2018 IL App (4th) 170540-U

NO. 4-17-0540

FILED
February 8, 2018
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re B.M., Minor,	)	Appeal from
	)	Circuit Court of
(The People of the State of Illinois,	)	Mason County
Petitioner-Appellee,	)	No. 15JA5
v.	)	
Morgan Kuda,	)	Honorable
Respondent-Appellant).	)	Alan D. Tucker,
	)	Judge Presiding

JUSTICE KNECHT delivered the judgment of the court.
Justices Holder White and DeArmond concurred in the judgment.

ORDER

¶ 1 *Held*: (1) The trial court did not err in finding respondent an unfit parent.

(2) The trial court did not err in finding termination of respondent's parental rights was in the minor's best interest.

(3) Respondent has not shown she was denied the effective assistance of counsel.

¶ 2 Respondent mother, Morgan Kuda, appeals the orders finding her an unfit parent and terminating her parental rights to B.M. (born August 22, 2014). We affirm.

¶ 3 I. BACKGROUND

¶ 4 In February 2015, the State filed a petition for adjudication of wardship on behalf of B.M. According to the petition, B.M. was neglected and abused while living with respondent and B.M.'s father, Aaron Maberry, who is not a party to this appeal. The petition states B.M.'s

parents created a substantial risk of physical injury to B.M. in that they frequently cursed and screamed at each other and at B.M. Aaron had anger-control issues that manifested in domestic violence toward respondent and aggression toward B.M., and the parents failed to abide by a safety plan put into place when they removed the minor without permission from the supervisor. The petition further states B.M. was not receiving the proper care necessary for her well-being, as the parents were homeless and frequently occupied a trailer that reeked of feces, "[was] extremely dirty and unsanitary," and lacked running water. The petition asserts B.M. was fed in a walker that had a tray filthy with dried food. The parents admitted all allegations in the petition, except the allegation B.M. ate from the filthy tray. Pursuant to stipulation, B.M. was found neglected or abused.

¶ 5 On April 1, 2015, the Illinois Department of Children and Family Services (DCFS) initiated a family service plan. In the plan, DCFS reported respondent had been diagnosed with bipolar disorder but was not taking medication. According to the report, when a DCFS investigator entered the trailer on February 23, 2015, and found the unsuitable living conditions, the parents reported B.M. did not live in the trailer but spent most of the time with Sarah Picken and her husband, who resided in a neighboring trailer. DCFS learned from the Havana police department, there was a history of domestic-violence calls involving respondent and Aaron. Initially, DCFS arranged for B.M. to remain in her parents' custody so long as Sarah and her husband monitored the plan and did not allow unsupervised contact with B.M. On February 25, 2015, Sarah informed DCFS respondent and Aaron left with B.M. Protective custody was taken of B.M.

¶ 6 On April 21, 2015, the Center for Youth and Family Services (CYFS) filed a

dispositional hearing report. According to CYFS, respondent's criminal record included a conviction for aggravated battery causing bodily harm. She was sentenced to probation, which she completed in April 2015. CYFS reported respondent's family history. When respondent was approximately three years old, she was removed from her home due to domestic violence between her parents. At age four or five, respondent was adopted by her paternal grandmother. She remained in that home until she was 13, when she was removed due to environmental neglect. Respondent was adopted by nonrelatives, with whom she lived until she was 18.

¶ 7 According to the dispositional-hearing report, Aaron, in September 2014, was arrested for punching respondent on her head at a community festival. Respondent initially denied experiencing domestic violence in her relationship with Aaron, but she acknowledged throwing objects at Aaron during verbal conflicts.

¶ 8 The report summarized respondent's progress with the service-plan goals. Respondent attended a parenting class and was aware she needed to provide a certificate of completion. Respondent was following up with a psychiatrist to receive medication to treat her bipolar disorder. Respondent participated in visits and was engaged with B.M. throughout those visits.

¶ 9 On April 28, 2015, the trial court entered its dispositional order, finding the parents unfit and unable to care for B.M. The court cited the CYFS report as the basis for its order. The court adjudicated B.M. neglected and placed guardianship and custody of B.M. with DCFS. The court set the goal of return home in 12 months.

