2017 IL App (4th) 170301-U

NO. 4-17-0301

FILED
September 6, 2017
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: Joe R., Jor. R., A.R., Jad. R., E.C., and I.C., Minors	)	Appeal from
	)	Circuit Court of
(The People of the State of Illinois,	)	McLean County
Petitioner-Appellee,	)	No. 15JA52
v.	)	
Toccara Wright,	)	Honorable
Respondent-Appellant).	)	Kevin P. Fitzgerald,
	)	Judge Presiding.

PRESIDING JUSTICE TURNER delivered the judgment of the court.
Justices Harris and Appleton 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 April 2015, the State filed a petition for adjudication of wardship with respect to Joe R., Jor. R., A.R., Jad. R., E.C., and I.C., the minor children of respondent, Toccara Wright. In December 2015, the trial court made the minors wards of the court and placed custody and guardianship with the Department of Children and Family Services (DCFS). In October 2016, the State filed a petition to terminate respondent's parental rights. In March 2017, the court found respondent unfit. The court also determined it was in the best interests of Jad. R., E.C., and I.C. that respondent's parental rights be terminated. The court did not terminate respondent's parental rights with respect to Joe R., Jor. R., and A.R.

¶ 3 On appeal, respondent argues the trial court erred in terminating her parental

rights. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In April 2015, the State filed a petition for adjudication of wardship with respect to Joe R., born in 2000; Jor. R., born in 2002; A.R., born in 2003; Jad. R., born in 2004; E.C., born in 2007; and I.C., born in 2013. The petition alleged the minors were neglected pursuant to section 2-3(1) of the Juvenile Court Act of 1987 (705 ILCS 405/2-3(1) (West 2014)) because they were not receiving the proper or necessary support, education, or medical care necessary for their well-being. The petition also alleged the minors were living in an environment injurious to their welfare when in respondent's care because she had unresolved issues with her mental health and domestic violence and the family residence was found in an unsanitary condition. The trial court found it a matter of immediate and urgent necessity to remove the minors from the home and place temporary custody with DCFS.

¶ 6 In July 2015, the State filed its first supplemental petition for adjudication of wardship, alleging the minors were neglected because they were not receiving the proper or necessary support, education, or medical care necessary for their well-being. The petition alleged E.C., Jad. R., A.R., Jor. R., and Joe R. were chronically truant during the 2014-15 school year.

¶ 7 In November 2015, the trial court found the minors neglected based on the lack of support, education, or remedial care. The court noted the school-aged minors had been chronically truant during the school year. In its December 2015 dispositional order, the court found respondent unfit to care for, protect, train, educate, supervise, or discipline the minors and placement with her would be contrary to the health, safety, and best interests of the minors because respondent needed to engage and make substantial progress with mental-health services

and complete all other recommended services, including securing appropriate housing and income. The court adjudged the minors neglected, made them wards of the court, and placed custody and guardianship with DCFS.

¶ 8 In October 2016, the State filed a petition to terminate respondent's parental rights. The petition alleged respondent was unfit because she failed to (1) maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare (750 ILCS 50/1(D)(b) (West 2016)); and (2) make reasonable progress toward the return of the minors to the parent during any nine-month period following the adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2016)). The State specified the applicable time period ran from November 23, 2015, through August 23, 2016.

¶ 9 In March 2017, the trial court conducted the unfitness hearing. Rachel Walden, a child welfare specialist, testified respondent's initial service plan required her to complete a psychological evaluation, a domestic-violence assessment, and individual counseling. In October 2015, respondent received an unsatisfactory rating because she failed to obtain employment, did not obtain a psychiatric evaluation, was homeless, and had not completed a domestic-violence assessment. In April 2016, respondent received an unsatisfactory rating because she was inconsistent with her counseling, unemployed, had not completed parenting classes, had inappropriate housing, failed to follow through with a psychiatric evaluation, and failed to make progress on her domestic-violence assessment. Walden stated respondent was uncooperative in completing services and they "did not have a lot of positive communication."

¶ 10 In October 2016, respondent received an unsatisfactory rating because she failed to make progress with her mental-health goal, was unemployed, did not follow up with her psychiatrist, had inappropriate housing, did not complete a domestic-violence assessment, and

was uncooperative with Walden. Respondent did complete her parenting class. Respondent's visits with the children were suspended after she was "very aggressive" and "agitated." Visitation resumed in July 2015, until respondent again became "very agitated and aggressive" toward Walden.

¶ 11 On cross-examination, Walden testified respondent objected to needing any psychiatric or mental-health treatment or parenting education. Respondent also did not sign a consent for Walden to receive her medical records.

¶ 12 Darci Newton, a licensed social worker and outpatient therapist, testified she began seeing respondent in November 2015. Respondent cancelled or failed to attend 12 of 29 appointments. Newton stated respondent made "minimal progress." Newton stated respondent's ability to make progress with her mental-health issues was limited because respondent did not believe she needed counseling.

¶ 13 Respondent testified she was referred to Dr. Gil Abelita in November 2015. She tried to attend a second visit in December 2015 but was turned away because Abelita's office had not received payment for the first session. Respondent stated she was not given any alternatives to seeing Dr. Abelita.

