2017 IL App (4th) 160777-U

NO. 4-16-0777

FILED
March 9, 2017
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: J.S. and A.S., Minors,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Champaign County
v.	)	No. 14JA3
MIA SIBLEY,	)	
Respondent-Appellant.	)	Honorable
	)	John R. Kennedy,
	)	Judge Presiding.

JUSTICE APPLETON delivered the judgment of the court.
Justices Steigmann and Pope concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's order finding it in the minors' best interests that respondent mother's parental rights be terminated was not against the manifest weight of the evidence.

¶ 2 Respondent, Mia Sibley, appeals the trial court's order terminating her parental rights to her two children, J.S. and A.S. Because we find the court's order was not against the manifest weight of the evidence, we affirm.

¶ 3 I. BACKGROUND

¶ 4 In January 2014, the State filed a petition for the adjudication of abuse and/or neglect in the interest of J.S., born April 28, 2009, and A.S., born November 7, 2011. The petition alleged each minor was abused and neglected on the bases that respondent had inflicted physical injury upon J.S. (705 ILCS 405/2-3(2)(i) (West 2012)), creating a substantial risk of physical injury to A.S (705 ILCS 405/2-3(2)(ii) (West 2012)); and their environment was

injurious to their welfare when they resided with respondent because they were exposed to a risk of physical harm (705 ILCS 405/2-3(1)(b) (West 2012)). The allegations of abuse came to the attention of the Illinois Department of Children and Family Services after J.S. appeared at school with cuts, welts, marks, bruises, and abrasions on his body. Respondent admitted the allegations in the petition. Specifically, she admitted she had caused the marks on J.S.'s back by hitting him with a belt. The minors were taken into protective custody and placed together in relative placement with their great-aunt and great-uncle, along with three of their cousins. The trial court entered an adjudicatory order on March 11, 2014, and a dispositional order on April 10, 2014. We note each minor has a different father; neither is a party to this appeal.

¶ 5 Initially, respondent appeared to be making progress toward reunification with the minors. She participated in a psychological evaluation, supervised visitation, a parenting course, domestic violence counseling, and individual therapy. However, she also participated in a parenting capacity assessment in October 2015, which revealed she could not parent alone and would likely always require assistance due to "continuing safety concerns."

¶ 6 In April 2016, the State filed a petition to terminate respondent's parental rights to the minors, alleging she was unfit because she (1) was depraved in that she had been convicted of at least three felonies, where at least one of which took place within five years of filing the petition (750 ILCS 50/1(D)(i) (West 2014)); and (2) failed to make reasonable progress toward the return of the minors during any nine-month period following the adjudication of neglect or abuse, namely between March 11, 2014, and December 11, 2014 (750 ILCS 50/1(D)(m)(ii) (West 2014)). In May 2016, the State filed an amended petition to terminate, adding allegations respondent was unfit because she failed to maintain a reasonable degree of interest, concern, or responsibility as to the welfare of the minors (750 ILCS 50/1(D)(b) (West 2014)), and adding an

additional nine-month period of April 7, 2015, to January 7, 2016, in which she had failed to make reasonable progress (750 ILCS 50/1(D)(m)(ii) (West 2014)).

¶ 7 At the August 2016 fitness hearing, the trial court was asked to take judicial notice of several of respondent's criminal convictions, including her most recent conviction of theft with a prior conviction resulting from a March 2016 offense. In July 2016, respondent was sentenced to three years in prison. At the conclusion of the fitness hearing, the court found the State had sufficiently proved all allegations of unfitness against respondent.

¶ 8 In September 2016, the trial court conducted a best-interests hearing, at which respondent appeared in the custody of the Illinois Department of Corrections. The court indicated it had received and considered the filed reports from the court-appointed special advocate (CASA) and Lutheran Social Services (LSS). The CASA report indicated both minors were placed together in relative care. Their needs were "all being cared for with great efficiency and concern for their behalf." According to CASA, in the beginning, both minors were "angry and defiant." With the help of therapy and support from their foster family, the minors had both learned to adequately control their anger and behavior. "They are very much a part of this foster family and feel more secure, safe, valued, and loved." Both minors referred to their foster parents as "mom and dad." The family takes vacations, is "very active with their church," and is involved in school activities. Further, the foster parents have indicated their willingness to adopt both minors. CASA recommended the minors remain in this placement permanently.

