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2018 IL App (3d) 170653-U

Order filed February 21, 2018

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

2018

<i>In re</i> A.P.,	)	Appeal from the Circuit Court
	)	of the 12th Judicial Circuit,
a Minor	)	Will County, Illinois,
	)	
(The People of the State of Illinois,	)	
	)	
Petitioner-Appellee,	)	Appeal No. 3-17-0653
	)	Circuit No. 15-JA-149
v.	)	
	)	
Stacey P.,	)	Honorable
	)	Paula A. Gomora,
Respondent-Appellant).	)	Judge, Presiding.

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JUSTICE HOLDRIDGE delivered the judgment of the court.  
Justices Schmidt and Wright concurred in the judgment.

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**ORDER**

- ¶ 1       *Held:* The trial court properly determined that (1) the respondent was unfit to parent A.P. and (2) A.P.'s best interest favored terminating her parental rights.
- ¶ 2       On August 22, 2017, the trial court found the respondent, Stacey P., unfit to parent her child A.P. (born October 2014). Following a best interest hearing, the court entered an order terminating the respondent's parental rights. The respondent appeals.

¶ 3

## FACTS

¶ 4

The respondent gave birth to A.P. in October 2014, and it was reported to the Department of Children and Family Services (DCFS) that the respondent and A.P. both tested positive for cocaine. In November 2014, the respondent was referred to Stepping Stones for a drug treatment program. She was unsuccessful at this attempt at rehabilitation.

¶ 5

On September 4, 2015, the respondent was referred to in patient treatment at Stepping Stones. She completed in patient treatment and began the women's extended care program.

¶ 6

On October 28, 2015, the State filed a petition alleging neglect by the respondent and Bobby P. (the biological father) based on the presence of cocaine found in A.P.'s system at birth.

¶ 7

On January 5, 2016, the trial court held a shelter care hearing. The respondent and Bobby P. stipulated that there was an immediate and urgent need for shelter care. Based on this stipulation, the court found probable cause to believe that A.P. was neglected, as she was exposed to a controlled substance at birth. The court admonished the respondent and Bobby P. that they should cooperate with DCFS or risk termination of their parental rights.

¶ 8

On March 24, 2016, the court held an adjudicatory hearing on the neglect petition. The respondent and Bobby P. stipulated to the neglect petition in that A.P. was exposed to a controlled substance at birth, resulting in an environment injurious to A.P.'s health. The court again warned the respondent and Bobby P. that their parental rights would be terminated for failure to correct conditions that placed A.P. at risk.

¶ 9

On May 4, 2016, the court held a dispositional hearing. The State offered into evidence a dispositional report and the service plan. The State reported that the respondent completed in patient treatment, complied with after care treatment, complied with random drug tests, and was taking classes to obtain her GED. The respondent needed to participate in family and individual

counseling services, maintain visitation with A.P., and attend parenting classes. The court found that the respondent unable to care for, protect, train, or discipline A.P. The court found that the respondent and Bobby P. were actively engaged in services, but had not yet completed them. The court removed guardianship and custody from the respondent and Bobby P. and again admonished them that compliance with the service plan was crucial to returning A.P. to their care, and if they did not comply, they risked having their parental rights terminated. The court made A.P. a ward of the court and the new goal was for A.P. to return home in 12 months.

¶ 10 On August 2, 2016, the court held a permanency review hearing. It was reported that the respondent had a positive drug screen and was recently released from detox. She was scheduled to return to Stepping Stones for an assessment and apologized to the court for her relapse. Reports filed by Court Appointed Special Advocates (CASA) and Lutheran Child and Family Services stated that visitation for both parents was sporadic, as they “either do not attend visits, come late, or leave early.” The court noted, “both parents were rated unsatisfactory towards progress for return home.”

¶ 11 On November 18, 2016, the respondent tested positive for cocaine and heroin.

¶ 12 On February 7, 2017, the court was advised that the respondent was in jail for retail theft. The goal was changed to substitute care pending court determination.

¶ 13 On February 10, 2017, the State filed a petition to terminate parental rights. The petition alleged that the respondent (1) failed to maintain a reasonable degree of interest, concern, and responsibility as to A.P.’s welfare (750 ILCS 50/1(D)(b) (West 2016)); (2) failed to make reasonable efforts to correct the conditions which were the basis for the removal of A.P. between March 2016 and December 2016 (750 ILCS 50/1(D)(m)(i) (West 2016)); (3) failed to make reasonable progress toward the return of A.P. within nine months (March 2016 to December

2016) after an adjudication of neglected or abused minor (750 ILCS 50/1(D)(m)(ii) (West 2016)); and (4) had a habitual addition to drugs, other than those prescribed by a physician, for at least one year immediately prior to the commencement of the unfitness proceeding (750 ILCS 50/1(D)(k) (West 2016)).