¶ 14 Following arguments, the trial court found respondent unfit on both grounds. The court then proceeded to the best-interests hearing. Lori Hirst, a foster care therapist, testified Joe R. was diagnosed with post-traumatic stress disorder (PTSD) and made "lots of progress" in his therapy. Jor. R. was diagnosed with major depressive disorder, social anxiety disorder, and PTSD. Hirst stated Jor. R. had demonstrated "positive behavior" and made "a lot of progress" in regard to his anxiety. Jad. R. was diagnosed with an adjustment disorder and major depressive disorder. Hirst stated Jad. R. had made "fair to moderate" progress. A.R. was diagnosed with

conduct disorder. Hirst stated that although A.R. had been inconsistent with therapy sessions, she had "significantly reduced the frequency of risky behaviors." Hirst opined it would not be in the minors' best interests to return to respondent's care because of concerns about her mental health and ability to take care of them.

¶ 15 Kelsey Cushing, a caseworker, testified I.C. has behaviors that have been "difficult to manage." Her foster parents were not willing to adopt I.C., but they were willing to adopt E.C. Cushing believed it was in the minors' best interests for respondent's parental rights to be terminated because respondent "has not made the progress that would be necessary for her to properly parent the children."

¶ 16 The best-interests report indicated Joe R. lives in a foster home with Jor. R. and A.R. Jad. R. is in a specialized home, but a waiver had been submitted to place him with his three older siblings. E.C. and I.C. live together in a traditional foster home, although their foster parents were unable to provide permanency. The guardian *ad litem* opined it would not be in the best interests of Joe R., Jor. R., and A.R. to terminate respondent's parental rights because "they are best served by an independence goal." However, the guardian *ad litem* opined it would be in the best interests of Jad. R., E.C., and I.C. to terminate respondent's parental rights because "the younger three *** are all adoptable" and "they are the ones who really need the stability and the permanence and the closure."

¶ 17 After hearing arguments and recommendations, the trial court found it in the best interests of Jad. R., E.C., and I.C. that respondent's parental rights be terminated. The court found it was not in the best interests of Joe R., Jor. R., and A.R. that respondent's parental rights be terminated. This appeal followed.

¶ 18 II. ANALYSIS

¶ 19 Respondent argues the trial court's findings of unfitness were against the manifest weight of the evidence. We disagree.

¶ 20 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).

¶ 21 In the case *sub judice*, the trial court found respondent unfit for failing to maintain a reasonable degree of interest, concern, or responsibility as to the welfare of the minors. Before finding a parent unfit under section 1(D)(b) of the Adoption Act (750 ILCS 50/1(D)(b) (West 2016)), the court must "examine the parent's conduct concerning the child in the context of the circumstances in which that conduct occurred." *In re Adoption of Syck*, 138 Ill. 2d 255, 278, 562 N.E.2d 174, 185 (1990). Circumstances to consider may include the parent's difficulty in obtaining transportation to the child's residence, the parent's poverty, the actions or statements of others hindering or discouraging visitation, "and whether the parent's failure to visit the child was motivated by a need to cope with other aspects of his or her life or by true indifference to, and lack of concern for, the child." *Syck*, 138 Ill. 2d at 279, 562 N.E.2d at 185.

¶ 22 "The parent may be found unfit for failing to maintain either interest, or concern, or responsibility; proof of all three is not required." *Richard H.*, 376 Ill. App. 3d at 166, 875 N.E.2d at 1202. Moreover, "a parent is not fit merely because she has demonstrated some interest or affection toward her child; rather, her interest, concern and responsibility must be reasonable." *In re Jaron Z.*, 348 Ill. App. 3d 239, 259, 810 N.E.2d 108, 125 (2004).

¶ 23 The evidence indicated respondent consistently received unsatisfactory ratings on her service plan goals. At the October 2015 review of her service plan, Walden found respondent failed to obtain employment, was homeless, and had not completed a domestic-violence assessment. In April 2016, Walden noted respondent had been inconsistent with her counseling, was unemployed, had inappropriate housing, and failed to make progress on her domestic-violence assessment. "Completion of service plan objectives can *** be considered evidence of a parent's concern, interest, and responsibility." *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1065, 859 N.E.2d 123, 135 (2006). Here, the evidence indicated respondent failed to complete her service plan goals. Moreover, respondent failed to sign consent forms to release her medical records from her primary doctor, did not want to take her medication, and did not believe she needed to undergo counseling.

¶ 24 Considering respondent's failure to complete her service plan goals, we find the trial court's finding of unfitness under section 1(D)(b) was not against the manifest weight of the evidence. See *Jaron Z.*, 348 Ill. App. 3d at 260, 810 N.E.2d at 125 (noting the failure to comply with a service plan can warrant a finding of unfitness under section 1(D)(b)). Because the grounds of unfitness are independent, we need not address the reasonable-progress ground. See *In re H.D.*, 343 Ill. App. 3d 483, 493, 797 N.E.2d 1112, 1120 (2003) ("As the grounds for unfitness are independent, the trial court's judgment may be affirmed if the evidence supports the

finding of unfitness on any one of the alleged statutory grounds."). 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.

¶ 25 III. CONCLUSION

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

¶ 27 Affirmed.