

NOTICE

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FILED

September 2, 2016
Carla Bender
4th District Appellate
Court, IL

2016 IL App (4th) 160310-U
NOS. 4-16-0310, 4-16-0311 cons.
IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: L.J., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Sangamon County
v. (No. 4-16-0310))	No. 14JA82
TANESE WILLIAMS,)	
Respondent-Appellant.)	
-----)	
In re: J.I., a Minor,)	No. 14JA83
THE PEOPLE OF THE STATE OF ILLINOIS,)	
Petitioner-Appellee,)	
v. (No. 4-16-0311))	Honorable
TANESE WILLIAMS,)	Karen S. Tharp,
Respondent-Appellant.)	Judge Presiding.

JUSTICE HOLDER WHITE delivered the judgment of the court.
Presiding Justice Knecht and Justice Steigmann concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, concluding the trial court's fitness and best-interest findings were not against the manifest weight of the evidence.

¶ 2 In December 2015, the State filed a motion seeking a finding of unfitness and the termination of the parental rights of respondent, Tanese Williams, as to her children, L.J. (born August 11, 2009) and J.I. (born May 16, 2014). Following a March 2016 fitness hearing, the trial court found respondent unfit. In April 2016, the court found it was in the best interest of the children to terminate respondent's parental rights.

¶ 3 Respondent appeals, asserting the trial court's fitness and best-interest findings were against the manifest weight of the evidence. For the following reasons, we affirm.

¶ 4

I. BACKGROUND

¶ 5

A. Procedural History

¶ 6

In May 2014, the State filed a petition for adjudication of neglect, alleging the children were neglected in that they were subjected to an injurious environment where respondent abused drugs and alcohol. 705 ILCS 405/2-3(1) (West 2014). In July 2014, the State added an additional count of neglect, alleging the children were subjected to an injurious environment due to respondent's mental-health issues. *Id.* In October 2014, the trial court adjudicated the minors neglected after accepting respondent's stipulation that the children were subjected to an injurious environment due to her drug use. The remaining allegations were dismissed. Following a December 2014 dispositional hearing, the court found respondent unfit, made the children wards of the court, and granted guardianship and custody to the Department of Children and Family Services (DCFS).

¶ 7

B. Termination Proceedings

¶ 8

A year later, in December 2015, the State filed a motion to terminate respondent's parental rights. The motion alleged respondent was unfit for failing to (1) maintain a reasonable degree of interest, concern, or responsibility as to the children's welfare (750 ILCS 50/1(D)(b) (West 2014)); (2) make reasonable efforts to correct the conditions which caused DCFS to take the children into custody (750 ILCS 50/1(D)(m)(i) (West 2014)); and (3) make reasonable progress toward the return home of the children during the nine-month period following the adjudication of neglect, from October 8, 2014, to July 8, 2015 (750 ILCS 50/1(D)(m)(ii) (West 2014)).

¶ 9

1. *Fitness Hearing*

¶ 10 In March 2016, the case proceeded to a fitness hearing, at which time the trial court heard the following evidence.

¶ 11 Hannah Bradshaw, a foster-care caseworker for the Family Service Center, testified she was the family's caseworker from June 2014 until September 2015. In May 2014, DCFS received a hotline call stating that respondent was intoxicated from taking Adderall. L.J. was taken into care at that time, and J.I. was taken into care following his birth due to being substance-exposed. From June to November 2014, respondent's service plan required her to (1) undergo a substance-abuse assessment and comply with any treatment recommendations, (2) complete mental-health counseling, (3) participate in visitation, (4) obtain stable housing, and (5) complete parenting classes. She was also required to cooperate with DCFS and, by extension, the Family Service Center. Bradshaw explained that cooperation meant respondent needed to remain in communication, provide any updated contact information, and be honest with her caseworker.

¶ 12 After reviewing respondent's progress from June to November 2014, Bradshaw rated respondent as unsatisfactory. Respondent completed a substance-abuse assessment in August 2014, which she attended while under the influence of alcohol. She was referred for inpatient treatment but was unsuccessfully discharged due to the facility's inability to treat her substance-abuse issues concurrently with her mental-health issues. Although the facility and Bradshaw recommended respondent enter outpatient treatment until Bradshaw could arrange appropriate residential treatment, respondent did not attend any outpatient treatment.

