2017 IL App (5th) 160432-U

NO. 5-16-0432

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

In re L.K., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Montgomery County.
	)	
Petitioner-Appellee,	)	
	)	
v.	)	No. 13-JA-1
	)	
Matthew K.,	)	Honorable
	)	Douglas L. Jarman,
Respondent-Appellant).	)	Judge, presiding.

JUSTICE CATES delivered the judgment of the court.
Justices Goldenhersh and Barberis concurred in the judgment.

ORDER

¶ 1 *Held*: Trial court properly terminated father's parental rights despite father's antisocial personality disorder, a disorder which did not prevent him from maintaining a reasonable degree of interest, concern or responsibility as to the child's welfare.

¶ 2 On January 2, 2013, the People of the State of Illinois (the State) filed a petition for adjudication of wardship of the minor child L.K., born September 10, 2012, to respondent, Matthew K., the biological father (Father), and to the biological mother who is not a party to this appeal. According to the petition, L.K. was neglected pursuant to section 2-3 of the Juvenile Court Act of 1987 (the Act) (705 ILCS 405/2-3 (West 2012)),

because his environment was injurious to his welfare. A shelter care hearing was heard the same day, and temporary custody of L.K. was given to the Illinois Department of Children and Family Services (DCFS).

¶ 3 On May 29, 2013, a hearing on the petition for adjudication of wardship was held, and the court entered an order adjudicating L.K. as a neglected minor. A service plan was instituted for Father which included participation in parenting classes, mental health and individual counseling, and domestic violence/anger management assessments. On December 4, 2013, and June 4, 2014, permanency hearings were held pursuant to section 2-28 of the Act (705 ILCS 405/2-28 (West 2012)). It was revealed during these hearings that Father was rated unsatisfactory on the completion of his service plans. It was also noted that his visits with L.K. were sporadic, with a period of almost eight months between visits at one point in time. In addition, he had pending criminal charges against him, as well as an order of protection entered on behalf of L.K.'s mother.

¶ 4 On September 3, 2014, the State informed the court that they were seeking to change the goal for Father to substitute care pending termination of parental rights. On January 26, 2015, the court entered a permanency order changing the goal to substitute care pending determination of termination of parental rights. Father appealed the order, but this court denied his appeal on July 22, 2015. See *In re L.K.*, 2015 IL App (5th) 150051-U. Father failed to substantially complete or attend any additional services once the case was remanded, and his visitation continued to remain sparse at best. On September 14, 2016, the court held a fitness hearing and determined that Father was found by clear and convincing evidence to be an unfit person as alleged in the State's

second amended petition for termination of rights. The court then proceeded to a hearing on the best interests of the minor child as to whether Father's parental rights should be terminated. Father failed to appear at either hearing. Father's rights were subsequently terminated on September 14, 2016, and the court issued an amended order on September 29, 2016, reflecting its rulings of September 14, 2016. Father now appeals the termination of his parental rights. Father argues on appeal that the trial court failed to give his antisocial personality disorder appropriate weight in determining whether his failure to cooperate with DCFS, as well as the failure to complete his service plans, justified the termination of his parental rights. He asserts his psychological condition affected his ability to work with DCFS, as well as following through on his service plans, but his condition does not affect his ability to parent L.K. He contends the court erred in entering an order terminating his parental rights. We affirm.

¶ 5 Section 2-29 of the Juvenile Court Act sets forth a two-step process for the involuntary termination of parental rights. 705 ILCS 405/2-29(2) (West 2012). The court must first find, by clear and convincing evidence, that a parent is an unfit person as defined in the Adoption Act (750 ILCS 50/1 *et seq.*). *In re J.L.*, 236 Ill. 2d 329, 337, 924 N.E.2d 961, 966 (2010); *In re D.T.*, 212 Ill. 2d 347, 352-53, 818 N.E.2d 1214, 1220 (2004). Once a finding of parental unfitness is made, the court must then determine whether the State has proven, by a preponderance of the evidence, that it is in the best interest of the child that the parental rights be terminated. *In re D.T.*, 212 Ill. 2d at 367, 818 N.E.2d at 1228. See also *In re M.I.*, 2016 IL 120232, ¶ 20. A trial court's determination of parental unfitness involves factual findings and credibility assessments

it is in the best position to make. *In re M.J.*, 314 Ill. App. 3d 649, 655, 732 N.E.2d 790, 795 (2000). On review, we as the appellate court are to accord great deference to these factual findings and credibility determinations. *In re M.J.*, 314 Ill. App. 3d at 655, 732 N.E.2d at 795. Accordingly, a trial court's finding that termination of parent's rights is in the child's best interests will not be reversed on appeal unless it is against the manifest weight of the evidence. *In re Davon H.*, 2015 IL App (1st) 150926, ¶ 79, 44 N.E.3d 1144.

¶ 6 Here the trial court found Father to be an unfit parent because of his failure to make reasonable progress toward the return of the child during any nine-month period following adjudication, and for failing to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare. The record clearly reveals Father's lack of progress and efforts in his attempts to complete the objectives of his service plans to the point of having to repeat several of the plans already completed, such as the one for drug abuse. His lack of interest was clearly evident by his failure to be present for the last two hearings pertaining to his fitness as a parent. More importantly, his visitation with L.K. was sporadic at best, with long periods of time in between visits, in spite of being offered transportation. Under the circumstances presented, we cannot say the court erred in concluding that Father was unfit as a parent, and that it was in L.K.'s best interests that Father's parental rights be terminated and the foster parents be allowed to adopt. The child had already been in foster care for 3½ years, and was in need of permanency in his young life. Father had had more than enough time to try and cooperate with the recommended services and to attend visits with his child. To allow

Father to retain parental rights indefinitely because of his inability to work with DCFS and the court system frustrates the purpose of the Juvenile Court Act. While, as Father suggests, his psychological condition may not prevent him from parenting, his lack of consistent visitation with L.K. certainly evidences his failure to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare. Based on the evidence, it was in the best interest and welfare of L.K., and the public, that Father's parental rights be terminated. We cannot say under the circumstances presented that the court's determination was against the manifest weight of the evidence.

¶ 7 For the foregoing reasons, we affirm the judgment of the circuit court of Montgomery County.

¶ 8 Affirmed.