2017 IL App (4th) 160761-U

NOS. 4-16-0761, 4-16-0762 cons.

FILED
March 20, 2017
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: A.B., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Macon County
v. (No. 4-16-0761)	)	No. 14JA1
KEVIN BRADLEY,	)	
Respondent-Appellant.	)	
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In re: K.B., a Minor,	)	No. 14JA2
THE PEOPLE OF THE STATE OF ILLINOIS,	)	
Petitioner-Appellee,	)	
v. (No. 4-16-0762)	)	Honorable
KEVIN BRADLEY,	)	Thomas E. Little,
Respondent-Appellant.	)	Judge Presiding

JUSTICE KNECHT delivered the judgment of the court.
Justices Harris and Appleton concurred in the judgment.

ORDER

¶ 1 *Held*: (1) The trial court did not err in finding respondent an unfit parent.

(2) The trial court did not err in terminating respondent father's parental rights.

¶ 2 Respondent, Kevin Bradley, appeals the order finding him an unfit parent and terminating his parental rights to A.B. (born February 3, 2010) and K.B. (born December 24, 2008). Respondent argues the orders are against the manifest weight of the evidence. We affirm.

¶ 3 I. BACKGROUND

¶ 4 In January 2014, the State filed two petitions of wardship, one on behalf of each

child. According to the petitions, which contain identical allegations, the children were neglected and abused while living with their mother, who is not a party to this appeal. The petitions indicate respondent resided in California. The State alleged the mother left four children in the care of one of the children's father, Manuel W. Gonzales, a registered sex offender, who beat A.B.'s and K.B.'s 26-month-old brother, respondent's son, causing his death. The State also alleged the home had unsafe conditions, including exposed carpet tack strips, cockroach infestation, and floors littered with drug paraphernalia, knives, cigarette lighters, and trash. Pursuant to stipulation, the minor children were found neglected.

¶ 5 In October 2015, the State petitioned for findings of unfitness and the termination of respondent's parental rights. The State alleged respondent was an unfit parent in that he failed to do the following: (1) maintain a reasonable degree of interest, concern, or responsibility as to the children's welfare (750 ILCS 50/1(D)(b) (West 2014)); (2) make reasonable efforts to correct the conditions that were the basis of the children's removal during any nine-month period after the neglect adjudication (750 ILCS 50/1(D)(m)(i) (West 2014)); and (3) make reasonable progress toward the children's return during three nine-month periods after the neglect adjudication (March 27 to December 27, 2014; December 27, 2014, to September 27, 2015; and January 20 to October 20, 2015) (750 ILCS 50/1(D)(m)(ii) (West 2014)).

¶ 6 The hearings on the State's allegations began in February 2016 and ended in June 2016. Respondent was not present but was represented by counsel. The State first called Kim Taylor, a caseworker for the Illinois Department of Children and Family Services (DCFS). Taylor was assigned to this case in January 2014. She attended the December 2013 shelter-care hearing. The initial service plan for respondent consisted of cooperation, mental-health services,

and the completion of an interstate-compact agreement with the State of California to ascertain whether respondent was a placement option for A.B. and K.B. Respondent completed an integrated assessment, which DCFS used to develop the service plan.

¶ 7 Taylor testified several months after the interstate-compact referral was requested, the State of California denied placement for A.B. and K.B. but provided no reason. The denial upset respondent, who stated he would contact the State of California and investigate the denial. Taylor did not know what happened as a result of respondent's investigation, but she knew respondent had a child who resided in California and that child recently entered care. Taylor had minimal contact with respondent, who mostly talked to her supervisor.

¶ 8 According to Taylor, respondent did not submit any documents or materials showing he complied with services. Respondent claimed engagement in mental-health treatment, but he "never provided [DCFS] any documentation or submitted to any releases of information" so DCFS could confirm whether respondent engaged in services. At no point did respondent have a satisfactory service plan.

¶ 9 Taylor testified the conversations with respondent did not go well. Respondent "would be very agitated" and "verbally aggressive." At the beginning of the conversations, respondent would be "pretty calm," but would progress into "loud shouting matches" when he was not getting the answers he wanted. Respondent used obscene language. Respondent did not travel or attempt to travel to Illinois to participate in the proceedings.

¶ 10 Vicki Brown, who supervised visits for Youth Advocate, testified she conducted respondent's telephone visits with A.B. and K.B. When the visits began, they occurred once each week. They gradually decreased and occurred once each month. The girls would sing to

respondent or not speak. Brown encouraged the girls to talk to respondent. Respondent acted appropriately during these visits. He expressed his love and told the children he could not wait to see them. Respondent made one visit while he was in town, and the visit "went fine."