¶ 14 On March 9, 2017, the court was advised that the respondent was in treatment and recently obtained employment.

¶ 15 On August 22, 2017, the court held a hearing on the State's petition to terminate parental rights. The State amended its petition by striking the fourth basis to terminate parental rights that alleged the respondent had a habitual addiction to drugs.

¶ 16 Cheryl Jones, a caseworker from Lutheran Children and Family Services, testified that she was assigned to A.P.'s case in January 2016. She met with the respondent and Bobby P. in January 2016 for their first administrative case review meeting and provided them with the service plan. The plan recommended that the respondent engage in substance abuse treatment, comply with random drug screens, engage in counseling, engage in parenting classes, obtain stable housing, obtain steady employment, and maintain interest in A.P. At the time of the initial meeting, the respondent was engaged in treatment at Stepping Stones. Jones testified that the respondent was transferred from Stepping Stones to the Family Guidance Center. Although the respondent successfully completed treatment at the Family Guidance Center, she did not successfully complete the stay because she was unsuccessfully discharged for noncompliance with her program and substance diversion in May 2016. Jones testified that an empty bottle of methadone was found in the respondent's car and the respondent was in a methadone program.

¶ 17 Jones opined that until the respondent's drug addiction was overcome, she would not be able to address other issues in her case such as housing and employment. Between March 2016

and December 2016, the respondent did not provide proof of employment or a source of income. The respondent did not maintain consistent visitation with A.P. and she did not attend all of the administrative case review meetings in 2016. However, she did complete parenting classes and attend a detox program in July 2016. Jones also testified, that during July 2016 and August 2016, the respondent did not have stable housing. The respondent did not maintain consistent contact with the agency and did not keep them informed as to where she resided and that she was homeless and living out of her car at one point. Additionally, she was inconsistent with supervised visitation, but she would call to ask about A.P. The respondent missed or delayed drug screens. On November 18, 2016, the respondent tested positive for cocaine and heroin. Jones rated the respondent unsatisfactory.

¶ 18 The respondent testified that she was released from jail in February 2017 and she obtained employment as a Certified Nursing Assistant. She testified that she successfully completed outpatient treatment at Stepping Stones and parenting classes. At the time of her testimony, she lived with her husband, Bobby P., in a duplex in Joliet, Illinois. She testified that she had been sober for eight months and would like to have A.P. back.

¶ 19 The court noted that the respondent was required to obtain a drug assessment and follow the recommendations, submit to random drug screens, and participate in an outpatient drug treatment program. The court found that the respondent completed inpatient treatment that was transferred into the woman's extended program and sought treatment from The Family Guidance Center's methadone program. The court also found that the respondent was required to participate in counseling, visit A.P., maintain contact with her caseworker, attend parenting classes, maintain employment, and find appropriate housing.

¶ 20 The court found that the respondent was unsatisfactorily discharged from Family

Guidance in June 2016 and she was not participating in a substance abuse program as recommended. The respondent failed to show up for a drug screen on July 13, 2016, and she was living in her car. The respondent failed to keep her caseworker informed, she did not find employment, she failed to maintain sobriety, and she either missed her visits with A.P. or left early. Regarding the service plan from July 2016 to January 2017, the court found that the respondent failed to obtain housing and employment, she was incarcerated, and she tested positive for cocaine and heroin in November 2016.

¶ 21 The court concluded that visitation was always supervised for the duration of the case and the respondent only recently found employment and engaged in substance abuse treatment. The respondent did not comply with the service recommendations between March 2016 and December 2016. Additionally, at the end of the nine-month period, the respondent relapsed and tested positive for cocaine and heroin. For those reasons, the court found the respondent unfit.

¶ 22 Next, the court proceeded to the best interest hearing. Deborah (Debra) D., A.P.'s foster mother and Bobby. P.'s maternal aunt, testified. Debra testified that she and her husband, Larry D., had been A.P.'s foster parents since June 2015. She stated that they have a great relationship with A.P. and want to adopt her. A.P. had her own bedroom and all the clothing, toys, and essentials that she needed. Debra made sure that A.P. attended all of her doctor's appointments. When Debra and Larry worked, Debra's sister cared for A.P., with the exception of one day a week, when A.P. would go to daycare. Debra described her relationship with A.P. as "wonderful" and very close. A.P. refers to Debra and Larry as "mommy" and "daddy" and seeks them for comfort and care. Debra and Larry wish to adopt A.P. and stated that they would permit A.P. to visit with her natural parents and grandparents. Debra stated that A.P. knows the

respondent and will talk about her, especially after a visit. However, she did not express sadness when the respondent would leave.