¶ 10 In October 2015, CYFS filed a permanency hearing report, reviewing respondent's progress. Kristy Cosby, a caseworker at CYFS, stated during the reporting period,

the case had been assigned to three different caseworkers due to employment turnover within the agency. Cosby became the caseworker in September 2015. Respondent struggled with the transition from each caseworker, needing time to build trust. During the transition, respondent appeared uncooperative. Cosby reported first meeting with respondent and Aaron on October 8, 2015. Cosby mentioned changing locations of the visits. Respondent resisted the change. Respondent appeared agitated after the conversation and ignored Cosby during the meeting. Respondent moved tables to avoid sitting by Cosby and refused to answer questions directed at her.

¶ 11 As to the goal of maintaining safe and appropriate housing and a legal means of income, Cosby reported the previous caseworker stated the home in Havana was not appropriate. Aaron reported the two were residing with a couple in Galesburg, Illinois. They planned to move when Aaron found employment. Respondent was unemployed. She and Aaron had worked for a carnival company, but no carnivals were scheduled at that time. Respondent had been attending Havana High School. As of September 25, 2015, due to 10 consecutive unexcused absences, respondent was considered a dropout. Respondent was 2.5 credits from graduating.

¶ 12 Cosby reported regarding the goal of completing domestic-violence classes, Aaron stated respondent completed anger-management services. When asked directly if she completed the services, respondent refused to respond to Cosby. The record contained a December 2014 certificate of completion for a violence education class, completed before the parents' involvement with DCFS. Cosby opined respondent was not demonstrating skills learned at the class. Police reported five incidents involving reports of arguments, "domestic troubles," and stalking. Another incident involved a physical altercation between respondent and a female

in June 2015.

¶ 13 According to Cosby, respondent attended the visits with B.M. Respondent appeared to be bonded with her daughter, playing with, feeding, and changing her. Cosby opined respondent appeared to have adequate parenting skills.

¶ 14 On October 27, 2015, the trial court concluded the appropriate permanency goal was to return home within 12 months. The court found respondent made reasonable efforts toward returning B.M. home.

¶ 15 In May 2016, CYFS filed a permanency hearing report, authored by Cosby and Shannon Rutherford. Rutherford, from the Rock Island office, reported she took over the case from Cosby in December 2015. Rutherford reported having built a rapport with respondent and Aaron. Both were cooperative and communicated effectively with her. Rutherford reported respondent and Aaron rented a room in Lynn Center, Illinois. The home was not a return-home option as the roommate had a criminal history, and he was a registered sex offender. The parents reported, in April 2016, finding a trailer in Kewanee, but they had not looked at it. The worker was to complete a home safety check to determine if it was a viable option. Respondent stated she worked part-time at a McDonalds in Geneseo, but she did not provide proof of employment.

¶ 16 In the May 2016 report, Rutherford stated the parents were referred for parenting classes in December 2015. Respondent attended two classes. In February 2016, respondent complained about the instructor and did not want to return to classes. The parents begin receiving parenting education during counseling at CYFS. They had three classes remaining to complete the goal. The counselor reported the two were doing well. Regarding anger-management and domestic-violence treatment, respondent began sessions in April 2016 with her counselor. No

domestic-violence incidents had been reported in the reporting period. Respondent was to complete a mental-health assessment. Respondent attended the visits with B.M. and continued to demonstrate adequate parenting skills.

¶ 17 At the end of the report, CYFS concluded the parents made minimal progress. The parents only began making progress in April 2015. They did not provide pay stubs. No services had been completed. The two resided in a home inappropriate for returning B.M. The trial court changed the permanency goal to return home pending status hearing.

¶ 18 On November 9, 2016, CYFS filed a permanency hearing report authored by Rutherford. As of this date, respondent was uncooperative with Rutherford. At times, respondent did not have a working phone and caseworkers were unable to reach her. Respondent missed scheduled appointments with Rutherford, as well as appointments with her counselor. The parents continued to reside in the room in Lynn Center with the registered sex offender. The trailer in Kewanee was not an option, as respondent did not finish necessary repairs to the home and there was a burglary incident that made respondent fearful to return. The parents reported in October 2016 their plan to move to Missouri to reside with respondent's father. Respondent's employment with McDonalds in Geneseo ended due to unexcused absences. Respondent was unemployed. Both parents stopped engaging in counseling. Respondent did not complete the mental-health assessment. Respondent continued to visit consistently with B.M. The two were bonded, and respondent's parenting skills were adequate. CYFS recommended the goal be changed to substitute care pending court determination of parental rights.