¶ 11 Respondent asked the trial court to take judicial notice of a letter dated September 2, 2014, from the Department of Social Services and Public Guardian of California. According to the letter, a home study was requested to determine whether K.B. and A.B. could be safely placed with respondent. The Plumas County Department of Social Services denied the request based on the home-study results.

¶ 12 The home study indicates respondent resided with his daughter (E.B.), his girlfriend, and her young son. In May 2014, respondent "presented at the Child Protective Services office stating that he was unable to appropriately care for [E.B.] due to her mental[-]health issues and [other] behaviors." E.B. had psychotic episodes and abused respondent's girlfriend's son. In August 2014, respondent voluntarily relinquished E.B. to the Plumas County sheriff's department, stating he wanted her gone as he did not feel safe with her in the house. Respondent was unemployed but had held short-term employment at local restaurants. Respondent's girlfriend could not work and was seeking disability due to her medical issues.

¶ 13 Respondent presented a July 2015 letter from Leslie Wall, a nurturing parenting program coordinator for Plumas Rural Services in Quincy, California. Wall stated respondent attended an eight-week parenting class from June 2 through July 21, 2015. According to Wall, respondent participated in class discussions, asked appropriate questions, and appeared to understand the curriculum. Wall had "many opportunities" to observe respondent interact with

his stepson. Wall stated respondent "was polite, encouraging, and supportive towards other parents attending the class."

¶ 14 Respondent presented a February 2016 letter from Julie Hatzell, who provided nurturing parenting critical support with Plumas Rural Services. Hatzell stated she has worked with respondent since October 2015. Respondent made a concerted effort to follow through on visits and homework. Respondent demonstrated a marked change in attitude and willingness. Hatzell stated both respondent and his fiancée completed the parenting classes. The two realized how their upbringings affected the way they parented. Respondent realized his grief after his son's murder devastated him, making him emotionally unable to deal with the stress of E.B.'s history and behaviors. At a supervised visit between respondent and E.B., E.B. remarked how respondent had changed, and she wanted to return home. Hatzell supervised four of respondent's visits with E.B. and the visits went well. Respondent demonstrated his willingness to incorporate the information he learned in the parenting classes. Hatzell noted "changes don't come overnight and will take practice." Hatzell was prepared to work with the family "for as long as is needed" if E.B. was returned home. Hatzell hoped "reunification will be considered for this family."

¶ 15 The State recalled Taylor, who testified, in the time period of March 2014 through October 2015, the only contact between Taylor and respondent was by phone. Taylor sent respondent the service plan. Respondent participated in some staff meetings by telephone. From time to time, respondent sent his children letters.

¶ 16 Taylor testified defendant did not have substantial assets and had minimal employment. There were no indications respondent behaved inappropriately with his children. Taylor did not recall receiving the July 2015 letter from Wall but acknowledged receiving the

February 2016 letter from Hatzell. The content of these letters did not change Taylor's opinion respondent's parental rights should be terminated.

¶ 17 In August 2016, the trial court found the State proved by clear and convincing evidence all the allegations respondent was an unfit parent.

¶ 18 In October 2016, the trial court held the best-interests hearing. Taylor testified A.B., K.B., and their younger half-sibling, age 3, resided in the same foster home since February 2014. A.B. and K.B. were doing very well in school. Both were "very bright." Both completed play therapy, but the therapist recommended it continue approximately every three or four weeks while the court process continued, as both children were home when their brother was killed. K.B. was on medication for attention deficit/hyperactivity disorder.

¶ 19 According to Taylor, A.B. and K.B. called their foster parents "mom" and "dad." They wanted to stay with their foster parents, who offered permanency through adoption. The foster parents provided for the children's basic physical needs. The family went to church and vacationed together. The girls participated in extracurricular activities, including scouts, gymnastics, and soccer. The foster parents had adult children and a teenage daughter who resided in the home. A.B. and K.B. were part of their adult sibling's wedding.

¶ 20 The trial court found the termination of respondent's parental rights was in the best interests of A.B. and K.B. and granted the State's petitions. These consolidated appeals followed.

¶ 21 II. ANALYSIS

¶ 22 A. Parental Fitness

¶ 23 Respondent contends the trial court erroneously found him to be an unfit parent.

In addressing each of the grounds for the court's finding, respondent emphasizes his cooperation with the interstate-compact evaluation and his participation in phone visits with his children. Respondent further points to his completion of the parenting classes.