¶ 23 Kaitlin Nolan, a case supervisor for CASA, also testified. She observed A.P. in Debra and Larry’s home and noted that they had a loving relationship with A.P. and they clearly bonded. She opined that it was in A.P.’s best interest to be adopted by Debra and Larry. Nolan also noted that the respondent’s visits were appropriate and she was engaged with A.P.

¶ 24 Last, the respondent testified. She stated that she love her daughter. The respondent also stated that she could provide a stable home for A.P. and provide for her medical and emotional needs. She also stated that she was sober and intended to remain sober.

¶ 25 After hearing arguments, the court noted that the respondent had three years to take responsibility over the welfare of A.P. The court explained, that despite positive strides the respondent made in 2017, the focus was on A.P.’s best interests. The court noted that A.P. had been out of the respondent’s custody for a long time and that for each day the respondent did not engage in services “is a lifetime for a child.” The court found that A.P.’s best interest required the stability and permanency that she had come to know over the past several years. The court terminated the respondent’s parental rights. The respondent appeals.

¶ 26 ANALYSIS

¶ 27 On appeal, the respondent argues that the trial court’s (1) finding that she was unfit was against the manifest weight of the evidence and (2) decision to terminate her parental rights was an abuse of discretion. The State argues that the trial court’s decisions were proper.

¶ 28 The involuntary termination of parental rights is a two-step process. See 705 ILCS 405/2-29 (West 2016). First, the State must prove by clear and convincing evidence that the parent is “unfit” as defined in section 1(D) of the Adoption Act. *In re Tiffany M.*, 353 Ill. App. 3d 883,

889 (2004). Second, if the court finds that a parent is “unfit” within the meaning of section 1(D) of the Adoption Act, the court must then determine whether the child’s best interest favors terminating parental rights. *In re J.L.*, 236 Ill. 2d 329, 337-38 (2010).

¶ 29

#### I. Fitness

¶ 30

A trial court’s fitness determination will only be reversed if the trial court’s findings of fact were against the manifest weight of the evidence. *In re C.N.*, 196 Ill. 2d 181, 208 (2001). A finding is against the manifest weight of the evidence when an opposite conclusion is clearly evident. *In re A.W.*, 231 Ill. 2d 92, 102 (2008). A reviewing court will not overturn a trial court’s findings merely because it would have reached a different result. *In re K.B.*, 2012 IL App (3d) 110655, ¶ 23.

¶ 31

In this case, the trial court found that the respondent was unfit on three grounds: (1) she failed to maintain a reasonable degree of interest, concern, and responsibility as to A.P.’s welfare (750 ILCS 50/1(D)(b) (West 2016)); (2) she failed to make reasonable efforts to correct the conditions which were the basis for the removal of A.P. between March 2016 and December 2016 (750 ILCS 50/1(D)(m)(i) (West 2016)); and (3) she failed to make reasonable progress toward the return of A.P. within nine months (March 2016 to December 2016) after an adjudication of neglected or abused minor (750 ILCS 50/1(D)(m)(ii) (West 2016)).

¶ 32

First, the respondent argues, that despite her relapse in November 2016, she made reasonable progress toward the return of A.P. between March 2016 and November 2016 because she engaged in drug treatment, attended parenting classes, and participated in counseling. She contends that she is an addict and relapse is part of her recovery process. The State argues that the trial court’s finding of unfitness on this ground was proper.

¶ 33

Reasonable progress is judged by an objective standard based upon the amount of



progress measured from the conditions existing at the time custody was taken from the parent. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1067 (2006). The benchmark for measuring a parent's reasonable progress under section 1(D)(m) of the Adoption Act encompasses the parent's compliance with the service plans and court's directives in light of the condition that gave rise to the removal of the child and other conditions which later become known that would prevent the court from returning custody of the child to the parent. *C.N.*, 196 Ill. 2d at 216-17. Reasonable progress exists when the trial court can conclude that it will be able to order the minor returned to parental custody in the near future. *In re J.H.*, 2014 IL App (3d) 140185, ¶ 22. Failure to make reasonable progress toward the return of the minor includes the parent's failure to substantially fulfill his or her obligations under the service plan and correct the conditions that brought the child into care. *C.N.*, 196 Ill. 2d at 217.

¶ 34 This case was initiated when A.P. was born in October 2014 with cocaine in her system. The predominant issue throughout this case was the respondent's drug addiction. The service plan dated February 8, 2016, which was in effect during this nine-month period, recommended substance abuse treatment, random drug screens, counseling, parenting classes, stable housing, steady employment, and that she maintain interest in A.P. The record demonstrates that the respondent did not successfully complete the majority of these items.

¶ 35 The evidence in this case shows, that during the nine-month period, the respondent (1) was removed from a treatment program for substance diversion around June 2016, (2) failed to provide proof of employment and income, (3) did not maintain consistent visitation with A.P. but did call to ask about A.P., (4) missed administrative case review meetings, (5) successfully completed parenting classes and participated in counseling, (6) lacked stable housing between July 2016 and August 2016, (7) failed to keep the agency informed about her housing situation,

(8) delayed drug screens, and (9) tested positive for cocaine and heroin in November 2016.