¶ 19 In November 15, 2016, the State petitioned for the termination of Aaron's and respondent's parental rights. The State alleged respondent was an unfit parent in that she failed to

(1) make reasonable efforts to correct the conditions that were the basis of B.M.'s removal from her home (750 ILCS 50/1(D)(m)(i) (West 2016)); and (2) maintain a reasonable degree of interest, concern, or responsibility as to B.M.'s welfare (750 ILCS 50/1(D)(b) (West 2016)). On March 30, 2017, the State filed an amended petition to terminate the parents' parental rights, adding the allegation Aaron failed to make reasonable progress toward the B.M.'s return during any nine-month period after the end of the initial nine-month period following the adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2016)).

¶ 20 In May 2017, the trial court held a hearing on the State's allegations of parental unfitness. The State's first witness was Cosby. Cosby testified she was assigned as the family's caseworker in September 2015. Cosby remained B.M.'s caseworker until she left the agency in June 2016. In January 2016, the parents were assigned a different caseworker.

¶ 21 According to Cosby, she authored a report for the trial court in October 2015. The service plan at that time was for both parents to complete parenting classes. Respondent was to complete anger-management classes. Both were required to obtain adequate housing and employment. Cosby, who was not the caseworker at the beginning of the case, was uncertain the specific reason anger-management was recommended for respondent. Cosby, however, recalled multiple instances where respondent yelled at her in conversation. As of October 2015, the parents reported they completed parenting classes, but Cosby had not received certification from the agency. The agency reported the parents had not attended all of the parenting classes and had not completed the course. Respondent had completed the anger-management classes required through probation, but additional classes were recommended.

¶ 22 Cosby opined no progress was made as of that time. As to the parents' efforts,

Cosby reported the parents moved from Havana to Lynn Center to gain employment and remove themselves from bad influences. Aaron and respondent moved in with Ryan Muhleman, stating they intended to stay with him a short time. Muhleman was a registered sex offender.

¶ 23 Cosby testified regarding her May 2016 report. At the time of this report, respondent and Aaron continued to reside with Muhleman. Respondent and Aaron were informed B.M. could not be returned to them at that home. As of January 2016, respondent had not completed parenting classes. Despite respondent's reporting she completed the course, Cosby learned she had two to three lessons remaining. Respondent was given the option to complete the classes in Pekin, Illinois, where they started, or begin new parenting classes in Rock Island or at another agency that was closer. Respondent opted to restart parenting classes.

¶ 24 Cosby stated respondent regularly attended the visits with B.M. Respondent fed B.M. and changed her diaper. Respondent expressed no anger toward B.M. during visits. B.M. was healthy and bonded to respondent. At no time while Cosby was the caseworker did respondent call to check on B.M.'s status or well-being. Once Cosby was called after the case was transferred to Rutherford in Rock Island, as the parents wanted to remove B.M. from her foster placement to one closer to where they lived.

¶ 25 Rutherford, an intact and foster-care worker for CYFS in Rock Island, testified she was the caseworker for the parents from December 2015 until the end of November 2016. Rutherford last supervised a visit in October 2016. Rutherford authored the November 2016 report.

¶ 26 Rutherford reported respondent completed almost all of the parenting classes. With three or four remaining, respondent stopped going. The counselor offered to make up those

sessions through individual counseling, but respondent did not attend those sessions. She "no called, no showed" for the last two meetings. Despite the counselor's and Rutherford's attempts to engage respondent, she was discharged unsuccessfully.

