsatisfactory rating on her task to "address and understand safety concerns and risks to her children due to their history of abuse." In this regard, the caseworker again noted the respondent's inability to implement recommendations made by her parenting coach, as well as the fact that couples counseling had not been done. Fourth, she received a satisfactory rating on her task to engage in psychiatric services. Fifth, she received a satisfactory rating on her task to address her alcohol abuse and the effects of her drinking on her visits and her relationships with her children. The caseworker noted that the respondent had not appeared to any visits in the previous six months while under the influence of alcohol or drugs. Sixth, she received an unsatisfactory rating on her visitation task. The caseworker noted that the respondent had not always acted appropriately during visits over the last six months, which included reports of whispering to the children and making inappropriate comments. Further, the caseworker noted that visitation with two of the minors had been suspended in August 2012 based on their counselor's recommendations.

¶ 13 On March 31, 2014, the circuit court announced its decision on the petitions. The court found that the respondent had failed to maintain a reasonable degree of interest, concern, or responsibility for the minors. With regard to the petitions' allegations that the respondent failed to make reasonable progress toward the return of the minors to her care during the two relevant nine-month periods, the court found:

"Natural mother continues to exhibit a lack of empathy toward the children, fails to accept the responsibility for failing to protect the children and minimizes the trauma that they have incurred as a result of the reasons the case came into care, that

being sexual abuse of [A.W.] and [A.R.] and possibly the other children by someone other than a parent, as well as continued domestic violence, lack of child supervision, use of poor parenting techniques and lack of emotional control with respect to appropriate discipline by resorting to physical force.

Although mother's efforts with regard to engaging in services have been satisfactory, she has demonstrated complete failure to incorporate and implement the goals of the treatment into her daily life with the children. Hence, she has failed to make progress toward reunification during the stated periods by the State by clear and convincing evidence."

Accordingly, on those two bases, the court found that the respondent was an unfit parent.

¶ 14 The case proceeded immediately to a best-interest hearing, at the close of which the circuit court found, *inter alia*, that it was in the best interest of the minors to terminate the respondent's parental rights. The respondent appealed.

¶ 15 ANALYSIS

¶ 16 On appeal, the respondent argues that the circuit court erred when it found her to be an unfit parent. Specifically, the respondent contends that the court erred when it found that she failed to make reasonable progress toward the return of the minors to her care during the relevant nine-month periods and when it found that she failed to maintain a reasonable degree of interest, concern, or responsibility for the minors.

¶ 17 Section 1(D)(m) of the Adoption Act provided that one ground upon which a parent may be found unfit was if he or she failed "to make reasonable progress toward the return of the child to the parent during any 9-month period after the end of the initial 9-month period following the adjudication of neglected or abused minor \*\*\* or dependent minor." 750 ILCS 50/1(D)(m)

(West 2012). Our supreme court has held that "the benchmark for measuring a parent's 'progress toward the return of the child' under section 1(D)(m) of the Adoption Act encompasses the parent's compliance with the service plans and the court's directives, in light of the condition which gave rise to the removal of the child, and in light of other conditions which later become known and which would prevent the court from returning custody of the child to the parent." *In re C.N.*, 196 Ill. 2d 181, 216-17 (2001). We will not disturb the circuit court's unfitness determination on review unless it is contrary to the manifest weight of the evidence. *Id.* at 218.

¶ 18 Our review of the record reveals no error in the circuit court's finding that the respondent failed to make reasonable progress toward the return of the minors to her care during the two relevant nine-month periods. The minors were removed from the respondent's care due to the sexual abuse of one of the minors and molestation of two of the minors by an individual living in the residence with the respondent and her husband. There were also allegations that the respondent knew the molestation was occurring, but did nothing to protect the minors. Subsequent to that removal, visitation had been suspended several times due to inappropriate behavior on the part of the respondent. While it is true that during the relevant nine-month periods the respondent did receive some satisfactory ratings on her service plan tasks, the evidence presented at the hearing on the termination petition showed that the respondent was not close to having the minors returned to her, as her inappropriate behavior during visitation continued. She was observed to have minimal interaction with the minors during visits, and she also tried inciting disruptive behavior in two of the minors. Significantly, she was also assigned a parenting coach in June 2012, yet it was observed that she had not implemented any of the parenting coach's recommendations and had not made progress toward those associated goals. She also did not have housing that was of suitable size for the minors. Under these

circumstances, we find no error in the circuit court's finding that the respondent had not made reasonable progress toward the return of the minors to her care. Accordingly, we hold that the circuit court's unfitness decision was not contrary to the manifest weight of the evidence.

¶ 19 Because proof of only one statutory ground is sufficient to establish that a parent is unfit (*In re Donald A.G.*, 221 Ill. 2d 234, 244 (2006)), our ruling on the reasonable progress issue obviates the need to address the respondent's other argument on appeal that the circuit court erred when it found that she was unfit for failing to maintain a reasonable degree of interest, concern, or responsibility for the minors.

¶ 20 CONCLUSION

¶ 21 The judgment of the circuit court of Will County is affirmed.

¶ 22 Affirmed.