¶ 13 According to Bradshaw, respondent completed the recommended parenting classes. However, she failed to obtain stable housing. Bradshaw testified respondent had been living with a family member, but after an electrical fire, she had been staying in various

locations. For a brief period, respondent was living with her mother, Carla Williams, who was the foster parent for both children at the time. This violated the relative caregiver agreement that restricted Williams from allowing any contact between respondent and the children outside of the scheduled, supervised visits. When Bradshaw learned respondent was staying with Williams in October 2014, she drove to Williams' house, where she discovered J.I. alone in the house with respondent. Bradshaw observed respondent to be impaired; her speech was slurred and she was not walking steadily. The children were subsequently transferred to a traditional foster home.

¶ 14 In November 2014, Bradshaw provided respondent with a new service plan that spanned from November 2014 until May 2015. The recommendations remained the same other than the addition of domestic-violence counseling due to domestic-violence issues arising between respondent and J.I.'s father during the previous reporting period. Bradshaw rated respondent unsatisfactory in her compliance with the service plan. During the reporting period, respondent failed to maintain her sobriety, as evidenced by one positive drug screen and several skipped drug screens. The positive screen occurred in March 2015, where respondent tested positive for benzodiazepine. She missed scheduled drug screens in January, February, April, and May 2015. Bradshaw noted she typically scheduled respondent's drug screening on the date of a scheduled visit and near the Family Service Center for the convenience of respondent.

¶ 15 Bradshaw testified respondent also failed to maintain stable housing or provide updated contact information during this reporting period. She also neglected to engage in mental-health counseling. Bradshaw rated respondent unsatisfactory in implementing parenting techniques because she would discuss the case in front of the children, which would upset L.J. Additionally, respondent failed to complete domestic-violence counseling. Although no domestic-violence issues arose during the visits with her children, respondent would appear for

visitation with cuts or bruises, which she alternatively attributed to either J.I.'s father or her mother.

¶ 16 In May 2015, Bradshaw provided respondent with a new service plan spanning from May 2015 until November 2015. Bradshaw then remained as the caseworker until September 2015. Bradshaw testified that in June 2015, respondent successfully completed inpatient substance-abuse treatment; however, she failed to attend the subsequently recommended outpatient treatment. Respondent thereafter failed to attend scheduled drug screens in June, July, August, and September 2015. Bradshaw admitted a gap existed between respondent's discharge from the residential facility in August 2014 and her successful completion of inpatient treatment in June 2015 because Bradshaw was attempting to coordinate services. Additionally, although respondent was seeing a psychiatrist for medication, she was not engaged in mental-health counseling as required under the service plan. Respondent also failed to attend domestic-violence counseling. Bradshaw further testified respondent failed to provide proof of legal income or stable housing.

¶ 17 Bradshaw noted, throughout the pendency of the case, respondent never progressed to unsupervised visitation with her children. Respondent attended 102 out of 117 supervised visits over the course of time Bradshaw was the caseworker. Although there were a few occasions when respondent failed to call or show for visits, she typically cancelled ahead of time. The majority of the time, the interaction between respondent and the children was positive and appropriate. Bradshaw characterized respondent's interaction with L.J. as inappropriate when she would discuss the case with L.J., which made him upset. However, Bradshaw observed respondent implementing her parenting skills by talking and reading with the children

and bringing gifts on holidays. Bradshaw agreed respondent maintained concern, interest, and responsibility for her children during periods of sobriety.

¶ 18 Following the presentation of evidence, the trial court determined the State proved all three counts of unfitness. The court noted respondent never followed through on any outpatient substance-abuse treatment, nor did she engage in mental-health counseling or regularly comply with drug screening. Additionally, the court also highlighted respondent's failure to engage in any domestic-violence counseling or provide stable housing. The court found respondent failed to make reasonable efforts because she put forth the effort to attend visitation but failed to make efforts toward completing services.

¶ 19 *2. Best-Interest Hearing*

¶ 20 In April 2016, the trial court held a best-interest hearing, where the court heard the following evidence.