¶ 27 According to Rutherford, respondent began "the domestic violence with an anger management complex in the counseling," but when she stopped counseling, she stopped that treatment as well. Rutherford believed respondent participated in three or four sessions. Respondent did not complete the mental-health evaluation. When asked why respondent was referred for mental-health services, Rutherford testified during the integrated assessment, respondent mentioned having anxiety and bipolar issues. Respondent also mentioned she had been on medication.

¶ 28 Rutherford only knew of one missed visit with B.M. During visits, Rutherford believed Aaron played "rough" with B.M. and he was "a little bit overly affectionate." Respondent provided more of the structure and parenting. Rutherford believed there was a bond between B.M. and her parents, but she did not think there was much of an emotional connection. At the end of the visits, B.M. would not cry or reach out for them.

¶ 29 Rutherford testified when she began the case in December 2015, the parents were informed Muhleman's home was not an option. The parents first talked about moving to Missouri in October 2016.

¶ 30 Brittany Colby, a foster-care family worker at CYFS, testified she became B.M.'s caseworker in September 2016. Colby received the parents' portion of the case on December 27, 2016. The parents reported, toward the end of March 2017, they were living in Hannibal, Missouri, with respondent's father. The parents also reported they had enrolled in parenting

classes at the probation department. Colby was unable to obtain verification of respondent's enrollment as respondent did not complete the necessary consent forms.

¶ 31 According to Colby, respondent had not completed any services. Colby did not know where respondent was living. She supervised a visit in April 2017. At that visit, respondent reported she and her father had an altercation, and she and Aaron were looking for a new place to live. There was no further contact. Respondent had been working at a McDonalds in Hannibal. Respondent reported needing to pick up her last check from the McDonalds. Colby testified no progress or efforts had been made: "I'm unaware of where they're living and unaware of their employment situation to where they could financially support [B.M.] and what progress ha[d] been made toward returning her home. No progress at this time." The only times the parents would contact Colby was to confirm the visits. At the visits, B.M. interacted with both parents. B.M. identified them as "mom" and "dad."

¶ 32 Colby testified part of the service plan mandates the parents notify their caseworker within 24 hours of employment, housing, or financial-situation changes. Both parents had been informed of this requirement. The agency also encouraged the parents to make calls checking on B.M. Another child had been born to respondent and Aaron in Missouri. A hotline call was made in Missouri. The parents had not signed the consent forms necessary for Colby to speak with their Missouri caseworker.

¶ 33 Denise Maberry, Aaron's mother, testified she had no concerns about respondent's and Aaron's parenting of B.M. They did not fight or argue in B.M.'s presence.

¶ 34 Ryan Muhleman testified Aaron and respondent resided in his house with him in Lynn Center for approximately six to nine months during 2016. Muhleman's 13-year-old son

resided there as well. Muhleman admitted he was a registered sex offender, stating when he was 32 he committed a sex-related offense in 2004 against a 19 year old. Muhleman served one year in the Department of Corrections. Muhleman had one year remaining to register as a sex offender.

¶ 35 According to Muhleman, he knew Aaron and respondent through mutual friends. Because he liked them, he invited them to stay with him. They did not pay rent. Approximately six to seven months into their living with Muhleman, the parents were informed by Rutherford that the residence was not appropriate.

¶ 36 According to Muhleman, at the time of his testimony, respondent resided with him in Orion, Illinois. She had resided with him for two or three months. Muhleman drove respondent to visits with her child in Missouri and to her counseling appointments. Respondent had reengaged with services and she was in counseling. Respondent completed parenting services. Muhleman stated respondent had a certificate on her phone, but she did not bring it with her. Respondent also worked full-time at a McDonald's, where she had been working for a few weeks. Respondent was also in the process of getting her driver's license. Muhleman had a car she could use. Muhleman testified respondent was an awesome mom to B.M. and his kids.

¶ 37 Aaron, age 25, testified when B.M. entered DCFS care, he and respondent resided with Sarah Picken. Three days after B.M. entered DCFS care, Aaron and respondent moved back into his brother's residence. They resided there rent-free for approximately two months. Aaron, at that time, was unemployed. From May until October 2015, Aaron and respondent rented a home. At that point, they moved in with Muhleman, where they resided approximately one year. Aaron and respondent then moved to Hannibal, where they lived with respondent's father and his

fiancée for six months. On April 19, 2017, Aaron began staying in Kilbourne, Illinois, with his mother and sister. He and respondent were no longer a couple.

