

NOTICE

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FILED

March 24, 2017
Carla Bender
4th District Appellate
Court, IL

2017 IL App (4th) 160858-U

NO. 4-16-0858

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: P.C., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Vermilion County
v.)	No. 15JA20
PAUL L. HINKLE,)	
Respondent-Appellant.)	Honorable
)	Claudia S. Anderson,
)	Judge Presiding.

JUSTICE POPE delivered the judgment of the court.
Presiding Justice Turner and Justice Appleton concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court's order finding respondent unfit and terminating his parental rights is affirmed.

¶ 2 In February 2015, a petition for adjudication of wardship was filed concerning P.C., born in November 2004. Respondent is the father of P.C. Respondent failed to appear at the adjudicatory hearing on July 15, 2015, where the trial court found P.C. neglected as a result of his mother's and her paramour's use of illegal substances. The court held a dispositional hearing on September 2, 2015, and placed custody and guardianship with the Department of Children and Family Services (DCFS). Respondent did not appear for the dispositional hearing.

¶ 3 A petition to terminate respondent's parental rights was filed on February 19, 2016. An amended petition was filed on April 22, 2016. Following a fitness hearing on August 31, 2016, the trial court found respondent unfit. The best-interest hearing was held on November

2, 2016. The trial court issued its order on November 16, 2016, terminating respondent's parental rights. We affirm.

¶ 4

I. BACKGROUND

¶ 5 On July 15, 2015, P.C.'s mother admitted P.C. was neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (705 ILCS 405/2-3(1)(b) (West 2014)) because his environment was injurious to his welfare as a result of her and her paramour's substance abuse. (P.C. had been taken into shelter care following his mother's arrest. Respondent could not be located at that time.) Respondent did not appear at the adjudicatory hearing.

¶ 6 A dispositional report filed with the trial court on August 26, 2015, reflected respondent had a sporadic relationship with P.C.'s mother over a period of 12 years. Their relationship ended when he went to prison for methamphetamine-related charges. Respondent had not signed any consent forms for a substance-abuse assessment or for referral to parenting classes. Respondent had not visited P.C. since the case was opened, nor had he engaged in services or submitted to any drug screens. Respondent participated with an integrated assessment over the telephone.

¶ 7 Keyana Jackson, case manager for P.C., testified at the dispositional hearing on September 2, 2015, respondent lived in Ohio and was on parole there. (Respondent did not attend the dispositional hearing.) Jackson had sent consent forms to respondent so she could set up services in Ohio, but those forms were not returned to her. When Jackson talked to respondent on the phone, he did not ask about P.C.

¶ 8 The trial court found respondent unfit and unable to care for P.C. and placed custody and guardianship with DCFS.

¶ 9 Jackson filed a permanency report on November 25, 2015. The report reflected

respondent had not stayed in contact with Jackson nor had he provided verification of employment. He still had not returned any consent forms for services. He had not visited with P.C. nor had he submitted any drug screens. Respondent had never parented P.C.

¶ 10 Respondent failed to appear for the permanency hearing on December 2, 2015. An addendum to the permanency report was filed on December 11, 2015. Jackson had not had any contact with respondent and respondent did not attend a family team meeting on December 10, 2015.

¶ 11 On December 17, 2015, P.C.'s mother signed a final and irrevocable surrender for purposes of adoption.

¶ 12 On February 19, 2016, the State filed a petition to terminate respondent's parental rights. The petition alleged respondent was unfit for the following reasons: respondent had (a) abandoned the minor (750 ILCS 50/1(D)(a) (West 2014)); (b) failed to maintain a reasonable degree of interest, concern, or responsibility as to the minor's welfare (750 ILCS 50/1(D)(b) (West 2014)); and (c) deserted the minor for more than three months preceding the commencement of the action (750 ILCS 50/1(D)(c) (West 2014)).

¶ 13 On April 22, 2016, the State filed an amended petition, adding the following grounds for termination: respondent had (d) failed to make reasonable efforts to correct the conditions that were the basis for the removal of the child from the parent within nine months after an adjudication of neglect, abuse, or dependency from July 15, 2015, to April 15, 2016 (750 ILCS 50/1(D)(m)(i) (West 2014)); and (e) failed to make reasonable progress toward the return of the child to the parent within nine months after an adjudication of neglect, abuse, or dependency from July 15, 2015, to April 15, 2016 (750 ILCS 50/1(D)(m)(ii) (West 2014)).

¶ 14 The trial court held a fitness hearing on August 31, 2016. Respondent did not

attend this hearing. Jackson testified services were recommended for respondent, but he never engaged in any services. She had five or six contacts with respondent by telephone and mail. Jackson had a contract with an agency in Ohio for respondent to obtain a substance-abuse assessment, but respondent made no effort to get the assessment done. He did not participate in parenting classes, either. Respondent had not sent gifts or cards to P.C. Respondent never visited P.C. The court found respondent unfit on all grounds in the petition, but it went on to enumerate paragraphs (a) through (d), omitting (e), failure to made reasonable progress toward the return of P.C.

