2017 IL App (4th) 170196-U

NO. 4-17-0196

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

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: C.B., a Minor	)	Appeal from
(The People of the State of Illinois,	)	Circuit Court of
Petitioner-Appellee,	)	Logan County
v.	)	No. 15JA27
Amy Carinder,	)	
Respondent-Appellant).	)	Honorable
	)	William G. Workman,
	)	Judge Presiding.

PRESIDING JUSTICE TURNER delivered the judgment of the court.
Justices Appleton and Knecht concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, finding the trial court did not err in terminating respondent's parental rights.

¶ 2 In December 2015, the State filed a petition for adjudication of wardship with respect to C.B., the minor child of respondent, Amy Carinder. In April 2016, the trial court made the minor a ward of the court and placed custody and guardianship with the Department of Children and Family Services (DCFS). In September 2016, the State filed a petition to terminate respondent's parental rights. In February 2017, the court found respondent unfit. In March 2017, the court determined it was in the minor's best interests that respondent's parental rights be terminated.

¶ 3 On appeal, respondent argues the trial court erred in terminating her parental rights. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In December 2015, the State filed a petition for adjudication of wardship with respect to C.B., born in 2015 and the minor child of respondent. The petition alleged the minor was neglected pursuant to section 2-3(1) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1) (West 2014)) because (1) the minor was not receiving the care necessary for his well-being, including adequate food, clothing, and shelter; (2) his environment was injurious to his welfare as evidenced by respondent's failure to ensure a safe and nurturing environment for him; and (3) his environment was injurious to his welfare as evidence by unsafe and hazardous conditions in the home. The petition also alleged the minor was dependent pursuant to section 2-4(1)(b), (c) of the Juvenile Court Act (705 ILCS 405/2-4(1)(b), (c) (West 2014)) because he was without (1) proper care because of the physical or mental disability of his parent, guardian, or legal custodian; and (2) proper medical, remedial, or other care necessary for his well-being through no fault, neglect, or lack of concern by his parents, guardian, or custodian. The trial court found it a matter of immediate and urgent necessity to remove respondent's minor from the home and place temporary custody with DCFS.

¶ 6 In February 2016, the trial court found C.B. neglected due to an injurious environment. The court noted respondent was unable to understand how to care for C.B., her "residence is filthy and not appropriate for [a] child," and her paramour had his parental rights to his own children terminated. The court also found C.B. dependent because respondent was unable to understand how to care for and feed a child. In its April 2016 dispositional order, the court found respondent unfit to care for, protect, train, educate, supervise, or discipline the minor and placement with her would be contrary to the health, safety, and best interests of C.B. because (1) she had not demonstrated an ability to parent, (2) the condition of her home was unsuitable,

and (3) she lived with an unfit paramour. The court adjudged the minor neglected and dependent, made him a ward of the court, and placed custody and guardianship with DCFS.

¶ 7 In September 2016, the State filed a petition to terminate respondent's parental rights. The petition alleged respondent was unfit because of her inability to discharge her parental responsibilities due to an intellectual disability (as defined by 405 ILCS 5/1-116 (West 2016)) or a developmental disability (as defined by 405 ILCS 5/1-106 (West 2016)), as supported by competent evidence from Dr. Rudolf G. Breitmeyer, a licensed clinical psychologist, and her inability to discharge parental responsibilities will extend beyond a reasonable time period. See 750 ILCS 50/1(D)(p) (West 2016).

¶ 8 In February 2017, the trial court conducted the unfitness hearing. Dr. Breitmeyer testified he conducted a psychological evaluation of respondent in May 2016. He stated respondent obtained a score of 64 on her intelligent-quotient test, "which placed her in the extremely low range of intellectual functioning" and "would be considered mildly impaired in her intellectual functions." Dr. Breitmeyer stated respondent's score "really compromises her ability to parent independently to the extent that the problem of doing independent problem solving [and] thinking." Respondent's reading comprehension was at a third-grade level, and her mathematical ability was at the second-grade level. Dr. Breitmeyer opined respondent has a significantly subaverage general intelligence and it existed prior to her reaching the age of 18. The condition will continue indefinitely and would significantly impair her ability to discharge her parental responsibilities.