¶ 21 a. Elizabeth Lerch

¶ 22 Elizabeth Lerch, a caseworker with the Family Service Center, testified she had been the family's caseworker since September 2015. The children were placed together in a traditional foster-care home for more than a year, along with an unrelated foster child. At the time, L.J. was six years old and J.I. was nearly two years old. J.I. had his own room, while L.J. shared his room with the other foster child, who was three years old. According to Lerch, both children were making progress in their placement. L.J. was in school and J.I. attended day care. The foster family was making plans to place L.J. into enrichment programs because he was an accelerated student. The foster family attended to the children's medical and social needs. The foster family signed permanency agreements for both of the children and repeatedly indicated their willingness to provide permanency for the children. Lerch testified the children had bonded

with their foster family, calling their foster parents "mom" and "dad" and turning to them for support when they were upset or hurt.

¶ 23 According to Lerch, L.J. said he wanted to be adopted by his foster family, though she was unsure he truly understood what that meant. Lerch noted L.J. was very attached to his mother and worried about her safety because he could tell when she was not maintaining her sobriety. During visits, respondent would play with the children and Lerch observed an identifiable bond. Lerch said the attachment between respondent and J.I. was less apparent, mostly because J.I. lacked the ability to vocalize his attachment. When J.I. was ill, he would not turn to respondent for comfort. Neither child cried at the end of visits with respondent.

¶ 24 Lerch testified, in the past 30 to 60 days, respondent had been involved in another domestic-violence dispute. She had also failed to complete two or three drug screens. Respondent was living in a home that had previously been deemed appropriate for the children; however, Lerch had not recently evaluated the home. Lerch admitted, during visits, respondent would attend to the children's educational, medical, and social needs.

¶ 25 b. Respondent

¶ 26 Respondent testified she was very attached to her children and the children were also very attached to her. She said the children would vie for her time at visitation, peppering her with endless questions. She did not believe it would be in the children's best interest to terminate her parental rights because L.J., in particular, would suffer psychologically, mentally, and emotionally if his ties to her were cut. Respondent did not believe her children's medical needs were met, as evidenced by her observation that L.J. developed a cough and no steps had been taken to treat him.

¶ 27 Respondent testified she was currently living in a three-bedroom home that was suitable for the children. She resided with her father and another individual. The house had been previously approved for the children and, since then, the house had been remodeled, removing one bedroom to increase the size of the living room to create additional play space for the children. If the children were returned to her, respondent said she would provide for the children's educational needs. She currently received social security payments that would allow her to attend to the children's financial needs. Respondent stated she would take the children to socialize at parks and play dates and make sure their medical needs were met.

¶ 28 Respondent testified she had maintained her sobriety since December 2015, and she continued to attend Alcoholics Anonymous meetings. She was committed to an alcohol-free life. She had also recently completed her domestic-violence counseling and remained in psychiatric counseling.

¶ 29 c. Debra Hoefker

¶ 30 Debra Hoefker testified she had known respondent since around 1990, when Hoefker's daughter and respondent became friends. She saw respondent often and considered herself to be part of respondent's support system. When L.J. was still in respondent's care, Hoefker observed them to have a typical, loving mother-son relationship. Hoefker stated she was aware of respondent's alcohol and mental-health issues. Hoefker, also a licensed minister, observed respondent was progressing well. In fact, Hoefker allowed respondent to babysit Hoefker's grandchildren. After observing respondent's progress, Hoefker believed respondent could attend to the children's educational, social, and medical needs. She believed it would be especially devastating for the children if respondent's parental rights were terminated. With respect to her observations of respondent's interactions with L.J. and J.I., Hoefker admitted she

only observed respondent interact with J.I. through social-media videos posted by respondent. She had not personally observed respondent interact with L.J. since L.J. had been taken into care.

¶ 31 d. The Guardian Ad Litem

¶ 32 In making her recommendation, the guardian *ad litem* (GAL) told the trial court J.I. did not share the same strong bond with respondent that respondent shared with L.J. Although L.J. clearly loved respondent, he also loved his foster family and expressed interest in living with them permanently rather than with respondent. The GAL stated L.J. worried about respondent's welfare and expressed concern that respondent would miss him, not necessarily the other way around. Accordingly, the GAL recommended the termination of respondent's parental rights.