¶ 36 This evidence demonstrates that the respondent failed to make reasonable progress toward the return of A.P. because she failed to fulfill her obligations under the service plan and correct the conditions that brought A.P. into care. Although the respondent did take positive steps toward the return of A.P. during this nine-month period, such as completing parenting classes, participating in counseling, and engaging in substance abuse treatment, these acts do not negate the pattern of the respondent's behavior in direct contradiction of the service plan and her ability to correct the conditions that brought A.P. into care. Accordingly, the trial court's fitness finding was not against the manifest weight of the evidence. Since this court determined that the record contains sufficient evidence to satisfy one statutory ground of unfitness, we need not address the trial court's other findings of unfitness. *In re Shanna W.*, 343 Ill. App. 3d 1155, 1168 (2003).

¶ 37 **II. Best Interest**

¶ 38 Once the trial court finds the parents unfit, all further considerations must yield to the child's best interest. *In re D.M.*, 298 Ill. App. 3d 574, 581 (1998). In this case, the court determined that A.P.'s best interest favored terminating the respondent's parental rights.

¶ 39 The respondent argues that the trial court *abused its discretion* when it terminated her parental rights. The State argues that the court's best interest determination was not against the manifest weight of the evidence. We must clarify our standard of review. A reviewing court reviews a trial court's best interest determination under the manifest weight of the evidence standard. *In re D.T.*, 212 Ill. 2d 347, 357 (2004). Only a trial court's evidentiary rulings during a best-interest hearing are reviewed for an abuse of discretion. See *id.* Since the respondent only challenges the court's best interest determination, we must decide whether that decision was

against the manifest weight of the evidence. We reiterate that a finding is against the manifest weight of the evidence when an opposite conclusion is clearly evident. *A.W.*, 231 Ill. 2d at 102.

¶ 40 In making a best interest determination, the trial court must consider the following factors in the context of the child's age and developmental needs: the child's physical safety and welfare; development of the child's identity; the child's background; the child's attachments; the child's wishes and long-term goals; the child's community ties; the child's needs for permanence; the uniqueness of every family and child; the risks inherent to substitute care; and the preferences of the people available to care for the child. 705 ILCS 405/1-3(4.05) (West 2016). It is not in any child's best interest to remain without a permanent home for an extended period of time. *In re D.L.*, 191 Ill. 2d 1, 13 (2000).

¶ 41 Debra, A.P.'s foster mother, testified at the August 2017 best interest hearing that she and Larry had been the foster parents for A.P. since June 2015. A.P. had her own bedroom and all the clothing, toys, and essentials that she needed. A.P. was almost three years old at this time and did not have any special needs. When Debra and Larry worked, Debra's sister cared for A.P., with the exception of one day a week, when A.P. would go to daycare where she would interact with other children her age. Debra described her relationship with A.P. as "wonderful" and very close. A.P. refers to Debra and Larry as "mommy" and "daddy" and seeks them for comfort and care. Debra and Larry wanted to adopt A.P. and stated that they would permit A.P. to visit with her natural parents and grandparents.

¶ 42 Nolan, the CASA supervisor, testified she observed A.P. in Debra and Larry's home. She stated that A.P. had a very loving relationship with Debra and Larry and clearly bonded with them. If A.P. needed anything, she would go to Debra and Larry. Nolan opined that it was in A.P.'s best interest to be adopted by them.

¶ 43 The respondent testified that she loved A.P. and wished to have her back. She stated that she could provide A.P. with a stable home and financial support and meet her medical needs. She also stated that she intended to remain clean and sober. The evidence presented demonstrated that A.P. knows the respondent and will talk about her, especially after a visit. However, she did not express sadness when the respondent would leave.

¶ 44 The trial court noted that the respondent had three years to take responsibility of the welfare of A.P. and was just starting to turn her life around at the time of the best interest hearing. Although the respondent demonstrated that she was making positive strides, her efforts were too late. The court also noted that A.P. was born in 2014 and had been out of the respondent's care for a long time. A.P. had stability and permanency in her new life that she adjusted to over the past two years. A.P. was in a stable, secure, and loving home with a strong attachment for Debra and Larry. Nolan reiterated this attachment and recommended that Debra and Larry adopt A.P. Based on the record before us, the trial court's best interest determination was not against the manifest weight of the evidence.

¶ 45 Accordingly, we agree with the trial court that A.P.'s best interest favored terminating the respondent's parental rights.

¶ 46 CONCLUSION

¶ 47 The judgment of the circuit court of Will County is affirmed.

¶ 48 Affirmed.