2017 IL App (3d) 170071-U

Order filed June 21, 2017

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

2017

In re J.M. and G.M.,	)	Appeal from the Circuit Court
	)	of the 14th Judicial Circuit,
Minors	)	Rock Island County, Illinois.
	)	
(The People of the State of Illinois,	)	
	)	
Petitioner-Appellee,	)	Appeal Nos. 3-17-0071, 3-17-0072
	)	Circuit Nos. 15-JA-32, 16-JA-36
v.	)	
	)	
Jessie M.,	)	Honorable
	)	Theodore G. Kutsunis,
Respondent-Appellant).	)	Judge, Presiding.

JUSTICE LYTTON delivered the judgment of the court.
Justices Carter and McDade concurred in the judgment.

ORDER

¶ 1 *Held*: Trial court did not err in finding that respondent was unfit for failing to maintain a reasonable degree of concern, interest or responsibility as to the children's welfare.

¶ 2 Respondent, Jessie M., appeals from orders of the trial court finding him unfit and terminating his parental rights to minors, J.M. and G.M. He argues that the trial court erred in

finding that he failed to maintain a reasonable degree of interest, concern or responsibility as to his children's welfare and that he failed to make reasonable efforts or progress at any time following the adjudication of neglect. We affirm.

¶ 3 FACTS

¶ 4 Respondent and LaDonna W. were romantically involved. In September of 2014, they had a child, J.M. On June 15, 2015, the State filed a juvenile petition alleging that J.M. was neglected and dependent in that respondent and LaDonna were unable to provide housing or medical care for her. J.M. was adjudicated neglected on July 16, 2015. On April 11, 2016, the couple had another child, G.M. Three days after his birth, the State filed a petition alleging that G.M. was neglected due to an injurious environment. He was adjudicated neglected on June 23, 2016.

¶ 5 In the dispositional order entered on June 23, 2016, the trial court determined that it was in the best interests of J.M and G.M. to make them wards of the court and set a permanency goal of return home within 12 months. The court order instructed respondent to (1) obtain a substance abuse evaluation and follow any recommendations for treatment, (2) cooperate with counseling and follow all recommendations for treatment, (3) obtain and maintain appropriate housing, (4) attend and successfully complete domestic violence counseling, (5) maintain a legal source of income, and (6) attend visits and medical appointments with the children.

¶ 6 At the permanency review hearing on August 11, 2016, the Department of Children and Family Services (DCFS) recommended a change in the goal from return home to substitute care pending court determination of parental rights. The trial court adopted the change and set the permanency goal as substitute care pending possible termination.

¶ 7 On September 30, 2016, the State filed a supplemental petition to terminate respondent's parental rights to both J.M and G.M. In the petition, the State alleged that respondent was unfit as to J.M. because he failed to (1) make reasonable efforts to correct the conditions that were the basis for the removal of the child during the nine-month period from November 4, 2015, through August 4, 2016, (2) make reasonable progress toward the return of J.M. during the same nine-month time period, and (3) maintain a reasonable degree of interest, concern or responsibility as to J.M.'s welfare. The State also alleged that respondent was an unfit parent as to G.M. because he failed to maintain a reasonable degree of interest, concern or responsibility as to G.M.'s welfare.

¶ 8 The trial court conducted an adjudicatory hearing on December 16, 2016. Catherine Madden testified that she had been the caseworker for the family since June of 2015. She stated that during the nine-month period from November 4, 2015, to August 4, 2016, respondent failed to engage in counseling and failed to complete a mental health evaluation. Respondent did not attend medical appointments with J.M. or G.M. on a regular basis and only attended 20 percent of his scheduled visits with the children. He also failed to complete a domestic violence assessment and did not provide verification of employment or legal income. In addition, Madden testified that there had been recent issues of domestic violence between respondent and LaDonna.

¶ 9 Madden testified that respondent's visits with J.M had been scheduled for two hours twice a week, but respondent failed to attend the visits. As a result, his visits were reduced to once a week for one hour. Respondent again failed to regularly attend the visits so the agency further reduced them to one hour monthly visits. When respondent did attend visits, his interaction with the children was poor. He was frequently on his cell phone, and he relied on the

children's mother to do most of the work. He did not bring any supplies to care for the children. Madden reported that respondent last attended a visit with J.M. and G.M. about six months ago.