¶ 33 e. The Trial Court's Finding

¶ 34 The trial court stated it considered all of the best-interest factors in determining whether it was in each child's best interest to terminate respondent's parental rights. The court found the issue came down to the inability of respondent to provide permanency for the children where the children had been in care for nearly two years. The children had been in their newest foster placement for over a year, where they felt safe, happy, and secure, and L.J. expressed his desire to remain with his foster family. Although the court acknowledged respondent's testimony that she had been sober for five months, it had no way of knowing whether she was sincere in her efforts to maintain that sobriety. Meanwhile, respondent continued to fail to report for drug screens and had been involved in a domestic-violence incident in the past 30 to 60 days. Accordingly, the court terminated respondent's parental rights.

¶ 35 Respondent filed timely notices of appeal as to both children. We docketed the appeal as it relates to L.J. as No. 4-16-0310 and the appeal as it relates to J.I. as No. 4-16-0311. We have consolidated these cases for review.

¶ 36 II. ANALYSIS

¶ 37 On appeal, respondent asserts the trial court's fitness and best-interest findings were against the manifest weight of the evidence. We address these assertions in turn.

¶ 38 A. Fitness Finding

¶ 39 The State has the burden of proving parental unfitness by clear and convincing evidence. *In re Jordan V.*, 347 Ill. App. 3d 1057, 1067, 808 N.E.2d 596, 604 (2004). A reviewing court will not overturn the trial court's finding of unfitness unless it is against the manifest weight of the evidence. *Id.* "A decision is against the manifest weight of the evidence only if the facts clearly demonstrate that the court should have reached the opposite result." *In re Jay. H.*, 395 Ill. App. 3d 1063, 1071, 918 N.E.2d 284, 291 (2009). The court's decision is given great deference due to "its superior opportunity to observe the witnesses and evaluate their credibility." *Jordan V.*, 347 Ill. App. 3d at 1067, 808 N.E.2d at 604.

¶ 40 The trial court found respondent unfit for failing to (1) maintain a reasonable degree of interest, concern, or responsibility as to the children's welfare (750 ILCS 50/1(D)(b) (West 2014)); (2) make reasonable efforts to correct the conditions which caused DCFS to take the children into custody (750 ILCS 50/1(D)(m)(i) (West 2014)); and (3) make reasonable progress toward the return home of the children during the nine-month period following the adjudication of neglect, from October 8, 2014, to July 8, 2015 (750 ILCS 50/1(D)(m)(ii) (West 2014)).

¶ 41 "When multiple grounds of unfitness have been alleged, a finding that any one allegation has been proved is sufficient to sustain a parental unfitness finding." *In re D.H.*, 323 Ill. App. 3d 1, 9, 751 N.E.2d 54, 61 (2001). Therefore, we begin by examining whether the trial court erred by finding respondent failed to make reasonable progress toward the return home of the children.

¶ 42 "Reasonable progress" is "an objective standard measured from the conditions existing at the time custody was taken from the parent." *In re A.S.*, 2014 IL App (3d) 140060, ¶ 17, 14 N.E.3d 26. When the petition alleges a parent failed to make reasonable progress in the initial nine months following adjudication, the calculation of that period begins from the date the court enters the order finding the children neglected. *In re D.F.*, 208 Ill. 2d 223, 242, 802 N.E.2d 800, 811 (2003). To establish reasonable progress, the trial court must find some "measurable or demonstrable movement toward the goal of return of the child." *In re M.S.*, 210 Ill. App. 3d 1085, 1093, 569 N.E.2d 1282, 1287 (1991). In measuring the parent's progress, the court should consider "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, 752 N.E.2d 1030, 1050 (2001). A parent demonstrates reasonable progress when the court finds it would be able to return the child to the parent's custody in the near future. *A.S.*, 2014 IL App (3d) 140060, ¶ 17, 14 N.E.3d 26.

¶ 43 Respondent asserts the trial court failed or refused to consider her accomplishments as reasonable progress toward the return home of the children. Respondent first contends the record demonstrates she was consistent in her visitation and "was appropriate at all times." While the evidence supported her general consistency with visitation and

completion of parenting classes, the evidence did *not* support that respondent was appropriate at all times. Respondent did, on more than one occasion, cancel visits the day of the scheduled visit. Moreover, Bradshaw testified respondent would often talk about the case in such a way that L.J. would become upset, and Bradshaw considered that conduct to be inappropriate.

