2017 IL App (2d) 160813-U
No. 2-16-0813
Order filed January 6, 2017

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re JERRY C., a Minor.	)	Appeal from the Circuit Court
	)	of Winnebago County.
	)	
	)	No. 14-JA-195
	)	
(The People of the State of Illinois,	)	Honorable
Petitioner-Appellee, v. Latisha M.,	)	Mary Linn Green,
Respondent-Appellant.)	)	Judge, Presiding.

JUSTICE JORGENSEN delivered the judgment of the court.
Presiding Justice Hudson and Justice Hutchinson concurred in the judgment.

ORDER

¶ 1 *Held*: Appellate counsel's motion to withdraw is granted, where there are no issues of arguable merit regarding the trial court's findings that respondent is unfit and it is in the minor's best interests for parental rights to be terminated. Affirmed.

¶ 2 On September 9, 2016, the trial court found that the State had established by clear and convincing evidence that respondent, Latisha M., is an unfit parent to her son, Jerry C., and that it is in the child's best interests that respondent's parental rights be terminated. Respondent appeals.

¶ 3 Pursuant to *Anders v. California*, 386 U.S. 738 (1967), respondent's appellate attorney moves to withdraw as counsel. See, *e.g.*, *In re S.M.*, 314 Ill. App. 3d 682, 685 (2000) (*Anders*

applies to termination cases). The attorney states that she has read the record and has found no issues of arguable merit. Further, the attorney supports her motion with a memorandum of law, containing a statement of facts, potential issues, and argument as to why those issues lack arguable merit. Counsel served respondent with a copy of the motion and memorandum, and we advised respondent that she had 30 days to respond. That time is past, and she has not responded. For the reasons set forth in counsel's memorandum of law, we agree that it would be frivolous to argue either that it was against the manifest weight of the evidence for the trial court to find respondent unfit or that termination of respondent's parental rights is not in Jerry's best interests.

¶ 4 On May 20, 2014, when he was five days old, the State filed a neglect petition alleging that Jerry was neglected in that his environment was injurious to his welfare because his siblings had been removed from respondent's care and respondent had not corrected the conditions that led to their removal;[1] respondent had mental health problems that prevented her from properly parenting; and Jerry's father had a history of domestic violence and substance abuse that prevented him from properly parenting. On July 25, 2014, respondent stipulated to the first count in the neglect petition, and the court entered an adjudication of neglect. On October 3, 2014, respondent stipulated that she was unfit and the court placed guardianship and custody of Jerry with DCFS.

¶ 5 Four permanency review hearings, held on March 2, 2015, August 24, 2015, January 11, 2016, and April 19, 2016, followed. At the first three hearings, the court found that respondent had made reasonable efforts during the relevant periods, but it deferred making findings with

[1] We note that this panel recently affirmed the court's decision with respect to Jerry's sister, Diamond C., in *In re Diamond C.*, 2016 IL App (2d) 150976-U.

respect to progress. However, at the fourth hearing, the court found that respondent did *not* make reasonable efforts *or* progress, and it changed the goal from return home to substitute care pending court determination of parental rights.

¶ 6 On June 6, 2016, the State moved to terminate respondent's parental rights. The petition alleged that respondent was unfit on three bases in the Adoption Act (Act) (750 ILCS 50/1 *et seq.* (West 2014)): (1) failure to maintain a reasonable degree of interest, concern, or responsibility as to Jerry's welfare (750 ILCS 50/1(D)(b) (West 2014)); (2) failure to make reasonable efforts to correct the conditions which were the basis for Jerry's removal from home within nine months of the July 25, 2014, neglect adjudication (750 ILCS 5/1(m)(i) (West 2014)); and (3) failure to make reasonable progress toward the return of Jerry to her home during any nine-month period following the adjudication of neglect (750 ILCS 50/1(m)(ii) (West 2014)). The hearing on unfitness commenced June 29, 2016.

¶ 7 After the hearing, the court found respondent unfit on all three grounds alleged in the petition. For purposes of evaluating whether there exists arguable merit to claims that respondent could raise on appeal, we must bear in mind that any *one* ground, properly proved, is sufficient to affirm. *In re Janine M.A.*, 342 Ill. App. 3d 1041, 1049 (2003). Further, a trial court's unfitness finding will not be disturbed on review unless contrary to the manifest weight of the evidence (*i.e.*, unless the opposite conclusion is clearly evident or the finding is not based on the evidence). See *In re Gwynne P.*, 215 Ill. 2d 340, 354 (2005); *In re Janine M.A.*, 342 Ill. App. 3d at 1049. As such, we agree with counsel that there would be no arguable merit to a challenge to the court's finding of unfitness because, at a minimum, the court's finding that respondent failed to make reasonable progress toward the return of Jerry to her home during the

nine-month period of September 6, 2015, to June 6, 2016, is not contrary to the manifest weight of the evidence.

