

NOTICE

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2014 IL App (4th) 140443-U

NO. 4-14-0443

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

September 22, 2014
Carla Bender
4th District Appellate
Court, IL

In re: Q.C., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Macon County
v.)	No. 13JA8
ANASTASIA CRAIL-KNISLEY,)	
Respondent-Appellant.)	Honorable
)	Thomas E. Little,
)	Judge Presiding.

JUSTICE TURNER delivered the judgment of the court.
Presiding Justice Appleton and Justice Knecht concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court found the trial court did not err in (1) finding respondent unfit and (2) terminating her parental rights.

¶ 2 In January 2013, the State filed a petition for adjudication of wardship with respect to Q.C., the minor child of respondent, Anastasia Crail-Knisley. The trial court entered a temporary custody order granting custody to the Department of Children and Family Services (DCFS). In February 2014, the State filed a motion to terminate respondent's parental rights. In April 2014, the court found respondent unfit. In May 2014, the court found it in the minor's best interest that respondent's parental rights be terminated.

¶ 3 On appeal, respondent argues the trial court erred in (1) finding her unfit and (2) terminating her parental rights. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In January 2013, the State filed a petition for adjudication of wardship with respect to Q.C., born in March 2009, the minor child of respondent. The petition alleged Q.C. was a neglected minor pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (Act) (705 ILCS 405/2-3(1)(b) (West 2012)) in that his environment was injurious to his welfare because the home in which he was found was in deplorable condition with inadequate food. The petition also alleged Q.C. was an abused minor pursuant to section 2-3(2)(ii) of the Act (705 ILCS 405/2-3(2)(ii) (West 2012)) based on the substantial risk of physical injury due to the condition of the home and inadequate food. The trial court entered a temporary custody order, finding probable cause for the filing of the petition.

¶ 6 In March 2013, the trial court found the minor was abused or neglected based on an injurious environment. The court based its finding on inadequate food in the home, "days old cooked and uncooked poultry accessible," the minor being soiled, the home in deplorable condition, and verbal and physical abuse of the child. In its dispositional order, the court found respondent unfit and unable to care for, protect, train, educate, supervise, or discipline the minor and placement with her was contrary to the health, safety, and best interest of the minor. The court made the minor a ward of the court and placed custody and guardianship with DCFS.

¶ 7 In February 2014, the State filed a motion to terminate respondent's parental rights. The motion alleged respondent was unfit because she failed to (1) maintain a reasonable degree of interest, concern, or responsibility as to the minor's welfare (750 ILCS 50/1(D)(b) (West 2012)); (2) make reasonable efforts to correct the conditions that were the basis for the removal of the minor (750 ILCS 50/1(D)(m)(i) (West 2012)); and (3) make reasonable progress toward the return of the minor to the parent within nine months after the adjudication of neglect or abuse (750 ILCS 50/1(D)(m)(ii) (West 2012)).

¶ 8 In April 2014, the trial court held a hearing on the motion to terminate parental rights. The court found the relevant nine-month period to be from March 7, 2013, to December 7, 2013. Debbie Cox Schwalbe testified she is a licensed clinical professional counselor and was familiar with respondent, who attended a behavioral-health program at Community Health Improvement Center. Respondent's first session was in March 2013, and Cox Schwalbe stated respondent had been "fairly consistent" in her attendance. Cox Schwalbe believed respondent attended the sessions to fulfill the requirements set forth by Lutheran Child and Family Services (LCFS) but did not get any therapeutic benefit from the sessions.

¶ 9 On cross-examination, Cox Schwalbe testified respondent stated in the first session that she did not need counseling. She also stated respondent lacked the ability to grasp the concept of caring for her child.

¶ 10 Angie Latham, an LCFS caseworker, testified respondent's service plans called for her to complete parenting classes, undergo counseling, obtain housing, attend visitation, and cooperate with LCFS. Latham stated respondent completed parenting classes in January 2014, although her attendance was sporadic. While respondent successfully completed the parenting class, Latham stated, "showing the knowledge has not been successful." Latham also stated respondent attended counseling.

¶ 11 As to housing, Latham stated respondent was living in a trailer with her husband in September 2013. On her first visit, Latham observed black mold growing in the trailer. Respondent stated they were behind on their rent and power payments. A month later, they were evicted and homeless. Latham stated the couple resided in a home with five or six other couples "and one of them is a registered sex offender."

¶ 12 Latham stated respondent's visitation with Q.C. had been "sporadic" but some

missed days were due to weather. Latham stated respondent had attended more visits than she had missed. Respondent did not demonstrate proper parenting abilities during the visits, exhibited no bonding with Q.C., and was unable to provide food for him.