¶ 24 When the State initiates proceedings to terminate parental rights, this first step is consideration of parental fitness. A parent will be found "unfit" if the State proves, by clear and convincing evidence, at least one ground enumerated in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2014)). *In re A.L.*, 409 Ill. App. 3d 492, 499, 949 N.E.2d 1123, 1128 (2011). On appeal from a finding of unfitness, we afford great deference to the trial court's decision, as that court, during the fitness hearing, viewed witnesses and observed their demeanor. *Id.* at 500, 949 N.E.2d at 1129. We will not overturn a parental-fitness determination unless we find the decision is against the manifest weight of the evidence. *In re T.A.*, 359 Ill. App. 3d 953, 960, 835 N.E.2d 908, 913 (2005). Only when "the correctness of the opposite conclusion is clearly evident from a review of the evidence" is a finding against the manifest weight of the evidence. *Id.*

¶ 25 The trial court found respondent unfit on multiple grounds listed in section 1(D). The court found respondent was unfit in that he failed to make reasonable progress toward the return of A.B. and K.B. in the initial nine-month period following the adjudication of neglect (March 27, 2014, to December 27, 2014) (see 750 ILCS 50/1(D)(m)(ii) (West 2014)).

¶ 26 "Reasonable progress" is judged under an objective standard. *In re F.P.*, 2014 IL App (4th) 140360, ¶ 88, 19 N.E.3d 227. To find the progress made by a parent is reasonable, a court must conclude that the parent made sufficiently demonstrable movement toward the goal of returning his or her children to his or her custody. See *In re Daphnie E.*, 368 Ill. App. 3d 1052,

1067, 859 N.E.2d 123, 137 (2006). This may be found only when a court concludes it will, in the near future, be able to return the child to the parent's custody because the parent will have complied fully with the directives of the court. *A.L.*, 409 Ill. App. 3d at 500, 949 N.E.2d at 1129; see also *F.P.*, 2014 IL App (4th) 140360, ¶ 88, 19 N.E.3d 227.

¶ 27 We find no error in the trial court's conclusion respondent failed to make reasonable progress in the nine months following the neglect adjudications. While respondent maintains he had done all that he could do in the case by cooperating with the interstate-compact evaluation and participating in telephone visits, a parent's personal circumstances are irrelevant to the objective standard of reasonable progress. *Id.* ¶ 89. At the end of the relevant nine-month period, December 27, 2014, there was no evidence to support a finding the children could be returned to respondent in the near future. Respondent participated in a home study and an interstate-compact evaluation, which, as of September 2014, raised grave concerns about the safety and security of respondent's California home. Respondent did not sign the releases necessary for DCFS to verify respondent's participation in services, and there is no evidence in the record respondent participated in parenting classes or other services until June 2015. The trial court properly found respondent unfit on this ground.

¶ 28 Because we find the trial court did not err on finding unfitness based on the allegations he failed to make reasonable progress within the initial nine months following the adjudication of neglect, we need not determine whether the court erred regarding the other unfitness grounds. The law requires the State to prove only one statutory ground to establish unfitness. *In re Donald A.G.*, 221 Ill. 2d 234, 244, 850 N.E.2d 172, 177 (2006).

¶ 29 B. The Best Interests of the Children

¶ 30 Respondent contends the trial court erred in finding the best interests of his children necessitated an order terminating his parental rights. Respondent argues his children need to grow up with their father.

¶ 31 After a finding of parental unfitness, the trial court, at a best-interests hearing, shifts its focus to the children's interests in securing "a stable, loving home life." *In re D.T.*, 212 Ill. 2d 347, 364, 818 N.E.2d 1214, 1227 (2004). The determination of the children's best interests requires an examination of a number of statutory factors, including the children's safety and welfare, the development of the children's identity, the background of the children, the uniqueness of each child and family, and the least disruptive placement alternative for the children. 705 ILCS 405/1-3(4.05) (West 2014). At the best-interests stage, the parent's desire to maintain a relationship with his or her children must yield to the children's interests. *D.T.*, 212 Ill. 2d at 364, 818 N.E.2d at 1227. A trial court may terminate parental rights upon finding the State proved, by a preponderance of the evidence, termination is in the best interests of the children. *Id.* at 366, 818 N.E.2d at 1228. This court will not reverse an order terminating parental rights unless the trial court's decision is against the manifest weight of the evidence. *T.A.*, 359 Ill. App. 3d at 961, 835 N.E.2d at 914.

¶ 32 The trial court's decision regarding A.B.'s and K.B.'s best interests is not against the manifest weight of the evidence. Respondent had not been physically present in A.B.'s and K.B.'s lives for a substantial part of their young lives. The children had limited contact with respondent, participating in only phone visits and, at most, one in-person visit in approximately three years. Respondent's failure to comply with DCFS services raises questions about whether respondent would be able to provide a stable and secure home for A.B. and K.B. at any point in

the future. In contrast, A.B. and K.B. resided with their half-sibling in a loving and supportive foster home, where they had resided for over 2 1/2 years. The foster family met the physical and emotional needs of the children, providing the children a stable and secure home.

¶ 33 III. CONCLUSION

¶ 34 We affirm the trial court's judgment.

¶ 35 Affirmed.