¶ 15 On November 2, 2016, the trial court held the best-interest hearing. Respondent apparently appeared, but his name is not listed on the report of proceedings. (The docket sheet reflects respondent appeared in custody.) Lauren Zitkus, the foster-care manager, testified P.C. was placed with two of his half-siblings in a foster family that was related to one of the half-siblings. This family was willing to provide permanency for P.C. P.C. was doing very well and was bonded to the foster parents. Both foster parents were employed and able to provide for P.C.

¶ 16 Zitkus testified respondent had never tried to contact her. She had met him one time when he was last incarcerated, but he expressed limited interest in P.C. Respondent attempted to cross-examine Zitkus, but his questions were not related to the best interest of P.C.

¶ 17 The trial court terminated respondent's parental rights, finding it to be in P.C.'s best interest, by a written order dated November 16, 2016.

¶ 18 This appeal followed.

¶ 19 II. ANALYSIS

¶ 20 On appeal, respondent argues the State failed to prove him unfit by clear and convincing evidence and the trial court's order terminating his parental rights was not in the best

interest of the minor.

¶ 21 A. Fitness Determination

¶ 22 A parent will be deemed unfit if the State proves, by clear and convincing evidence, one or more of the grounds of unfitness enumerated in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2014)). See *In re A.L.*, 409 Ill. App. 3d 492, 499, 949 N.E.2d 1123, 1128 (2011). This court will not overturn a finding of parental unfitness unless the finding is against the manifest weight of the evidence, meaning "the correctness of the opposite conclusion is clearly evident from a review of the evidence." *In re T.A.*, 359 Ill. App. 3d 953, 960, 835 N.E.2d 908, 913 (2005).

¶ 23 We note the State need only prove one statutory ground to establish parental unfitness. *In re Donald A.G.*, 221 Ill. 2d 234, 244, 850 N.E.2d 172, 177 (2006). Accordingly, we begin our analysis with respondent's argument the trial court's finding he failed to maintain a reasonable degree of interest, concern, or responsibility as to the minor's welfare was against the manifest weight of the evidence.

¶ 24 When considering whether a parent is unfit for failure to maintain a reasonable degree of interest, concern, or responsibility for a child, " 'the parent's efforts to communicate with and show interest in the child, not the success of those efforts,' " are key. *In re Adoption of L.T.M.*, 214 Ill. 2d 60, 68, 824 N.E.2d 221, 226 (2005) (quoting *In re Adoption of Syck*, 138 Ill. 2d 255, 279, 562 N.E.2d 174, 185 (1990)). The State is required to prove unfitness by clear and convincing evidence. *In re M.H.*, 196 Ill. 2d 356, 365, 751 N.E.2d 1134, 1141 (2001). As noted above, we will reverse a finding of unfitness only where it is against the manifest weight of the evidence. *In re C.W.*, 199 Ill. 2d 198, 211, 766 N.E.2d 1105, 1113 (2002).

¶ 25 The evidence at the fitness hearing showed respondent had not visited P.C.

throughout the life of the case. Respondent did not return any consent forms, he did not engage in any services, and he did not provide any drug drops. Respondent sent no letters, cards, or gifts to P.C. He did not even inquire about P.C.'s well-being throughout the case. Respondent showed *no* interest, concern, or responsibility as to P.C., much less reasonable interest, concern, or responsibility. The evidence overwhelmingly supported a finding of unfitness on the basis respondent failed to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare.

¶ 26 B. Best-Interest Determination

¶ 27 After a parent is found unfit, the trial court shifts its focus in termination proceedings to the child's interest. *In re D.T.*, 212 Ill. 2d 347, 364, 818 N.E.2d 1214, 1227 (2004). At the best-interest stage, a "parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life." *Id.* Before a parent's rights may be terminated, a court must find the State proved, by a preponderance of the evidence, it is in the child's best interest those rights be terminated. *Id.* at 366, 818 N.E.2d at 1228.

¶ 28 When considering whether termination of parental rights is in a child's best interest, the trial court must consider a number of factors within "the context of the child's age and developmental needs." 705 ILCS 405/1-3(4.05) (West 2014). These include the following:

"(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)(a) to (j) (West 2014).

¶ 29 The trial court's finding termination of parental rights is in a child's best interest will not be reversed on appeal unless it is against the manifest weight of the evidence. *In re Anaya J.G.*, 403 Ill. App. 3d 875, 883, 932 N.E.2d 1192, 1199 (2010). A decision will be found

to be against the manifest weight of the evidence "if the facts clearly demonstrate that the court should have reached the opposite conclusion." *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1072, 859 N.E.2d 123, 141 (2006).

¶ 30 Here, P.C. was in a loving, stable foster home with two of his half-siblings. Both foster parents held steady jobs and were meeting P.C.'s needs. P.C. was bonded with his foster parents. It was clearly in his best interest to terminate respondent's parental rights. The trial court did not err in doing so.

¶ 31 III. CONCLUSION

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

¶ 33 Affirmed.