

NOTICE

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FILED
November 16, 2016
Carla Bender
4th District Appellate
Court, IL

2016 IL App (4th) 160488-U
NOS. 4-16-0488, 4-16-0489, 4-16-0490 cons.

**IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT**

In re: S.B., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Adams County
v. (No. 4-16-0488))	No. 14JA4
JOSEPH BULLOCK,)	
Respondent-Appellant.)	
-----)	
In re: E.B., a Minor,)	No. 14JA5
THE PEOPLE OF THE STATE OF ILLINOIS,)	
Petitioner-Appellee,)	
v. (No. 4-16-0489))	
JOSEPH BULLOCK,)	
Respondent-Appellant.)	
-----)	
In re: I.B., a Minor,)	No. 14JA6
THE PEOPLE OF THE STATE OF ILLINOIS,)	
Petitioner-Appellee,)	
v. (No. 4-16-0490))	
JOSEPH BULLOCK,)	Honorable
Respondent-Appellant.)	John C. Wooleyhan,
)	Judge Presiding.

JUSTICE APPLETON delivered the judgment of the court.
Presiding Justice Knecht and Justice Holder White concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court's order terminating respondent father's parental rights based on the court's finding respondent was an unfit parent and it was in the minors' best interests to terminate was not against the manifest weight of the evidence.

¶ 2 Respondent father, Joseph Bullock, appeals from the trial court's order terminating his parental rights. He challenges both the trial court's finding of unfitness and its best-interest finding. We affirm.

¶ 3 I. BACKGROUND

¶ 4 Respondent is the father of S.B., born December 15, 2008; E.B., born November 16, 2009; and I.B., born November 23, 2010. Respondent was arrested in March 2014 for possession of methamphetamine while he was the subject of an open intact case due to domestic violence perpetrated upon the minors' mother. The minors' mother, who was also arrested on similar charges, is not a party to this appeal. During these proceedings, she executed a surrender of her parental rights to these minors. In February 2015, the trial court adjudicated the minors neglected due to respondent's admission of the allegations of neglect. The same day, the court found respondent unfit and made the minors wards of the court. The court awarded custody and guardianship to the Illinois Department of Children and Family Services (DCFS). The minors were placed together in a traditional foster home. Thereafter, respondent was sentenced to six years and six months in prison on his felony methamphetamine conviction (Adams County case No. 14-CF-153), with a projected parole date of June 20, 2017.

¶ 5 The minors' mother appealed from the dispositional order, claiming the trial court had violated her right to due process when it proceeded with the adjudicatory and dispositional hearings without waiting for her arrival from prison. This court found the trial court had indeed erred, but not because it violated the mother's due-process rights. Instead, we found proceeding in the mother's absence and denying mother's counsel's motion to continue was an abuse of discretion. In August 2015, this court reversed and remanded for a new adjudicatory hearing. *In re S.B.*, 2015 IL App (4th) 150260, ¶ 26.

¶ 6 On remand, on November 13, 2015, the State filed an amended petition for adjudication of wardship, alleging the minors were neglected and/or abused due to (1) the open intact case based upon respondent's abuse of the mother, (2) both parents' arrest for methamphetamine possession and production, (3) both parents' prior termination of parental rights to two other minors, and (4) both parents' incarceration. The State also requested termination of parental rights, alleging both parents were unfit. In particular, the State alleged respondent was unfit because he (1) failed to maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare (750 ILCS 50/1(D)(b) (West 2014)), and (2) is deprived due to three felony convictions (750 ILCS 50/1(D)(i) (West 2014)).

¶ 7 On May 16, 2016, the trial court conducted a hearing on the State's petition. The mother surrendered her parental rights, so the court addressed only the allegations relating to respondent. First, the State asked the court to take judicial notice of the dates respondent had failed to appear in court in this matter: March 31, 2014; April 14, 2014; November 24, 2014; April 13, 2015; November 23, 2015; and December 14, 2015. The State also asked the court to take notice that on December 14, 2015, defendant asked to be excused from future adjudicatory and unfitness hearings. Further, the State asked the court to take judicial notice of respondent's criminal history. Specifically, the State noted the following: (1) respondent pleaded guilty to domestic battery on February 4, 2015, in Adams County case No. 14-CM-12; (2) the mother obtained an order of protection against respondent in Adams County case No. 14-OP-7; (3) respondent pleaded guilty to unlawful possession of methamphetamine manufacturing materials (Adams County case No. 03-CR-338) and was sentenced to 6 years in prison; (4) respondent pleaded guilty to aggravated unlawful use of a weapon (Adams County case No. 08-CF-110) and was sentenced to 30 months' probation; and (5) respondent pleaded guilty to unlawful

participation in methamphetamine production (Adams County case No. 14-CF-153) and was sentenced to six years and six months in prison.