¶ 13 On the issue of cooperation with LCFS, Latham stated respondent had been cooperative but was not forthcoming about her pregnancy and her living situation. Latham found respondent's cooperation to be "minimal." Respondent's January service plan was rated unsatisfactory because of her homelessness, inadequate income, and lack of progress in her counseling. Latham stated respondent still contends she did nothing wrong to justify the removal of Q.C. In rating her service plan as unsuccessful, Latham stated respondent "still does not acknowledge" why Q.C. came into care, "has not gained the knowledge of parenting," "still has an issue with counseling," is in denial, and "makes excuses as to why she's not completed the service plan."

¶ 14 Bunny Crist, an LCFS case aide, testified respondent did not appear to be nurturing to Q.C. during visitation and "[didn't] interact with him very much." Respondent did not bring toys or games to the visits. She also had problems bringing food but did provide Lunchables at some point.

¶ 15 Respondent testified she is the mother of two children. She stated she participated in parenting classes and counseling. She missed four parenting classes due to lack of transportation. Respondent and her husband attempted to obtain an apartment but were denied. She missed some visits with Q.C. because of illness and his schooling. Respondent stated she had been "very cooperative" with her caseworker and tried to provide information but could not contact her.

¶ 16 On cross-examination, respondent stated she dropped out of eighth grade when

she was 17 years old. She is currently 26 years old and seeking her general equivalency diploma. She stated an evaluation indicated she has a "slight learning disability." She worked at a concession stand for one month when Q.C. was two years old. She worked at a motel for three to six months in 2010 and at Burger King for two to three months.

¶ 17 Following closing arguments, the trial court found respondent unfit on all three grounds. In May 2014, the court conducted the best-interest hearing. Latham testified Q.C. is "doing very well" in foster care and has been in that placement for over a year. She stated he is in occupational therapy and is developmentally on target for his age. Q.C.'s foster parents "show love to him," "take care of him," and provide him with his daily medication.

¶ 18 Respondent testified she has been married for 17 months. During visits with Q.C., she brought him Lunchables to eat. She did not bring him gifts because of the lack of money. She felt she had a "very close bond" with Q.C. Respondent stated she had no income but relied on the \$260 per month her husband received from donating plasma. They received food stamps and lived with friends.

¶ 19 Harlan Knisley, respondent's husband, testified he had not had the opportunity to visit with Q.C. since respondent began working with LCFS. He stated he had requested to visit with Q.C. but had been denied. He felt respondent had the necessary skills to care for Q.C., and they would take care of him if he was returned home.

¶ 20 Called by the guardian *ad litem*, Latham testified she was told by the previous supervisor that Harlan Knisley had been "very hostile" and was not allowed to come to the office because he had threatened an investigator. She told him he needed to start services if he wanted to visit with Q.C.

¶ 21 After the close of evidence and following closing arguments, the trial court found

it in the minor's best interest that respondent's parental rights be terminated. This appeal followed.

¶ 22

II. ANALYSIS

¶ 23

A. Unfitness Finding

¶ 24 Respondent argues the trial court's findings of unfitness were against the manifest weight of the evidence. We disagree.

¶ 25

In a proceeding to terminate a respondent's parental rights, the State must prove unfitness by clear and convincing evidence. *In re Donald A.G.*, 221 Ill. 2d 234, 244, 850 N.E.2d 172, 177 (2006). "A determination of parental unfitness involves factual findings and credibility assessments that the trial court is in the best position to make." *In re Richard H.*, 376 Ill. App. 3d 162, 165, 875 N.E.2d 1198, 1201 (2007) (quoting *In re Tiffany M.*, 353 Ill. App. 3d 883, 889-90, 819 N.E.2d 813, 819 (2004)). A reviewing court accords great deference to a trial court's finding of parental unfitness, and such a finding will not be disturbed on appeal unless it is against the manifest weight of the evidence. *In re A.F.*, 2012 IL App (2d) 111079, ¶ 40, 969 N.E.2d 877.

¶ 26

In the case *sub judice*, the trial court found respondent unfit for failing to maintain a reasonable degree of interest, concern, or responsibility as to the minor's welfare. Before finding a parent unfit on this ground, the court must "examine the parent's conduct concerning the child in the context of the circumstances in which that conduct occurred." *In re Adoption of Syck*, 138 Ill. 2d 255, 278, 562 N.E.2d 174, 185 (1990). Circumstances to consider may include the parent's difficulty in obtaining transportation to the child's residence, the parent's poverty, the actions or statements of others hindering or discouraging visitation, "and whether the parent's failure to visit the child was motivated by a need to cope with other aspects of his or

her life or by true indifference to, and lack of concern for, the child." *Syck*, 138 Ill. 2d at 279, 562 N.E.2d at 185. "The parent may be found unfit for failing to maintain either interest, or concern, or responsibility; proof of all three is not required." *Richard H.*, 376 Ill. App. 3d at 166, 875 N.E.2d at 1202. Moreover, "courts have repeatedly concluded that a parent is not fit merely because she has demonstrated some interest or affection toward her child; rather, her interest, concern and responsibility must be reasonable." *In re Jaron Z.*, 348 Ill. App. 3d 239, 259, 810 N.E.2d 108, 125 (2004).