¶ 10 Madden also testified that respondent did not have appropriate housing. He indicated that he was living with the children's mother. However, due to ongoing domestic violence issues between the parents that had not been addressed, Madden did not believe that cohabitation was safe or appropriate. Further, respondent failed to produce any documentation to verify his employment. He reported that he was employed but had not given Madden any pay stubs or paperwork to support his claim.

¶ 11 As to respondent's conduct regarding interest, concern or responsibility for G.M., Madden testified that the relevant time period for evaluation was June of 2016 to December 16, 2016, the date of the unfitness hearing. Madden stated that respondent had known about the required tasks since July 16, 2015, but still failed to complete a mental health evaluation, a domestic violence assessment, or engage in domestic violence classes. Also, he had not provided verification of employment or income and had not maintained appropriate housing. Moreover, respondent had neglected to visit G.M. since June of 2016.

¶ 12 Respondent testified that he had completed the required parenting classes as of the date of the hearing but recognized that he had not completed any other services. He stated that he failed to attend several visits and service plan tasks because he had to rely on public transportation to attend the visits or meet with the service providers. He admitted that the caseworker provided bus passes for him to attend the scheduled meetings. He also testified that he had conflicts between his work schedule and his service plan. Respondent stated that his attempts to complete his service plan had been frustrated by the caseworker because she failed to provide the proper documentation to the mental health center to complete his referral.

¶ 13 The trial court found, by clear and convincing evidence, that respondent was an unfit parent as to J.M. in that he failed to (1) maintain a reasonable degree of interest, concern or responsibility, (2) make reasonable efforts to correct the conditions that were the basis for the removal of the child from November 4, 2015, to August 4, 2016, and (3) make reasonable progress toward the return of the child from November 4, 2015 through August 4, 2016.[1] The court also found that respondent was an unfit parent as to G.M. in that he failed to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare.

¶ 14 Following a best interests hearing, the trial court entered an order terminating respondent's parental rights.

¶ 15 ANALYSIS

¶ 16 On appeal, respondent argues that the trial court erred in finding him unfit. He claims that the court findings that he failed to maintain a reasonable degree of concern, interest or responsibility as to the children's welfare and that he failed to make reasonable efforts or progress are against the manifest weight of the evidence.

¶ 17 Section 2-29 of the Juvenile Court Act of 1987 sets forth a two-step process for the involuntary termination of parental rights. 705 ILCS 405/2-29(2) (West 2016). The court must first find, by clear and convincing evidence, that a parent is an unfit person as defined in section 1 of the Adoption Act. 750 ILCS 50/1 (West 2016); *In re J.L.*, 236 Ill. 2d 329, 337 (2010). Once a finding of parental unfitness is made, the court must then determine whether the State has proven, by a preponderance of the evidence, that it is in the best interests of the minor that the parental rights be terminated. *In re D.T.*, 212 Ill. 2d 347, 367 (2004); see also *In re M.I.*, 2016 IL 120232, ¶ 20.

[1] The written order states, "said period being November 4, 2015 through August 4, 2015" for both reasonable efforts and reasonable progress. This appears to be a scrivener's error.

¶ 18 Under section 1(D) of the Adoption Act, a parent may be found unfit due to a failure to (1) maintain a reasonable degree of interest, concern or responsibility as to the child's welfare, (2) make reasonable efforts to correct the conditions that were the basis for the removal of the child from the parent during any nine-month period following the adjudication of neglect, or (3) make reasonable progress toward the return of the child to the parent during any nine-month period following the neglect adjudication. 750 ILCS 50/1(D)(b), (m)(i), (m)(ii) (West 2016). Each ground requires a separate analysis. *In re J.A.*, 316 Ill. App. 3d 553, 564 (2000). However, "[o]nly one ground of unfitness needs to be proved by clear and convincing evidence in order to find a parent unfit." *In re R.L.*, 352 Ill. App. 3d 985, 998 (2004). Thus, on review, if there is sufficient evidence to satisfy any one statutory ground, we need not consider other findings of parental unfitness. *In re A.B.*, 308 Ill. App. 3d 227, 240 (1999).

