2018 IL App (4th) 180308-U

NO. 4-18-0308

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
August 9, 2018
Carla Bender
4th District Appellate
Court, IL

In re C.M., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Macon County
Petitioner-Appellee,	)	No. 16JA78
v.	)	
Teairra Smith,	)	Honorable
Respondent-Appellant).	)	Thomas E. Little,
	)	Judge Presiding.

JUSTICE DeARMOND delivered the judgment of the court.
Justices Steigmann and Turner 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 June 2016, the State filed a petition for adjudication of wardship with respect to C.M., the minor child of respondent, Teairra Smith. In August 2016, the trial court made the minor a ward of the court and placed guardianship with the Department of Children and Family Services (DCFS). The State filed a motion to terminate respondent's parental rights in November 2017. Following a hearing on the State's motion in March 2018, the court found respondent unfit. In April 2018, the court determined it was in the minor's best interests that respondent's parental rights be terminated.

¶ 3 On appeal, respondent argues the trial court erred in (1) finding her unfit and (2) terminating her parental rights. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In June 2016, the State filed a petition for adjudication of wardship with respect to C.M., born in May 2016, the minor child of respondent and Michael Miller Jr. The State alleged the minor was neglected pursuant to sections 2-3(1)(a) and (1)(b) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(a), (1)(b) (West 2016)) because she was not receiving the proper care necessary for her well-being and her environment was injurious to her welfare. The petition alleged C.M.'s home was not fit for a newborn infant because respondent reported having 20 pet rats, the home was " 'engulfed' with dog feces in a number of rooms, including [C.M.'s] room, a number of scum-covered buckets of dirty water, and dirty dishes all over the kitchen." An investigator "also observed approximately 30 rats in cages throughout the home, along with three dogs and a cat." Respondent "has a number of health issues which are not under control, including diabetes." When she gave birth at the hospital, staff noticed "she was covered in bite marks and scratches from her pet rats." The petition alleged C.M. "appears to be deaf" or has "a severe hearing impairment." Based on the same facts, the State also alleged the minor was abused pursuant to section 2-3(2)(ii) of the Juvenile Court Act (705 ILCS 405/2-3(2)(ii) (West 2016)) because her parent created a substantial risk of physical injury, by other than accidental means, which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function in that the environmental conditions in the home were not fit for a newborn infant.

¶ 6 The trial court found probable cause for filing the petition based on the dog feces throughout the home, clutter, black mold in bathrooms, heavy cockroach infestation, respondent's scratches and bites from her pet rats, and her uncontrolled diabetes. The court granted temporary custody to DCFS.

¶ 7 In July 2016, the trial court found C.M. was abused or neglected because she

suffered from a lack of support, education, or remedial care and her environment was injurious to her welfare due to "environmental issues." In its August 2016 dispositional order, the court found respondent was unfit and unable to care for, protect, train, educate, supervise, or discipline the minor and placement with her is contrary to the health, safety, and best interests of the minor. The court's order noted respondent had made progress and physical custody may be returned to her and Miller. The court adjudicated the minor neglected, made her a ward of the court, and placed guardianship with DCFS.

¶ 8 In November 2017, the State filed a motion to terminate respondent's parental rights. The State alleged respondent was unfit because she failed to (1) maintain a reasonable degree of interest, concern, or responsibility as to the minor's welfare (750 ILCS 50/1(D)(b) (West 2016)); (2) make reasonable efforts to correct the conditions that were the basis for the removal of the minor from her during any nine-month period following the adjudication of neglect and/or abuse (750 ILCS 50/1(D)(m)(i) (West 2016)); and (3) make reasonable progress toward the return of the minor to her during any nine-month period following the adjudication of neglect and/or abuse (July 29, 2016, to April 29, 2017, and February 21, 2017, to November 21, 2017) (750 ILCS 50/1(D)(m)(ii) (West 2016)). The State likewise proceeded to terminate Miller's parental rights.