¶ 9 The LSS report was similar to CASA's report, in that LSS also recommended respondent's parental rights be terminated. LSS noted respondent was incarcerated, and therefore, she was not employed or participating in any services. The report indicated "[b]oth children [were] doing great in school and thriving in their foster home." LSS also noted the

"foster parents have ensured that the children's medical, emotional, and educational needs [were] met and [could] continue to provide for all areas in the children's lives." The State presented no other evidence.

¶ 10 Respondent called her mother, Christina Rena Sibley, as a witness. Christina testified respondent had resided with her for 25 years. Christina said she had been present during many of respondent's visits with the minors and found respondent acted appropriately. If respondent ever needed redirection or assistance, Christina was available to assist her. She said during the early visits, the minors would refer to respondent as "mom," but "toward the end," they would refer to her as "Mia." Christina said the minors appeared happy when they were with respondent and she had no concerns about the minors' safety in respondent's presence. In her opinion, it was in the minors' best interests to maintain contact with respondent.

¶ 11 Respondent presented the trial court with a letter she had written asking for "another chance at being a mother to both of [her] children." She explained she was using her time during her incarceration to "really think about what [she'd] done and what [she] will do to make a change." She indicated she was taking "full responsibility for [her] past and the decisions that [she] made." She professed her love for the minors and asked for the "opportunity to be a better mother to them."

¶ 12 After considering the evidence, recommendations of counsel, and the applicable statutory factors, the trial court found it in the minors' best interests to terminate respondent's parental rights.

¶ 13 In announcing its best-interests finding, the trial court stated:

> "These best interests factors are most telling and most persuasive: the physical safety and welfare of the children, including food, shelter, health, and

clothing; development of the child's identity; the child's sense of attachments, where the child actually feels love attachment, as sense of being valued, and that has subsections that are very significant in this case: child's sense of security, child's familiarity, continuity of affection. Continuity is—is very important. It's unfortunately, but it is true, that [respondent]'s life choice and life patterns haven't allowed for that continuity of affection. Although, affection's there when she's available.

And then also most telling, the child's needs for permanence, including the need for stability, continuity of relationships with parent figures and with siblings and other relatives. Well, the siblings there has the opportunity to grow up in—the siblings are there have the opportunity to grow up in the same home. They have an opportunity to have relative relationships by continuing in this current placement but, unfortunately, on the evidence don't have the ability to achieve permanence with the respondent mother or that sense of security and the ability to develop."

¶ 14 The trial court found by clear and convincing evidence it was in the minors' best interests that respondent have all parental, residual, and natural rights and responsibilities terminated. This appeal followed.

¶ 15 II. ANALYSIS

¶ 16 Respondent appeals only the trial court's best-interests finding; she does not challenge the court's finding of parental unfitness within the meaning of the Adoption Act. We affirm.

¶ 17 Once a trial court finds a parent unfit under one of the grounds of section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2014), 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).

¶ 18 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 factors regarding (1) the minors' physical safety (705 ILCS 405/1-3(4.05)(a) (West 2014)), (2) development of the minors' identity (705 ILCS 405/1-3(4.05)(b) (West 2014)), (3) the minors' sense of attachments (705 ILCS 405/1-3(4.05)(d) (West 2014)), and, the factor "most telling," (4) promoting an environment that will provide the minors with permanence, stability, and continuity of relationships (705 ILCS 405/1-3(4.05)(g) (West 2014)). The court noted respondent's incarceration would prevent her from reestablishing a relationship with the minors or working on her parenting skills for some time.

¶ 19 In the meantime, the minors had been placed together in the home of their great-aunt and great-uncle, who have provided a loving, clean, and safe home for them. Their needs were being met in all respects, and because they had expressed a willingness to adopt both minors, the foster parents were able to provide the minors with a permanent and stable home

environment. The minors were being raised in the same home as three of their cousins, and they have all developed into a very involved and well-rounded family.

¶ 20 When this court considers 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 respondent's parental rights would be in the minors' best interests. See *In re Deandre D.*, 405 Ill. App. 3d 945, 953 (2010).

¶ 21 III. CONCLUSION

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

¶ 23 Affirmed.