¶ 27 The evidence indicates respondent attended counseling but told her counselor she did not need to do so. She refused to talk about the issues concerning Q.C. and refused to accept responsibility for him being placed into care. Cox Schwalbe believed respondent did not get any therapeutic benefit out of counseling. Although respondent completed parenting classes, it took her 9 months to complete the 16 to 19-week class, and she was unsuccessful in demonstrating what she had learned during visits. Although she attended more visits than she missed, she exhibited no bonding or nurturing with Q.C. Respondent also failed to notify her caseworker about her pregnancy, her eviction, and her change in telephone numbers. Latham stated respondent's January 2014 service plan was rated unsatisfactory.

¶ 28 "Completion of service plan objectives can also be considered evidence of a parent's concern, interest, and responsibility." *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1065, 859 N.E.2d 123, 135 (2006). Here, the evidence indicates respondent refused to accept responsibility for her actions and failed to satisfactorily complete her service plan. Her failure to acknowledge why Q.C. came into care and her excuses for not completing her service-plan goals fail to show a reasonable degree of interest, concern, or responsibility for Q.C.'s welfare.

¶ 29 Based on the evidence, the trial court's finding that respondent was unfit for

failing to maintain a reasonable degree of interest, concern, or responsibility was not against the manifest weight of the evidence. Because the grounds of unfitness are independent, we need not address the remaining two grounds. See *In re H.D.*, 343 Ill. App. 3d 483, 493, 797 N.E.2d 1112, 1120 (2003).

¶ 30 B. Best-Interest Finding

¶ 31 Respondent argues the trial court's decision to terminate her parental rights was against the manifest weight of the evidence. We disagree.

¶ 32 "Courts will not lightly terminate parental rights because of the fundamental importance inherent in those rights." *In re Veronica J.*, 371 Ill. App. 3d 822, 831, 867 N.E.2d 1134, 1142 (2007) (citing *In re M.H.*, 196 Ill. 2d 356, 362-63, 751 N.E.2d 1134, 1140 (2001)). Once the trial court finds the parent unfit, "all considerations must yield to the best interest of the child." *In re I.B.*, 397 Ill. App. 3d 335, 340, 921 N.E.2d 797, 801 (2009). When considering whether termination of parental rights is in a child's best interest, the trial court must consider a number of factors within "the context of the child's age and developmental needs." 705 ILCS 405/1-3(4.05) (West 2012). These include the following:

"(1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's familial, cultural[,] and religious background and ties; (4) the child's sense of attachments, including love, security, familiarity, continuity of affection, and the least[-] disruptive placement alternative; (5) the child's wishes and long-term goals; (6) the child's community ties; (7) the child's need for permanence, including the need for stability and continuity of relationships with parent figures and siblings; (8) the uniqueness of

every family and child; (9) the risks related to substitute care; and
(10) the preferences of the person available to care for the child."

Daphnie E., 368 Ill. App. 3d at 1072, 859 N.E.2d at 141.

See also 705 ILCS 405/1-3(4.05)(a) to (j) (West 2012).

A trial court's finding that termination of parental rights is in a child's best interest will not be reversed on appeal unless it is against the manifest weight of the evidence. *In re Anaya J.G.*, 403 Ill. App. 3d 875, 883, 932 N.E.2d 1192, 1199 (2010). A decision will be found to be against the manifest weight of the evidence in cases "where the opposite conclusion is clearly evident or where the findings are unreasonable, arbitrary, and not based upon any of the evidence." *In re Tasha L.-I.*, 383 Ill. App. 3d 45, 52, 890 N.E.2d 573, 579 (2008).

¶ 33 The best-interest report indicated Q.C. was in a traditional foster home, which was an adoptive placement. He continued to thrive in the home and had overcome his developmental delays. He completed speech therapy and continued to attend occupational therapy. The report stated Q.C. is "in a stable, nurturing environment that is healthy for his emotional, social and physical growth." Latham testified Q.C.'s foster parents show love to him and provide for his daily needs.

¶ 34 Respondent was unemployed, homeless, and had been staying with friends. She stated Q.C. was excited to see her in the beginning but not lately. Her husband refused to attend services to facilitate visits with Q.C. He also reported he had been diagnosed with bipolar disorder, schizophrenia, multiple personality disorder, and major depression.

¶ 35 The evidence indicated Q.C. is in a loving and safe foster home and his physical and medical needs are being met. Considering the evidence and the best interest of Q.C., most importantly his physical safety and welfare, we find the trial court's order terminating

respondent's parental rights was not against the manifest weight of the evidence.

¶ 36

III. CONCLUSION

¶ 37

For the reasons stated, we affirm the trial court's judgment.

¶ 38

Affirmed.