¶ 38 Respondent, age 22, testified she completed her junior year of high school and was attending general equivalency diploma (GED) classes. Respondent completed parenting classes in Hannibal. Respondent earned a certificate, but she had not provided one to her caseworker. Respondent testified she was ordered to complete anger-management classes as part of her probation. She attended more classes than what was required. Respondent also went to counseling, but she and her counselor "didn't see eye-to-eye." The counselor wanted to talk about respondent's past, but respondent refused. Since that time, respondent had reengaged anger-management treatment. She was in counseling. Respondent suffered anxiety and she was bipolar, for which she took medication that helped her.

¶ 39 Respondent worked at the Knoxville McDonalds, where she had been working since May 12, 2017, earning $8.25 an hour. Respondent did not have a license, but she was in the process of getting one. Respondent worked at a McDonalds in Hannibal and one in Geneseo. She lost her job at the Hannibal location after she and her father's fiancée had a verbal confrontation after work. Respondent lost her job at the Geneseo location due to missed work due to her pregnancy.

¶ 40 Respondent testified she resided with Muhleman and his son. She knew DCFS deemed Ryan's home an inappropriate placement. Respondent was working toward finding a place to live. She did not look into public housing, but she was willing to do so. Respondent visited B.M. twice each month for two hours a visit. Respondent loved B.M. and did not want to lose her.

¶ 41 At the conclusion of the hearing, the trial court observed the parents were homeless two years and two months after B.M.'s removal from their home. In addition, both remained "without any substantial source of reasonable or steady income." The court noted "these were the things that led to [B.M.'s] being taken from [their] home," which meant those factors had to be corrected. The court acknowledged both parents attended the visits and acted appropriately at the visits. The court concluded the parents loved and were interested in B.M. The court, however, found "the State has proven its petition by clear and convincing evidence."

¶ 42 On May 27, 2017, the trial court held a hearing on B.M.'s best interest. At the beginning of the hearing, respondent addressed the trial court. Respondent informed the court she was hiring her own attorney because she did not feel she was getting a fair trial. Respondent stated her current counsel was not working with her and would not return her calls. Respondent indicated she had not yet hired an attorney, but she assured the court she found someone willing to take the case but she would have to fire her other counsel first. The trial court told respondent she should have brought new counsel and he would have discharged her current counsel. When questioned by the court, respondent stated she could not remember her proposed attorney's name but had the name and number at home. The court refused to discharge counsel, stating respondent throughout the case stated she was "going to do something next week" and B.M. had been in foster placement for 27 months.

¶ 43 At the hearing, the trial court considered the best-interest report authored by Colby. According to the report, respondent stated she completed parenting classes through the probation department in Hannibal, but provided no supporting documentation. Colby reported B.M.'s progress. B.M. was placed with her foster parents on March 2, 2015, when she was six

months old. Her foster placement was her only placement. B.M. was doing well and was developmentally on target. There were no concerns regarding her behavior. B.M. would attend preschool in fall 2017. She participated in activities such as swimming. She enjoyed her farm animals. The foster parents expressed an interest in adopting B.M. B.M. called her foster parents "mom" and "dad."

¶ 44 Colby also provided testimony. Since the fitness hearing, respondent continued visits with B.M. B.M. called respondent "mom" or "mommy." B.M. loved her parents. The foster parents had not signed any documentation as to the adoption.

¶ 45 At the conclusion of the hearing, the trial court determined the termination of respondent's and Aaron's parental rights were in the best interest of B.M.

¶ 46 After filing a notice of appeal on respondent's behalf, Timothy J. Wessel, respondent's attorney, filed a motion to withdraw as counsel on August 15, 2017. Wessel asserted, due to respondent's comments at the beginning of the best-interest hearing, he could no longer ethically represent her on appeal.

¶ 47 A hearing was held on the motion. At the hearing, the trial court noted respondent had not filed an affidavit in support of her claim nor could she state the basis for her claim when she raised the issue before the trial court. Respondent did not appear at the hearing on Wessel's motion. Wessel denied the allegations of ineffectiveness. The court granted Wessel's motion and appointed new counsel.