¶ 9 Following arguments, the trial court found respondent unfit. In March 2017, the court conducted the best-interests hearing. Amber Jones, a DCFS caseworker, testified C.B. has a strong bond and attachment with his foster mother, who has stated her interest in adopting him.

Following arguments, the court found it in the minor's best-interests that respondent's parental rights be terminated. This appeal followed.

¶ 10 II. ANALYSIS

¶ 11 Respondent argues the trial court's finding of unfitness was against the manifest weight of the evidence. We disagree.

¶ 12 In a proceeding to terminate a respondent's parental rights, the State must prove unfitness by clear and convincing evidence. *In re Donald A.G.*, 221 Ill. 2d 234, 244, 850 N.E.2d 172, 177 (2006). " 'A determination of parental unfitness involves factual findings and credibility assessments that the trial court is in the best position to make.' " *In re Richard H.*, 376 Ill. App. 3d 162, 165, 875 N.E.2d 1198, 1201 (2007) (quoting *In re Tiffany M.*, 353 Ill. App. 3d 883, 889-90, 819 N.E.2d 813, 819 (2004)). A reviewing court accords great deference to a trial court's finding of parental unfitness, and such a finding will not be disturbed on appeal unless it is against the manifest weight of the evidence. *In re A.F.*, 2012 IL App (2d) 111079, ¶ 40, 969 N.E.2d 877. "A decision regarding parental fitness is against the manifest weight of the evidence where the opposite conclusion is clearly the proper result." *In re D.D.*, 196 Ill. 2d 405, 417, 752 N.E.2d 1112, 1119 (2001).

¶ 13 In the case *sub judice*, the trial court found respondent unfit under section 1(D)(p) of the Adoption Act (750 ILCS 50/1(D)(p) (West 2016)), which sets forth the following grounds for a finding of unfitness:

> "Inability to discharge parental responsibilities supported by competent evidence from a psychiatrist, licensed clinical social worker, or clinical psychologist of mental impairment, mental illness or an intellectual disability as fined in Section 1-116 of the

> Mental Health and Developmental Disabilities Code, or developmental disability as defined in Section 1-106 of that Code, and there is sufficient justification to believe that the inability to discharge parental responsibilities shall extend beyond a reasonable time period."

¶ 14 Thus, for a trial court to find a parent unfit under this subsection, the State must prove (1) "the parent suffers from a mental impairment, mental illness, mental retardation, or developmental disability sufficient to prevent the discharge of normal parental responsibilities"; and (2) "the inability will extend beyond a reasonable period of time." *In re Michael M.*, 364 Ill. App. 3d 598, 608, 847 N.E.2d 911, 920 (2006); see also *In re M.F.*, 326 Ill. App. 3d 1110, 1114, 762 N.E.2d 701, 705 (2002).

¶ 15 Here, Dr. Breitmeyer testified his evaluation of respondent revealed she had significantly subaverage general intelligence, which existed before she was 18 years old. He opined the condition would continue indefinitely. Moreover, he stated her condition would significantly impair her ability to discharge her parental responsibilities because respondent was unlikely "to improve her intellectual functioning [to] a corresponding skill level to parent and to live independently."

¶ 16 The evidence in this case indicates respondent suffers from a developmental disability sufficient to prevent the discharge of normal parental responsibilities and that inability to discharge those responsibilities will extend beyond a reasonable period of time. While respondent argues she should have been afforded more time and services considering her disability, subsection 1(D)(p) requires only "sufficient justification" to believe her inability to parent will extend beyond a reasonable time period. *In re J.A.S.*, 255 Ill. App. 3d 822, 824, 627

N.E.2d 770, 772 (1994) (stating "[a] medical prognosis need not be absolutely conclusive to satisfy the requirement of the statute"). Dr. Breitmeyer's testimony supports a finding of unfitness under subsection 1(D)(p). Thus, the trial court's finding of unfitness on this ground was not against the manifest weight of the evidence. Moreover, as respondent does not contest the best-interests portion of the court's decision, we conclude the court's order terminating respondent's parental rights was appropriate.

¶ 17 III. CONCLUSION

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

¶ 19 Affirmed.