¶ 8 Erin Baker, a DCFS child-welfare advanced specialist, testified she worked as the caseworker between July 2014 and May 2015. According to the case plan she devised for respondent, he was to (1) participate in mental-health counseling, (2) cooperate with DCFS, (3) participate in substance-abuse services, and (4) participate in domestic-violence counseling. Because respondent was incarcerated during the entire reporting period, he was rated unsatisfactory on all tasks. Baker said she met with respondent several times in person while he was incarcerated. He never asked about the well-being of the minors.

¶ 9 Gabriel Nagy, a DCFS child-abuse investigator, testified he became involved with the family in January 2014, upon a report that respondent had assaulted the mother and kept her hostage in the minors' presence over the course of a few days. The mother was finally able to escape and call for help. The minors were taken into protective custody and described the abuse perpetrated by respondent upon their mother.

¶ 10 Christopher Powell, a child-welfare specialist for Chaddock, an agency contracted by DCFS due to the minors' medical issues, testified he received the case from DCFS in May 2015. He said respondent's tasks continued to be rated unsatisfactory due to his incarceration. Powell said "[a]ny correspondence that [he] did receive [from respondent] was very limited in nature." He had asked respondent for documentation regarding services, but "it was very limited in nature in regards to any services he was receiving." He said he did receive "a couple certifications," but it was unclear what services had been completed. Respondent did not provide sufficient information. Respondent did not initially respond to Powell's letters between May and August 2015. Powell advised respondent it was his responsibility to forward information and

documentation regarding services. Powell did not hear from respondent again until November 2015, when he forwarded a storybook and a letter for the minors. This was the only letter sent thus far to the minors by respondent. In March 2016, respondent sent a second storybook, but he did not inquire about the minors' well-being. The State rested.

¶ 11 After the close of evidence, the following exchange occurred:

“THE COURT: And I think the record does show that when we were in court on December 14th of 2015, that [respondent] was present on that day with counsel Ms. Henze, and I think he was here that day, pursuant to a writ from the Department of Corrections, and the cause was continued on that day to another date for an unfitness hearing. I think the record shows that on that date [respondent] requested that he not be returned to court on a writ for further hearings.

Is that right, Ms. Henze?

MS. HENZE [(respondent's counsel)]: It is, Your Honor. My notes would indicate that that is correct, and I had advised him if at any point he changed his mind to let me know, so that a writ could be prepared, and he could be returned to court.

THE COURT: And you've never received any such notice?

MS. HENZE: I've not.”

¶ 12 The trial court announced its decision in open court, as follows:

“With regard to [respondent], there are allegations of unfitness that he failed to maintain a reasonable degree of interest, concern or responsibility as to

the minors' welfare, and also that he is deprived, due to three prior felony convictions.

There has been evidence presented relating to various service plans, which were prepared throughout the life of this case, and the evaluations that were given as a part of those service plans, those plans are properly introduced into evidence for the court to consider, but the court is required to not focus on those plans only or any evaluations given to them.

In assessing any progress made by any parent, the overall focus must be on the fitness of the parent in relation to the needs of the child, and that's what the court is doing here today in looking at the evidence that was presented.

The evidence has shown that [respondent] has been incarcerated in jail throughout most of the time that these cases have been pending. That was because of criminal convictions which came about because of his own actions.

Because of being incarcerated, [respondent] has been unable to discharge any of his parental duties or responsibilities throughout the life of these cases.

The evidence has also shown that there was some contact between [respondent] and the caseworker, but nothing that would come close to the requirement that a parent maintain a reasonable degree of interest, concern or responsibility as to a minor's welfare.

The court would find that the allegations of unfitness with regard to [respondent] have been proven by clear and convincing evidence, as required by the statute, both as to the failure to maintain the degree of interest, concern or responsibility as to the minors and also due to the prior felony convictions.”

¶ 13 The trial court entered an order finding the minors neglected and/or abused due to (1) respondent's battering of the mother, (2) respondent's plea of guilty to the domestic-abuse offense, (3) the mother's failure to maintain an order of protection by allowing it to expire, (4) both parents' subsequent arrest on the drug charges, and (5) both parents having their parental rights terminated to two other minors in Adams County case Nos. 02-JA-24 and 02-JA-25.

¶ 14 On June 6, 2016, the trial court conducted a best-interest hearing. Powell testified the minors were placed together with the parents of the original foster mother. In April 2016, DCFS received a report expressing concern regarding the original foster mother and father. DCFS recommended the minors be removed from their care. The minors had been in the original home for approximately two years. The report involved an infant minor in the foster family's care. The report was unfounded. Powell anticipated the minors again would be placed in their original foster home. The original foster parents were willing to provide the minors permanency through adoption. The minors' medical and mental-health needs always had been adequately addressed in their foster placement. Powell said each minor identifies the original foster parents as mom and dad. He said, "[t]hey have an amazing relationship with them," they are comfortable, and all are bonded to each other. Powell recommended the minors remain in placement until they are able to be adopted by their original foster parents.

