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2017 IL App (3d) 170106-U

Order filed June 30, 2017

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2017

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|---------------------------------------|---|--------------------------------------|
| <i>In re</i> L.G. and A.G., |) | Appeal from the Circuit Court |
| |) | of the 10th Judicial Circuit, |
| Minors |) | Tazewell County, Illinois. |
| |) | |
| (The People of the State of Illinois, |) | |
| |) | |
| Petitioner-Appellee, |) | Appeal Nos. 3-17-0106 and 3-17-0107 |
| |) | Circuit Nos. 15-JA-123 and 15-JA-124 |
| v. |) | |
| |) | |
| Amy B., |) | |
| |) | The Honorable |
| Respondent-Appellant). |) | Kirk D. Schoenbein, |
| |) | Judge, presiding. |

JUSTICE McDADE delivered the judgment of the court.
Presiding Justice Holdridge and Justice Wright concurred in the judgment.

ORDER

- ¶ 1 *Held:* The circuit court did not err when it terminated the wardship and closed the juvenile case after a permanency review hearing.
- ¶ 2 The circuit court entered an adjudicatory order that found the minors, L.G. and A.G., neglected and a dispositional order that found the respondent-mother, Amy B., unfit and made the minors wards of the court. The minors were placed with the biological father, whom the

court found to be fit. At the first permanency review hearing, the court found that permanency had been achieved with the father and that the respondent remained unfit. The court then terminated the wardship and closed the juvenile case. On appeal, the respondent argues that the court's ruling from the permanency review hearing was against the manifest weight of the evidence. We affirm.

¶ 3

FACTS

¶ 4

Juvenile petitions were filed on December 30, 2015, alleging that the minors were neglected. The petition alleged that L.G. (born September 12, 2003) had been sexually abused by the respondent's husband, Chad B., between August 2013 and October 2015. L.G. had initially not disclosed the sexual abuse because Chad threatened to kill her, the respondent, and A.G. if she told anyone. During the investigation of the incidents, it was learned that Chad had also assaulted another minor. The respondent was told of the second victim and was initially cooperative with the Department of Children and Family Services (DCFS) and law enforcement. She later stated that she would "probably" not continue a relationship with Chad when he was released from incarceration, but that her decision would depend on how L.G. and Chad felt about it. The petition also alleged that the respondent cancelled a therapy appointment scheduled for L.G. and did not attempt to reschedule it. Further, the petition alleged that the respondent was living in Chad's house at the time the juvenile petitions were filed.

¶ 5

Shortly after the juvenile petitions were filed, the minors were taken into shelter care and placed temporarily with the biological father.

¶ 6

At a hearing on January 21, 2016, it was learned that Chad had been charged with offenses related to the second victim, who was his niece. Also, the caseworker informed the court that after the juvenile petitions had been filed, L.G. had given a recorded interview to

police in which she said that Chad had called her and told her to recant her allegations of sexual abuse because they were going to ruin the family. Chad also told L.G. that he and the respondent were going to kill themselves if she did not recant. The respondent testified that she never told L.G. that she was going to kill herself. An assistant State's attorney was also called to testify, and she discussed some statements made by L.G. that indicated the respondent had pressured her to recant her allegations, although L.G. also stated that she was unhappy where she had been staying and that she wanted to move back to Pekin.

¶ 7 On February 18, 2016, the respondent filed her answer and a hearing was held. The respondent admitted the allegations of the petition, but also added that as of December 15, 2015, L.G. had recanted her allegations of sexual abuse and that the respondent had not seen L.G.'s prior statement. The respondent also claimed that she cancelled the therapy appointment for L.G. because she had to work and had no one to transport L.G. to the appointment, and that she did not feel it was appropriate to ask anyone from Chad's family to take L.G. Also, she alleged that L.G. had since seen the therapist. At the close of the hearing, the court continued the case but ordered the respondent not to have any contact with Chad or his family members. The court also prohibited contact between L.G. and Chad and any of his family members.

¶ 8 On May 13, 2016, the circuit court entered an order finding the minors to be neglected by reason of an injurious environment.

