2017 IL App (4th) 170207-U

NO. 4-17-0207

FILED
July 27, 2017
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: M.H., a Minor	)	Appeal from
	)	Circuit Court of
	)	Champaign County
(The People of the State of Illinois,	)	No. 15JA59
Petitioner-Appellee,	)	
v.	)	Honorable
Anthony Holt,	)	John R. Kennedy,
Respondent-Appellant).	)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Presiding Justice Turner and Justice Steigmann concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, concluding the trial court's unfitness finding was not against the manifest weight of the evidence.

¶ 2 In October 2016, the State filed a motion to terminate the parental rights of respondent, Anthony Holt, as to his minor child, M.H. (born November 10, 2015). In January 2017, the trial court found respondent unfit and, in March 2017, determined it was in M.H.'s best interest to terminate his parental rights. Respondent appeals, arguing the trial court's unfitness finding is against the manifest weight of the evidence. We affirm.

¶ 3 I. BACKGROUND

¶ 4 In November 2015, the State filed a petition for adjudication of wardship, alleging

M.H. was neglected. At that time, M.H. was in protective custody due to her exposure to alcohol and drug use while in utero, and respondent was serving a sentence of imprisonment for possession of a controlled substance.

¶ 5 In a January 13, 2016, adjudicatory order, the trial court adjudicated M.H. neglected as she was residing in an environment injurious to her welfare (705 ILCS 405/2-3(1)(b) (West 2014)). The factual basis provided by the trial court stated respondent was imprisoned and M.H.'s mother, Unique Davis, (1) was previously found to be unfit to parent her other children, (2) failed to correct the conditions that led to the other children's removal from her custody, (3) was unsuccessfully discharged from substance-abuse treatment, and (4) continued to test positive for illegal drugs.

¶ 6 In a February 19, 2016, dispositional order, the trial court made M.H. a ward of the court, placing custody and guardianship with the Department of Children and Family Services.

¶ 7 In October 2016, the State filed a motion to terminate respondent's and Davis's parental rights to M.H., alleging they were unfit parents as they (1) failed to maintain a reasonable degree of interest, concern, or responsibility as to M.H.'s welfare (750 ILCS 50/1(D)(b) (West 2016)); (2) failed to make reasonable efforts to correct the conditions that were the basis for M.H.'s removal during the nine-month period following the adjudication of neglect (750 ILCS 50/1(D)(m)(i) (West 2016)); and (3) failed to make reasonable progress toward the return of M.H. within the nine months following the adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2016)).

¶ 8 In January 2017, (1) Davis entered a final and irrevocable surrender of her

parental rights to M.H., and (2) the trial court held a hearing on the State's motion to terminate respondent's parental rights to M.H. As to the fitness hearing, the court heard testimony from case manager Kasey Wells, domestic-violence group facilitator Conrad Hayes, and Family Advocacy Center director Grace Mitchell. The court also received a copy of respondent's September 12, 2016, psychological evaluation. The following is a summary of the evidence presented.

¶ 9 On April 26, 2016, respondent was released from prison. After being released, respondent initiated contact with M.H.'s case manager and began attending supervised visitation with M.H. During those visits, respondent relied heavily on Davis to parent M.H. Respondent did not appear comfortable when holding M.H. or changing her diaper. Over time, respondent began to show some progress with his ability to parent M.H.

¶ 10 Respondent and Davis had an off-and-on relationship, which had a history of domestic violence. The relationship continued after respondent was released from prison, with respondent living with Davis from June to October 2016. Arguments occurred between respondent and Davis during supervised visits with M.H.

¶ 11 On June 8, 2016, respondent was referred to services. Respondent was found to be in need of (1) parenting classes, (2) a substance-abuse assessment, (3) a psychiatric evaluation, (4) domestic-violence services, and (5) a mental-health assessment for therapy. Respondent successfully completed parenting classes. Due to M.H.'s developmental needs, respondent was referred to additional parental training. Respondent completed a substance-abuse assessment, which found substance-abuse treatment was not needed. Respondent completed a psychological evaluation, which found the need for domestic-violence treatment to be "critical." On July 20,

2016, respondent started domestic-violence counseling. On August 4, 2016, respondent was terminated from counseling due to unexcused absences. A week later, respondent reengaged in domestic-violence counseling. In October 2016, respondent was again terminated from counseling due to unexcused absences. In November 2016, respondent reengaged in domestic-violence counseling and continued to participate through the date of the fitness hearing. Respondent failed to complete a mental-health assessment for therapy. He also failed to maintain stable housing or secure employment.

¶ 12 The trial court found the State proved by clear and convincing evidence respondent was an unfit parent as he (1) failed to make reasonable efforts to correct the conditions that were the basis for the removal of M.H. within the nine months following the adjudication of neglect, and (2) failed to make reasonable progress toward the return of M.H. within the nine months following the adjudication of neglect.

