2017 IL App (4th) 160683-U

NOS. 4-16-0683, 4-16-0684 cons.

FILED
January 18, 2017
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: M.A. and J.M., Minors, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-16-0683) MICHAEL ANDERSON, Respondent-Appellant.	) Appeal from) Circuit Court of) Champaign County) No. 13JA67
In re: M.A. and J.M., Minors, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-16-0684) LINTEZ JUNIOR MOTLEY, Respondent-Appellant.	) Honorable) John R. Kennedy,) Judge Presiding.

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

ORDER

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

¶ 2 Respondent fathers, Michael Anderson and Lintez Junior Motley, appeal separately from the trial court's order terminating their parental rights. They each challenged only the trial court's best-interest finding. In the interest of judicial economy, we have consolidated the appeals. We affirm.

¶ 3 I. BACKGROUND

¶ 4 Respondent Anderson is the father of M.A., born May 12, 2004, and respondent Motley is the father of J.M., born December 12, 2009. Danecia Hill is the mother of both minors; however, she is not a party to this appeal. Prior to the State's involvement, the minors resided solely with Hill.

¶ 5 In November 2013, the police discovered the minors were left home alone overnight at the ages of nine and five. Their grandmother was called to stay with them after Hill was arrested on related charges. The State filed a petition for the adjudication of neglect. At the March 2014 adjudicatory hearing, Hill admitted the allegation the minors were neglected based upon an injurious environment due to inadequate supervision. On March 18, 2014, the trial court entered an adjudicatory order but did not remove custody and guardianship from Hill. Diligent searches were performed on Anderson and Motley, but their whereabouts were unknown at that time. The trial court entered a dispositional order on April 15, 2014, adjudicating the minors neglected and making them wards of the court. The court removed custody and guardianship from Anderson and Motley since they were unable to be found. Custody of the minors remained with Hill, but the court awarded guardianship to the Illinois Department of Children and Family Services (DCFS).

¶ 6 At a permanency review hearing in November 2014, the trial court noted Anderson had been located, but DCFS had not yet made contact with him. He was in jail on a pending burglary charge. Motley had not been located. Due to negative circumstances, the trial court removed custody of the minors from Hill and, under DCFS's guidance, placed them together with their maternal grandmother.

¶ 7 On May 16, 2016, the State filed a petition to terminate respondents' parental rights to their *respective* minor. The State alleged Motley was an "unfit person" within the meaning of sections 1(D)(b), (D)(m)(i), (D)(m)(ii), and (D)(r) of the Adoption Act (750 ILCS 50/1(D)(b), (D)(m)(i), (D)(m)(ii), (D)(r) (West 2014)). The State alleged Anderson was an "unfit person" within the meaning of sections 1(D)(b), (D)(m)(i), and (D)(m)(ii) of the Adoption Act (750 ILCS 50/1(D)(b), (D)(m)(i), (D)(m)(ii) (West 2014)).

¶ 8 From the transcript of the July 29, 2016, fitness hearing, we find the following relevant evidence. In September 2014, Anderson was arrested and taken into custody. As of the date of the hearing, he was housed at Lawrenceville Correctional Center with an anticipated release date of March 2018. He was not participating in any services in prison, as such services are not offered at Lawrenceville. He had asked for a transfer to a facility that would offer relevant programs. He recalled sending two letters to the caseworker inquiring about the welfare of M.A. and requesting a transfer to a different facility. He said he would like the opportunity to participate in M.A.'s life. He said, prior to his arrest, he was "periodically" involved in M.A.'s life.

¶ 9 Motley presented no evidence. At the conclusion of the hearing, the trial court found the State had sufficiently proved all allegations against Anderson and Motley.

¶ 10 On September 15, 2016, the trial court held the best-interest hearing. No evidence, other than the reports from the court-appointed special advocate and the Center for Youth and Family Solutions, was presented. After considering the reports and recommendations of counsel, the court found it in the minors' best interests to terminate both Anderson's and Motley's parental rights. The court found neither Anderson nor Motley "for any reasonable period of time

*** will be available to exercise their role of parent." Each appealed separately. We have consolidated the appeals for our review.

¶ 11 II. ANALYSIS

¶ 12 Neither Anderson nor Motley challenge the trial court's finding of unfitness within the meaning of the Adoption Act. Instead, each challenges only the court's best-interest finding.

¶ 13 Once a trial court finds a parent unfit under one of the grounds of section 1(D) of the Adoption Act, the next step in an involuntary termination proceeding requires the court to consider whether it is in the best interests of the minor to terminate parental rights pursuant to section 1-3(4.05) of the Juvenile Court Act of 1987 (Act) (705 ILCS 405/1-3(4.05) (West 2014)). The State has the burden of proving by a preponderance of the evidence that termination is in the minor's best interests. See *In re D.T.*, 212 Ill. 2d 347, 366 (2004). The court's determination will not be reversed unless it is against the manifest weight of the evidence. See *In re Anaya J.G.*, 403 Ill. App. 3d 875, 883 (2010). "A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident." *In re Arthur H.*, 212 Ill. 2d 441, 464 (2004).

¶ 14 Section 1-3(4.05) of the Act requires a trial court to consider a number of factors for termination within "the context of the child's age and developmental needs." Here, the trial court emphasized the factor promoting an environment that will provide the minors with permanence, stability, and continuity of relationships. See 705 ILCS 405/1-3(4.05)(g) (West 2014). The court noted Anderson had been incarcerated throughout the majority of the case and was not expected to be released until September 2018. He had not participated in any services, and therefore, upon his release, he would be required to start from scratch developing skills, addressing problem areas, and most importantly, developing a relationship with M.A. The court

also noted Motley was not expected to be released from prison until April 2023. He had services available at a satellite facility but, like Anderson, Motley would be starting from scratch as well.

¶ 15 In the meantime, the minors had been placed together in the home of their maternal grandmother, who has provided a loving, clean, and safe home for them. Their needs were being met in all respects, and because she had expressed her willingness to adopt both minors, she was able to provide them with a permanent and stable home environment. When we consider the statutory factors as a whole, and in particular the factor promoting the minors' permanence, stability, and continuity of relationships, we are unable to say the trial court made a finding that was against the manifest weight of the evidence when it found that terminating respondents' parental rights would be in the minors' best interests. See *In re Deandre D.*, 405 Ill. App. 3d 945, 953 (2010).

¶ 16 III. CONCLUSION

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

¶ 18 No. 4-16-0683, affirmed.

¶ 19 No. 4-16-0684, affirmed.