¶ 9 The circuit court also held a dispositional hearing on May 13, 2016. DCFS prepared a report for the hearing. In part, the report stated that Chad had pled guilty to aggravated criminal sexual abuse and aggravated criminal sexual assault of his niece and had been incarcerated. The report also stated that the respondent met with the caseworker one time. During that meeting, the respondent said that she believed L.G.'s allegations and that she hated Chad. She stated that

Chad's mother had sent him letters and had signed the respondent's name, but she denied having any contact with Chad since his arrest. She also stated that she worked days for Illinois Title Loan and that she had nightly phone contact with the minors. The report also noted that there was an ongoing investigation into allegations that the respondent had attempted to coerce L.G. into recanting her sexual abuse allegations.

¶ 10 The report further stated that the caseworker met with the biological father, who was living with his wife and their seven-month-old daughter. Their home was clean and spacious and was located in a subdivision containing many children of varying ages. The wife's parents also lived in the subdivision and provided help and assistance for the family. The biological father stated that the minors had almost nightly phone contact with the respondent, although the minors had to initiate the calls most of the time. He also stated that the minors were well-behaved and had adjusted to their home and school. The minors loved their school and had made many new friends.

¶ 11 The report recommended that the court grant guardianship of the minors to the biological father and that it close the juvenile case.

¶ 12 During the hearing, testimony was elicited that the respondent had set up a Facebook account with L.G. and told her to lie to her father about it. When asked about it, the respondent stated, "I didn't tell her to lie. I told her she didn't have to tell her dad."

¶ 13 At the close of the hearing, the circuit court found that: (1) it was in the minors' best interest to be made wards of the court; (2) the respondent was an unfit parent; (3) the biological father was a fit parent; and (4) the permanency goal was appropriate. The court also placed custody of the minors with the biological father, who was also given guardianship. Regarding the respondent's unfitness, the court noted that she had lied in court on March 31, 2016.

¶ 14 The court also ordered the respondent to complete the following tasks: (1) execute all authorizations for releases of information requested by DCFS and its designees; (2) cooperate with DCFS and its designees; (3) obtain a psychological examination and follow all recommendations; (4) participate in and complete counseling; participate in and complete a parenting course; (5) obtain and maintain stable and suitable housing; (6) provide DCFS with any address change or any household member change within three days; (7) provide DCFS with information on persons having relationships that will affect the minors; and (8) visit with the minors. No service plan appears in the record on appeal.

¶ 15 A hearing was held on the State's shelter care petition on March 3, 2016. The State presented evidence to suggest that the respondent had contact with Chad while he was incarcerated, and at least his mother, despite the prohibition on such contact. At one point, letters were sent between Chad and his mother's address that purported to be from "Aunt Lucy." Chad would write how much he loved his wife and that he could not live without her. He also told her to give kisses to Bella and Buddy; it was determined that Bella and Buddy were Chad's dogs, who were living in his house with the respondent. The letters purported to be from "Aunt Lucy" were never signed as such at the end of the letters. Rather, they concluded, "I love you Chad [B.]" Further testimony indicated that "Aunt Lucy" was allegedly Chad's mother's sister, who lived in Kansas and had significant health problems. Chad's mother claimed that she wrote the letters purporting to be from "Aunt Lucy." She claimed that "Aunt Lucy" lived with her for 1½ years, ending in November 2015, and that when she informed Chad that "Aunt Lucy" was having health problems and moved to Kansas, he "freaked out" such that his mother decided to pretend that "Aunt Lucy" was still living with her. Chad's mother stated that these health

problems included what she believed was a slight stroke, but that she never took “Aunt Lucy” to the hospital for it. The court found that Chad’s mother was not credible.

¶ 16 Evidence was also presented on a phone call between Chad and his mother that occurred on January 1, 2016, while Chad was incarcerated. Chad’s mother put the call on speaker phone after telling Chad that “Aunt Lucy” was visiting. Chad talked about how it meant the world to him to get a letter from “Aunt Lucy.” He also asked near the end of the call for “Aunt Lucy” to say I love you. Eventually, a third person’s voice was heard in the background saying I love you. Chad’s mother claimed that the third person was her granddaughter.

¶ 17 The respondent testified that she had not had any contact with Chad since November 2015 and that she had not had any contact with Chad’s family members since February 2015. Regarding the latter, the respondent stated that she had received some texts from Chad’s mother, but that she did not respond to them.