¶ 13 Following a March 2017 best-interest hearing, the trial court found it was in M.H.'s best interest to terminate respondent's parental rights.

¶ 14 This appeal followed.

¶ 15 II. ANALYSIS

¶ 16 On appeal, respondent argues the trial court's unfitness finding is against the manifest weight of the evidence. The State disagrees.

¶ 17 The involuntary termination of parental rights involves a two-step process. 705 ILCS 405/2-29(2) (West 2016). First, the State must prove by clear and convincing evidence the parent is "unfit" as defined in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2016)). *In re Donald A.G.*, 221 Ill. 2d 234, 244, 850 N.E.2d 172, 177 (2006). If the trial court

makes a finding of unfitness, the State must then prove by a preponderance of the evidence it is in the child's best interest for parental rights to be terminated. *In re D.T.*, 212 Ill. 2d 347, 366, 818 N.E.2d 1214, 1228 (2004).

¶ 18 Only one ground for a finding of unfitness is necessary if it is supported by clear and convincing evidence. *In re Gwynne P.*, 215 Ill. 2d 340, 349, 830 N.E.2d 508, 514 (2005); *In re M.R.*, 393 Ill. App. 3d 609, 613, 912 N.E.2d 337, 342 (2009). We will not disturb a trial court's unfitness finding unless it is against the manifest weight of the evidence. *Gwynne P.*, 215 Ill. 2d at 354, 830 N.E.2d at 516-17. A finding is against the manifest weight of the evidence only where the opposite conclusion is clearly apparent. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1072, 859 N.E.2d 123, 141 (2006).

¶ 19 The trial court found respondent was an unfit parent as defined in section 1(D)(m)(ii) of the Adoption Act (750 ILCS 50/1(D)(m)(ii) (West 2016)). Section 1(D)(m)(ii) provides a parent will be considered an "unfit person" if he or she fails to make "reasonable progress" toward the return of a child within nine months following an adjudication of neglect. 750 ILCS 50/1(D)(m)(ii) (West 2016). "Reasonable progress" has been defined as " 'demonstrable movement toward the goal of reunification.' " *In re C.N.*, 196 Ill. 2d 181, 211, 752 N.E.2d 1030, 1047 (2001). This is an objective standard, focusing on the amount of progress toward the goal of reunification one can reasonably expect under the circumstances. *In re C.M.*, 305 Ill. App. 3d 154, 164, 711 N.E.2d 809, 815 (1999). The benchmark for measuring a parent's progress toward reunification "encompasses the parent's compliance with the service plans and the court's directives, in light of the condition which gave rise to the removal of the child, and in light of other conditions which later become known and which would prevent the court from

returning custody of the child to the parent." *C.N.*, 196 Ill. 2d at 216-17, 752 N.E.2d at 1050.

¶ 20 The applicable nine-month period during which reasonable progress is to be measured begins on the date of the adjudication of neglect. *In re D.F.*, 208 Ill. 2d 223, 241, 802 N.E.2d 800, 811 (2003); *In re Jacien B.*, 341 Ill. App. 3d 876, 882, 793 N.E.2d 1009, 1014 (2003). In considering whether reasonable progress has been made, the trial court may consider only evidence of parental conduct occurring during the statutory nine-month period following the adjudication of neglect. *In re D.L.*, 191 Ill. 2d 1, 12, 727 N.E.2d 990, 996 (2000).

¶ 21 In a January 13, 2016, adjudicatory order, the trial court adjudicated M.H. neglected as she was residing in an environment injurious to the her welfare (705 ILCS 405/2-3(1)(b) (West 2014)). During the nine months following the adjudication of neglect, respondent (1) was terminated twice from domestic-violence counseling due to unexcused absences, (2) failed to complete a mental-health assessment for therapy, and (3) failed to maintain stable housing or secure employment. Respondent highlights his consistent participation in domestic-violence counseling after he reengaged on November 30, 2016. That participation, however, will not be considered as it relates to parental conduct occurring outside the statutory nine-month period following the adjudication of neglect. See *D.L.*, 191 Ill. 2d at 12, 727 N.E.2d at 996. Based on the evidence presented, the trial court's finding of unfitness due to respondent's failure to make reasonable progress toward the return of M.H. is not against the manifest weight of the evidence.

¶ 22 As only one ground for a finding of unfitness is necessary to uphold the trial court's judgment, we need not review the other bases for the court's unfitness finding. See *In re Tiffany M.*, 353 Ill. App. 3d 883, 891, 819 N.E.2d 813, 820 (2004).

¶ 23 III. CONCLUSION

¶ 24 We affirm the trial court's judgment.

¶ 25 Affirmed.