¶ 48 This appeal followed. (Maberry appeals in No. 4-17-0535.)

¶ 49 II. ANALYSIS

¶ 50 A. Parental Unfitness

¶ 51 In proceedings to terminate parental rights, the first step for the trial court is to consider parental fitness. A parent is "unfit" when the State, by clear and convincing evidence, proves one ground set forth in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2014)). *In re A.L.*, 409 Ill. App. 3d 492, 499, 949 N.E.2d 1123, 1129 (2011). On appeal, a determination a parent is unfit is entitled to great deference because the trial court that made the determination was able to view witnesses and their demeanor during testimony. *Id* at 500. A reviewing court thus will not disturb a finding of parental unfitness unless the court's finding is against the manifest weight of the evidence. *In re T.A.*, 359 Ill. App. 3d 953, 960, 835 N.E.2d 908, 913 (2005). A finding is against the manifest weight of the evidence only when "the correctness of the opposite conclusion is clearly evident." *Id.*

¶ 52 Here, the trial court found respondent unfit on multiple statutory grounds. We begin with respondent's argument she made reasonable progress toward B.M.'s return during any nine-month period following the initial nine-month period after the neglect adjudication.

¶ 53 Respondent contends the trial court's finding she was unfit is erroneous as she made progress in this case. Respondent points to the evidence showing she communicated with the caseworker, successfully completed her probation requirements, and voluntarily attended parenting classes. Respondent further contends, despite the caseworker turnover, she managed to establish a relationship with her caseworker. Respondent points to her employment at the McDonalds in Knoxville and her willingness to look into public housing. Respondent stresses her bond with B.M.

¶ 54 The question of whether a parent's progress toward the return of a child is "reasonable progress" is evaluated and resolved using an objective standard. *In re Jordan V.*, 347

Ill. App. 3d 1057, 1067, 808 N.E.2d 596, 605 (2004). To find a parent's progress reasonable, a court must conclude the child will, in the near future, be able to be returned to the parent's custody because the parent will have fully complied with the court's directives. *A.L.*, 409 Ill. App. 3d at 500. The benchmark for measuring the progress of a parent encompasses the parent's compliance with service plans and court directives, in light of the conditions that gave rise to child's removal and other conditions that later became known that would prevent the court from returning custody to the parent. *In re C.N.*, 196 Ill. 2d 181, 216-17, 752 N.E.2d 1030, 1050 (2001).

¶ 55 We find the trial court's decision is not against the manifest weight of the evidence. At no point in respondent's involvement with CYFS and DCFS did respondent make reasonable progress toward B.M.'s return. As of the May 2016 report, respondent's progress was minimal. While reporting employment, respondent failed to provide supporting documentation. Respondent had not completed any services and resided in a home deemed inappropriate by DCFS and CYFS. While respondent started services with a counselor, the counseling was in the initial stages. As of the November 2016 report, respondent's progress not only did not advance but substantially retreated. Respondent was uncooperative with her caseworker. She stopped going to counseling. She continued to reside with the registered sex offender after failing to make necessary repairs to a potential residence. Respondent lost her job with McDonalds due to unexcused absences. She failed to follow up with a mental-health evaluation. None of the services were completed. The court did not err in finding respondent failed to make reasonable progress toward B.M.'s return.

¶ 56 As we have found the trial court did not err in finding respondent unfit on this

ground, we need not examine the court's other fitness determinations. Only one statutory ground is necessary to establish a parent is unfit. See *In re Donald A.G.*, 221 Ill. 2d 234, 244, 850 N.E.2d 172, 177 (2006). The court properly found respondent unfit.

¶ 57 B. The Best Interest of B.M.