¶ 18 At the close of the hearing, the court granted the State’s shelter care petition.

¶ 19 The case was called for the initial permanency review hearing on November 17, 2016, but it was continued to January 19, 2017. DCFS filed a report for the hearing. The report stated that the respondent had been cooperating with the caseworker. She started counseling in June 2016 and had to switch therapists, but she was seeing the new therapist twice per month. In August 2016, the respondent moved and provided notice to DCFS of the move. The respondent stated she moved to distance herself from Chad’s mother and further remove her from any connection to Chad. The respondent had worked consistently throughout the reporting period for Illinois Title Loan. She had also discussed divorcing Chad with several attorneys, but she did not initially take further action toward that end because she could not afford attorney expenses. However, by the time of the permanency review hearing, she had filed for divorce. The

respondent talked almost nightly with the minors over the phone, but she had not had any visits with them, as the biological father would not allow it until it was approved by L.G.'s therapist.

¶ 20 The report also stated that the biological father and his wife had been cooperative with DCFS. The caseworker had no concerns regarding the minors' care and safety. The minors had expressed contentment with their living situation, and A.G. had started calling the biological father's wife "mom." L.G. had been consistently attending counseling and was excelling in school. A.G. was also enjoying school and said he had made many friends in the neighborhood and at school. The biological father and his wife had provided for the minors' medical and physical needs, and bonds had developed between them. The report recommended closing the juvenile case because permanency had been achieved with the biological father and his wife.

¶ 21 A counseling report on the respondent was also prepared by a psychologist for the hearing. The psychologist stated that the respondent had been molested as a child and that her mother walked in on the incident, but it was never talked about after that. She claimed that her handling of the situation of L.G. was influenced in part by the way her mother handled her own molestation. However, she realized that she made a mistake in the way she handled L.G.'s situation and she expressed remorse for trying to get L.G. to recant her sexual abuse allegations. The psychologist also stated that testing revealed no signs of serious psychopathology in the respondent.

¶ 22 The psychologist recommended that the respondent continue to attend counseling to address her own molestation, the way she handled L.G.'s situation, and the guilt she felt as a result. Additionally, the psychologist stated that brief family counseling involving the respondent and L.G. may be needed to help heal the damage caused by the respondent's actions such that visitation could begin. Lastly, the psychologist stated that "[t]he goal of return home

should not be left out of the question. Ms. [B.] is a fine woman with strong [sic] moral compass, in general, and just made this one mistake. She is doing everything possible to rectify it.”

¶ 23 During the permanency review hearing, the court asked questions of the respondent. The respondent had filed for divorce from Chad, and she said that they had a court date of February 23, 2017. The State then asked the respondent some questions, including whether she was dating anyone. The respondent said she had been on a couple dates with a man—to two movies and a dinner—but that it was nothing serious. She said she did not give DCFS his information, as “[i]t’s just a friend going out with a friend. I don’t even consider us really dating.” She said that they had gone on three dates, the last of which occurred approximately three weeks prior to the hearing. She claimed that her counselor “urged me to start dating” even though she was still married. The respondent also stated that she had been to the man’s house once and that he had been to her house once, although he had not met her children. On one occasion when the man brought lunch to the respondent at her work, the respondent met his three-year-old daughter, who was in the car with him. The respondent also stated that she had discussed the details of this juvenile case with the man, but that she had not attempted to obtain any background information on him.

¶ 24 The guardian *ad litem* also informed the court that the minors both loved living with their father, but that they wanted to visit with the respondent. The guardian *ad litem* stated that L.G. still experienced anxiety related to visiting with the respondent, which was based on the uncertainty of whether the respondent would bring up Chad in conversation and, if she did, what she would say.

¶ 25 During arguments, the State portrayed the respondent as manipulative and untruthful, and highlighted the respondent taking Chad’s side when L.G. made her allegations of sexual abuse.

The State pointed out that the biological father had performed admirably during the case and that permanency had been achieved with him. The State believed that the respondent had made reasonable efforts, but that she remained unfit. The State also requested that the court close the juvenile case.