¶ 44 Second, respondent contends the trial court failed to consider that she successfully completed inpatient treatment for her dual diagnosis of substance abuse and mental illness, which demonstrates reasonable progress toward the return home of the children. As respondent notes, the record demonstrates she completed her inpatient treatment, which lasted approximately 30 days. However, both prior to receiving inpatient treatment and upon discharge from inpatient treatment, when respondent was responsible for making her own choices, she failed to engage in the recommended outpatient treatment and repeatedly failed to comply with drug screening. Thus, other than engaging in a month of residential treatment, respondent failed to complete substance-abuse treatment as recommended. Further, although respondent engaged in individual counseling with a psychiatrist, she failed to engage in mental-health counseling as required under the service plan. Respondent also failed to engage in domestic-violence counseling despite her reports of ongoing domestic violence between herself and her mother and J.I.'s father. Given respondent's lack of progress toward the completion of her services, she had not progressed beyond supervised visitation such that custody could reasonably be returned to her in the foreseeable future.

¶ 45 We therefore conclude the trial court's finding that respondent failed to make reasonable progress toward the return home of the children during the nine-month period following the adjudication of neglect was not against the manifest weight of the evidence.

¶ 46 B. Best-Interest Finding

¶ 47 Once the trial court determines a parent to be unfit, the next stage is to determine whether it is in the best interest of the minor to terminate parental rights. *In re Jaron Z.*, 348 Ill. App. 3d 239, 261, 810 N.E.2d 108, 126 (2004). The petitioner must prove by a preponderance of the evidence that termination is in the best interest of the minor. *Id.* The court's finding will not be overturned unless it is against the manifest weight of the evidence. *Id.* at 261-62, 810 N.E.2d at 126-27.

¶ 48 The focus of the best-interest hearing is determining the best interest of the child, not the parent. 705 ILCS 405/1-3(4.05) (West 2014). The trial court must consider the following factors, in the context of the child's age and developmental needs, in determining whether to terminate parental rights:

"(a) the physical safety and welfare of the child, including food, shelter, health, and clothing;

(b) the development of the child's identity;

(c) the child's background and ties, including familial, cultural, and religious;

(d) the child's sense of attachments ***[;]

* * *

(e) the child's wishes and long-term goals;

(f) the child's community ties, including church, school, and friends;

(g) the child's need for permanence which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives;

(h) the uniqueness of every family and child;

(i) the risks attendant to entering and being in substitute care; and

(j) the preferences of the persons available to care for the child." *Id.*

¶ 49 In reaching its decision, the trial court found the strongest factor in favor of termination was the children's need for permanency. The foster parents had formed a strong bond with both children and had expressed interest in adoption. L.J. had similarly expressed his willingness to be adopted. The foster parents provided for the children's educational, medical, and social needs.

¶ 50 Conversely, respondent was in no position to provide permanency or stability. Throughout the pendency of the case, respondent failed to complete her recommended services. No one doubts respondent's love for her children. However, during the pendency of the case, she was unwilling to timely complete (1) domestic-violence counseling, (2) outpatient substance-abuse counseling, (3) mental-health counseling, or (4) drug screening as required by her service plan. Although respondent testified at the best-interest hearing she had finally attended domestic-violence counseling and found stable housing, the caseworker testified respondent had been involved in another domestic-violence incident within the past 30 to 60 days and repeatedly failed to submit to drug screening. Respondent's reported five months of sobriety at the time of the best-interest hearing is commendable. Unfortunately, by that time, the children had been in care for nearly two years, and respondent's visits with the children had never progressed beyond supervised visitation. Thus, respondent would be unable to provide the permanency the children needed in the foreseeable future.

¶ 51 Accordingly, we conclude the trial court's best-interest finding was not against the
manifest weight of the evidence.

¶ 52 III. CONCLUSION

¶ 53 For the foregoing reasons, we affirm the trial court's judgment.

¶ 54 Affirmed.