¶ 15 After considering the evidence, the trial court stated, as follows:

“With regard to the best interest of the minors, the evidence today on that issue has been in the form of one witness called by the People who has testified as to the foster placement of the minors that they have been in for a substantial period of time. The evidence has shown that that foster placement has been appropriate for each of the minors, that the minors are bonded with the foster

parents, that it is a preadoptive placement for the minors, and all of their needs have been met in that placement. There's not been any evidence presented by anyone to show what relationship, if any, currently exists between any of the minors and either of the natural parents.

So based upon all of that information, with regard to the best interest of the minors, the court would find that the People have shown by a preponderance of the evidence that it would be in the best interest of these minors to have the rights of the natural parents be terminated. The court had previously made findings of unfitness as to each of the natural parents. So with regard to that, and with regard to any dispositional issues today, the order can show that guardianship of the minors would continue to be with [DCFS]. They would have the authority to consent to the adoption of the minors.”

¶ 16 After considering the evidence, including the dispositional report, the trial court entered a dispositional order, finding respondent and the mother unfit and making the minors wards of the court. The court also entered a separate order terminating both parents' parental rights. The court found the State had sufficiently proved respondent unfit by clear and convincing evidence on the two grounds alleged in its petition to terminate parental rights. The court also found it in the minors' best interest to terminate respondent's parental rights.

¶ 17 This appeal followed.

¶ 18 II. ANALYSIS

¶ 19 A. Unfitness Finding

¶ 20 Respondent appeals the trial court's order terminating his parental rights. Specifically, he claims the State did not sufficiently prove him unfit on the ground he had failed

to maintain a reasonable degree of interest, concern, or responsibility as to the minors. The trial court also found respondent unfit on the ground he was depraved, but respondent does not challenge that finding. Thus, even if respondent was successful in convincing this court the State had failed in its burden of proof with regard to the first ground, we would still affirm the court's unfitness finding on the alternative ground. See *In re C.W.*, 199 Ill. 2d 198, 210 (2002) (any one ground properly proved is sufficient to enter a finding of unfitness).

¶ 21 Nevertheless, we briefly address respondent's claim to determine whether the State sufficiently proved he failed to maintain a reasonable degree of interest, concern, or responsibility toward the minors. "[I]n determining whether a parent showed reasonable concern, interest or responsibility as to a child's welfare, we have to 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 (1990). In this case, respondent was incarcerated during the life of the case. Therefore, he was unable to visit the minors in person. However, "[i]f personal visits with the child are somehow impractical, letters, telephone calls, and gifts to the child or those caring for the child may demonstrate a reasonable degree of concern, interest and responsibility, depending upon the content, tone, and frequency of those contacts under the circumstances." *Syck*, 138 Ill. 2d at 279.

¶ 22 In this case, the extent of respondent's involvement with the minors consisted of him sending two storybooks, one in November 2015 and the other in March 2016. Other than that, respondent did not inquire about or attempt to contact the minors. Baker and Powell both testified respondent did not inquire about how the children were doing in school, in their foster home, in counseling, or with regard to their medical needs. He failed to submit proper documentation or sufficient information that would demonstrate to the assigned caseworker he

was indeed working on his required tasks. His lack of communication or interest, coupled with his request to the court to be absent for the dispositional hearings, was sufficient to support the court's finding of unfitness on these grounds. By committing his crimes, respondent had placed himself in a position to be away from the minors for a significant amount of time. Even after his incarceration, he demonstrated no interest in attempting to keep in touch with the minors, inquire as to their well-being, or provide proof he intended to reunite with them upon his release. As such, the State successfully proved by clear and convincing evidence respondent failed to maintain a reasonable degree of interest, concern, or responsibility toward the minors' well-being.

¶ 23

B. Best-Interest Hearing

¶ 24

Respondent also contends the trial court erred in finding it was in the minors' best interest to terminate his parental rights. He claims the investigation of the original foster parents was "alarming and concerning." Powell testified the minors had been placed with their maternal foster grandparents since April 2016. They had been moved into the grandparents' home after two years in their original foster home due to what was now going to be recorded as an unfounded report involving an unrelated infant. Powell was confident the minors would return to their adoptive placement in the near future. Powell testified as to the bond he had witnessed among the minors and the adoptive parents. He said the minors' needs were all being sufficiently met, they were all doing well, they were comfortable in the home, and they referred to the adoptive parents as mom and dad. Powell said he had no concerns regarding this placement. He recommended respondent's parental rights be terminated. After considering the testimony and the best-interest report, the trial court agreed with Powell's recommendation. Our review of the

record supports the court's decision, and therefore, we find the order terminating respondent's parental rights was not against the manifest weight of the evidence.

¶ 25

III. CONCLUSION

¶ 26

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

¶ 27

Affirmed.