¶ 58 At the best-interest hearing, the focus of the trial court shifts from the fitness of the parent to the child's interest in securing "a stable, loving home life." *In re D.T.*, 212 Ill. 2d 347, 364, 818 N.E.2d 1214, 1227 (2004). When considering the best interest of a child, a trial court must consider the factors listed in section 1-3 of the Juvenile Court Act of 1987 (705 ILCS 405/1-3(4.05) (West 2016)). These factors include the child's physical safety and welfare, the development of the child's identity, the child's background and family ties, the child's sense of attachments including the sense of security and familiarity, the uniqueness of each child and family, and the preferences of those available to care for the child. 705 ILCS 405/1-3(4.05) (West 2016). At this stage, the parent's wish to maintain a relationship with the child yields to the interests of the child. *D.T.*, 212 Ill. 2d at 364.

¶ 59 A trial court may terminate parental rights only if the trial court finds the State proved, by a preponderance of the evidence, termination is in the best interest of the child. *In re Jay H.*, 395 Ill. App. 3d 1063, 1071, 918 N.E.2d 284, 290-91 (2009). This court will not overturn a determination as to a child's best interest unless that decision is against the manifest weight of the evidence. *Id.*

¶ 60 Respondent contends the trial court erred in finding termination of her parental rights were in the best interest of B.M. Respondent contends she can aid in B.M.'s identity, helping ensure she maintains her family, cultural, and religious ties. Respondent points to her

bond with B.M. Respondent further emphasizes she had found employment, was willing to find public housing, and could provide for B.M.'s food, shelter, and clothing.

¶ 61 We find the trial court's best-interest determination is not against the manifest weight of the evidence. As of the date of the best-interest hearing, B.M. spent 27 months in foster care and she was not yet three years old. In that time, respondent has shown no indication she is able to provide security or stability for B.M. Respondent continued to reside with an individual deemed unsuitable for B.M.'s return. While respondent testified she recently restarted services and began working at a McDonalds, the record of respondent's inability to complete services and her failure to maintain employment supports the conclusion respondent remains far from being able to provide for B.M.'s needs. In contrast, B.M. in the care of the foster parents was developmentally on track. The foster parents, with whom B.M. resided for the majority of her life, offered B.M. stability and permanency.

¶ 62 The trial court did not err in finding the termination of respondent's parental rights is in the best interest of B.M.

¶ 63 C. Assistance of Counsel

¶ 64 Respondent last argues she was denied the effective assistance of counsel in the termination proceedings due to a breakdown in communication between her and her attorney, Wessel. Respondent maintains the record shows confusion among the parties as to the services she had completed. She maintains, had she had the opportunity to communicate with her attorney, she could have advised him the services she was involved in and been able to provide necessary documentation. Respondent states the record shows she needed time to build a trusting relationship with her caseworkers and, due to Wessel's failure to return her calls; she could not

do so with her attorney, which negatively impacted her case.

¶ 65 Both the State and respondent agree, in Illinois, respondent had the right to the effective assistance of counsel. See *In re K.O.*, 336 Ill. App. 3d 98, 111, 782 N.E.2d 835, 846 (2002). A party may establish ineffective assistance of counsel by showing (1) counsel's representation fell below an objective standard of reasonableness, and (2) except for counsel's error, the proceeding's outcome would have been different. *Strickland v. Washington*, 466 U.S. 668, 687 (1984).

¶ 66 Respondent's claims are not supported by the record. The only claims on record of ineffective assistance are those made to the trial court at the start of the best-interest hearing. Respondent provided no specific allegations and no affidavit or other documentary evidence to support her claim. In contrast, the State points to multiple instances on record showing respondent and her counsel remained in contact. For example, at the permanency hearing on December 27, 2016, Wessel stated to the trial court he reviewed the permanency hearing report with respondent. At a March 7, 2017, hearing on a motion to continue filed by Wessel, respondent informed the court she had talked to Wessel "briefly before now" but she had received another card with his number on it. Wessel reported the two "had a very good discussion today and she gave me some things to follow up on, so I think we can adequately represent her interest at the next hearing." At the March 30, 2017, hearing, the trial court asked respondent if "Mr. Wessel has remained in touch with you?" She responded he had. The court asked, "And you've been able to stay in touch with him?" To which she responded, "Yes, your honor."

¶ 67 Respondent has failed to establish she was denied the effective assistance of

counsel.

¶ 68 III. CONCLUSION

¶ 69 We affirm the trial court's judgment.

¶ 70 Affirmed.