¶ 8 The question of reasonable progress is an objective one, which requires the court to consider whether the parent's actions reflect that the court will be able to return the child home in the near future. See *In re Phoenix F.*, 2016 IL App (2d) 150431, ¶ 7. In order for there to be reasonable progress, there must be some "demonstrable movement toward the goal of reunification." *In re C.N.*, 196 Ill. 2d 181, 211 (2001). Here, the evidence reflected and the trial court reasonably found that, during the relevant period, respondent's visits with Jerry were decreased and returned to visitation with supervision because respondent had not been honest about: who was living in her household; her continued involvement with Jerry's father; and her employment. Specifically, in January 2016, respondent confessed to Lutheran Social Services (LSS) (an agency that works with DCFS) that she had been unemployed since October 2015, and, since October 2015, she had been living in her house with another woman and the woman's daughter as roommates. In fact, in November 2015, respondent had provided LSS with a false rental agreement, reflecting that she was the sole occupant of the rental. LSS learned the information was false only when respondent's roommate came to the office and met with the case supervisor. LSS then obtained a "true" copy of the rental agreement. Further, respondent had denied any involvement with Jerry's father, but later confessed that she had allowed him to stay in the home for about two weeks. In addition, respondent's roommate had allowed her own boyfriend to stay in the home. Accordingly, in February 2016, visits were reduced and full supervision of visits re-imposed. Caseworker Bethany Edwards testified that respondent's dishonesty raised doubts about her ability to make safe and appropriate decisions for Jerry. Her involvement with Jerry's father was concerning in that he had an unresolved history with

domestic violence and substance abuse, he was not engaged in services, and he had not made progress toward reunification. Finally, Edwards explained that respondent's dishonesty about the composition of her household prevented LSS from clearly assessing the makeup of the home and whether Jerry would be safe if returned there. The court found that respondent's dishonesty worked to "turn back" any progress that had been made to that point.

¶ 9 In light of the foregoing, the court's finding that the State met its burden of establishing that, between September 6, 2015, and June 6, 2016, no reasonable progress was made to returning Jerry home, was not contrary to the manifest weight of the evidence. See *In re Jordan V.*, 347 Ill. App. 3d 1057, 1068 (2004).

¶ 10 Similarly, we conclude that there is no arguable merit to a claim that it was against the manifest weight of the evidence for the trial court to conclude that termination of parental rights is in Jerry's best interests. See *In re Janira T.*, 368 Ill. App. 3d 883, 894 (2006). In making a best-interests determination, the trial court must consider the factors set forth in section 1-3(4.05) of the Juvenile Court Act (705 ILCS 405/1-3(4.05) (West 2014)), including the child's physical safety and welfare, including food and health; need for permanence, stability and continuity; sense of attachments, love, security, and familiarity; community ties, including school; and the uniqueness of every child. *Id*.

¶ 11 Here, the court heard evidence that Jerry had lived his entire life with his foster parents. His three biological siblings also reside in that household (two have been adopted and the third is in the adoption process), along with the foster parents' biological son. The foster parents have met all of Jerry's needs and are able to continue doing so. The household is safe and stable, whereas concerns exist regarding respondent's stability. The court heard evidence that Jerry has significant bonds with his siblings and foster parents, he feels love and affection for and from

them, and that removing him from the household would be detrimental to him. Finally, the court heard evidence that Jerry has bonded with the foster parents' extended family and has been involved in daycare and church. The foster family is ready, willing, and able to adopt Jerry, who is in need of permanency.

¶ 12 Given the foregoing, the court's finding that it is in Jerry's best interests for respondent's parental rights to be terminated so that he can live with and be adopted by his foster parents is not contrary to the manifest weight of the evidence.

¶ 13 After examining the record, the motion to withdraw, and the memorandum of law, we agree with counsel that the appeal presents no issues of arguable merit. We grant counsel's motion to withdraw and affirm the judgment of the circuit court of Winnebago County.

¶ 14 Affirmed.