¶ 19 In determining whether a parent showed reasonable concern, interest or responsibility, we have to examine the parent's conduct in the context of the circumstances in which it occurred. *In re Adoption of Syck*, 138 Ill. 2d 255, 278 (1990). Circumstances that should be considered include a parent's failure to personally visit the child and a parent's failure to otherwise attempt to communicate with the child. *Id.* at 279-80. If physical contact and personal visits are impractical, letters or telephone calls may demonstrate a reasonable degree of concern, interest or responsibility. *Id.* Our supreme court has also indicated that a parent's failure to comply with the directives of a service plan is equivalent to a parent's failure to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare. See *In re D.L.*, 191 Ill. 2d 1, 11-12 (2000). There is no temporal limitation when considering parental unfitness under this provision. See 750 ILCS 50/1(D)(b) (West 2016); *In re M.J.*, 314 Ill. App. 3d 649, 656 (2000).

¶ 20 "Reasonable efforts" is a subjective standard, and the focus is on whether a particular parent's efforts to correct the conditions that caused removal were reasonable. *R.L.*, 352 Ill. App. 3d at 998. In contrast, "reasonable progress" is an objective standard that considers the progress made toward the goal of returning the child to the parent. *In re M.A.*, 325 Ill. App. 3d 387, 391 (2001). Failure to make either reasonable efforts or reasonable progress is sufficient for an adjudication of unfitness. *R.L.*, 352 Ill. App. 3d at 999.

¶ 21 A trial court's determination of parental unfitness involves factual findings and credibility assessments it is in the best position to make. *M.J.*, 314 Ill. App. 3d at 655. On review, we accord great deference to these factual findings and credibility determinations. *Id*. Thus, a trial court's finding that termination of a parent's rights is in the child's best interests will not be reversed on appeal unless it is against the manifest weight of the evidence. *In re Davon H.*, 2015 IL App (1st) 150926, ¶ 78.

¶ 22 Here, the trial court found respondent unfit as to J.M. and G.M. because of his failure to maintain a reasonable degree of interest, concern or responsibility as to the children's welfare. The record clearly reveals respondent's lack of participation in court ordered services throughout the review process. Respondent was on notice that he needed to complete the court ordered evaluations and engage in the required tasks and services since July of 2015. At the time of Madden's testimony 18 months later, respondent still had not completed a mental health evaluation or a domestic violence assessment, and he had not engaged in domestic violence classes. Also, he failed to provide any documentation to support his claim that he was gainfully employed and was earning a steady income. Except for the completion of a parenting class, respondent had not complied with any task enumerated in the dispositional order. And failed to cooperate with DCFS and the other social service agencies assigned to his case. He did not

attend medical appointments as instructed by the order and he failed to attend most of the visits the agencies scheduled with both J.M. and G.M. During the few visits he did attend, he was unengaged and failed to exhibit minimal parental skills.

¶ 23 Respondent's reliance on his own testimony to excuse his noncompliance with the service plan is unavailing. He contends that the trial court failed to consider that he relied on public transportation to attend scheduled meetings and that he was employed. However, respondent admitted that Madden provided him with bus passes for those services. He also failed to provide any documentation to support his claim that he was reliably employed. As a reviewing court, we are not in a better position to assess the witnesses' credibility. See *M.J.*, 314 Ill. App. 3d at 655 (we give deference to the trial court because it had the opportunity to view and evaluate the witnesses). Thus, the trial court's findings that respondent failed to maintain a reasonable degree of interest, concern or responsibility as to the welfare of J.M. and failed to maintain a reasonable degree of interest, concern or responsibility as to the welfare of G.M. were not against the manifest weight of the evidence.

¶ 24 CONCLUSION

¶ 25 The judgment of the circuit court of Rock Island County is affirmed.

¶ 26 Affirmed.