¶ 26 The court agreed with the State. Specifically, the court found that the respondent had made reasonable efforts, but the court questioned her veracity. The court believed that the respondent was in fact in a relationship such that she should have relayed the man's information to the caseworker. The court was also concerned that the respondent had not attempted to obtain any background information on him, especially given the sexual abuse allegations that gave rise to this juvenile case. The court also commended the respondent for taking steps to distance herself from Chad, but it expressed its concern she could still retract her divorce petition at any time. The court then concluded that it was in the best interest of the minors to close the juvenile case. The court stated, "it's too speculative, too open-ended about where we would be. We've arrived at permanency." The court found that the minors were thriving under the biological father's care and that there was no reason to delay permanency.

¶ 27 The court then entered a written order consistent with its oral ruling. The largely fill-in-the-blank form used for the written order stated that "[t]he appropriate permanency goal is Remain home w/ Dad." The next line read "[t]he reasons this goal is appropriate and others are not:"; however, nothing was written into the blank for that line. A box was also checked to indicate that the respondent had "made reasonable efforts and progress toward return home." However, a box was checked to indicate the respondent was unfit, and the following was written in as the reason: "failure to make min parenting standards."

¶ 28 The respondent appealed.

¶ 29

ANALYSIS

¶ 30

On appeal, the respondent's sole argument is that the circuit court's decision to terminate the wardship and close the juvenile case was against the manifest weight of the evidence. The respondent contends that the evidence presented at the permanency review hearing contradicted the court's findings that she remained unfit and that it was too speculative to believe that she would be restored to fitness anytime soon, if at all.

¶ 31

Section 2-31(2) of the Juvenile Court Act of 1987 (the Act) (705 ILCS 405/2-31(2) (West 2016)) provides that "[w]henver the court determines, and makes written factual findings, that health, safety, and the best interests of the minor and the public no longer require the wardship of the court, the court shall order the wardship terminated and all proceedings under this Act respecting that minor finally closed and discharged." An order closing a juvenile case pursuant to section 2-31(2) is a final and appealable order. *In re M.M.*, 337 Ill. App. 3d 764, 773 (2003).

¶ 32

Section 1-3(4.05) of the Act provides:

"Whenever a 'best interest' determination is required, the following factors shall be considered in the context of the child's age and developmental needs:

(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, including:

(i) where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);

(ii) the child's sense of security;

(iii) the child's sense of familiarity;

(iv) continuity of affection for the child;

(v) the least disruptive placement alternative for the child;

(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.” 705 ILCS 405/1-3(4.05) (West 2016).

¶ 33

Our review of the record in this case reveals no error in the circuit court’s decision. The evidence established that the minors were thriving in their father’s care. They had adjusted to their home, community, and school. L.G. was engaged in counseling. The minors stated that

they loved living with their father, and the evidence suggested that bonding had occurred. While it is true that the minors wished to visit with the respondent, we reiterate that the termination of a wardship and closing of a juvenile case is not a termination of parental rights. Moreover, L.G. visibly experienced anxiety at the suggestion of visiting with the respondent, which was due to the uncertainty of the respondent bringing up Chad and what she would say about him. While that anxiety could certainly be addressed, there can be no doubt L.G. has benefitted from her being distanced from L.G. from Chad and his mother. Further, the evidence supported the circuit court's doubts that the respondent would continue distancing herself from Chad and his family. She had indeed made progress, as the court found, given that she had filed for divorce. But the history of the case shows that the respondent in fact took Chad's side when L.G. made her allegations of sexual abuse against Chad. She also continued to have contact with Chad and his mother, despite that contact being prohibited by court order. That contact included deceptive practices related to letter-writing and phone contact in which the respondent expressed her continued love for Chad. In addition, it was not against the manifest weight of the evidence for the court to doubt whether the respondent was being forthright regarding her current dating situation.

¶ 34 Under these circumstances, we hold that the evidence supported the circuit court's decision to terminate the wardship and close the juvenile case. The minors were thriving in their father's care and there was no longer any need for the wardship and juvenile case to continue. Permanence had in fact been achieved with the father's guardianship. Accordingly, we hold that the circuit court did not err when it terminated the wardship and closed the juvenile case.

¶ 35 CONCLUSION

¶ 36 The judgment of the circuit court of Tazewell County is affirmed.

¶ 37

Affirmed.