¶ 9 In March 2018, the trial court conducted a hearing on the State's motion. Lindsay Lyon, a program supervisor at Youth Advocate Program, Inc. (Youth Advocate), testified respondent and Miller became involved with that entity in July 2016. As to housing, Lyon stated respondent and Miller "would make some progress, and then they would always fall behind." While they established housing at one point, "there was a lot of fighting *** between them, some damage to the apartment, getting behind on bills, until eventually they lost that housing." Lyon

stated respondent attended a "lot of her visits" and she "loved her child," but it was her "ability to care for [C.M.] that raises some concerns." One of the problems involved respondent knowing when it was time for feedings and diaper changes, and staff members felt "she missed a lot of cues." Lyon also expressed "a lot of concerns about [respondent and Miller] fighting" in C.M.'s presence. Lyon stated respondent did not follow through with counseling and was terminated from the program. While respondent "attended a lot of parenting classes," there were "concerns about her abilities to retain what she has learned and put that into practice." Lyon stated respondent "hasn't engaged with counseling services [or] with mental health services" and has "a lot of anger." Lyon believed respondent would be unable to meet minimal parenting standards within three to six months.

¶ 10 Laurinda Mitchell, a visitation specialist, testified weekly visits often took place at a nursing home, where respondent's mother resided. Since May 2017, respondent only missed four visits and was never late. While respondent loved C.M., Mitchell was concerned with her ability to safely nurture the minor.

¶ 11 Christine Foster, a parenting educator at Youth Advocate, testified she received a referral for parenting services involving respondent and Miller in July 2016. Respondent finished the parenting program, but she still had "some issues" with putting what she learned into practice. On cross-examination, Foster agreed respondent had shown some improvement in her overall understanding of C.M.'s need for developmental activities. Of 61 appointments with respondent and Miller, they failed to show up or call to cancel on 15 occasions.

¶ 12 Dawn McCoy, a family interventionist at Youth Advocate, testified she began working with respondent in July 2016. While respondent moved to a house in Greenwood, she later moved in with her boyfriend in Mt. Auburn. McCoy became concerned with respondent

"getting a little frustrated" when C.M. was "fussing." A hotline call was made based on C.M. not wearing her hearing aid, and McCoy stated respondent "threatened to kill the caseworker." McCoy also became concerned with respondent's belief she did not need medication. When asked whether respondent could parent C.M. within the next six months, McCoy stated she could not because she "needed some serious counseling" and "maybe some mental health medication to be able to care for a baby 24/7." On cross-examination, McCoy stated respondent showed her the house she shared with her boyfriend. McCoy stated the house was well-maintained and "a pretty safe environment."

¶ 13 Christina Walters, a DCFS Medicaid therapist at Youth Advocate, testified she was respondent's therapist from July 2016 to April 2017. Respondent had been diagnosed with oppositional defiant disorder and attention deficit hyperactivity disorder, which necessitated her learning healthy coping skills and anger management. Walters found respondent's progress was "limited." While Walters saw progress initially, she said respondent declined after December 2016, when her focus became more on her frustrations with DCFS. Respondent's therapy was closed due to noncompliance after she did not return for a session on March 16, 2017. She later wrote a letter seeking to return to counseling, which was approved. However, respondent did not attend any appointments and her file was not reopened. Due to respondent's lack of significant progress, Walters did not believe it would be safe or in C.M.'s best interests to be returned home.

¶ 14 On cross-examination, Walters stated respondent's decline began prior to C.M. being taken into foster care in December 2016. Prior to that, Walters found respondent "difficult to locate sometimes" and "becoming more erratic at times," going "from being angry to laughing during sessions and then would calm and could focus." Walters stated they made "very limited" progress in dealing with respondent's past trauma, as she "tends to actively avoid any

discussions" or reflections in that area.

¶ 15 Lindsay Horcharik, a child welfare specialist with DCFS, testified C.M.'s parents "worked very diligently" to get the home cleaned up after she had been taken into care after her birth. C.M. returned to their custody in August 2016. Horcharik testified respondent and Miller were referred for parenting services, a mental-health assessment, counseling, and maintaining their home. Once respondent's mother was placed in the nursing home, the home was "basically repossessed" and the parents had to seek alternate housing. Respondent and Miller were evicted from their home in September 2016, and they obtained a new apartment in October 2016. Horcharik testified the relationship between respondent and Miller was "very inconsistent, very hostile, very volatile." Horcharik received reports of arguments between the two, and respondent disclosed an episode of physical abuse at a court hearing in November 2016. Although she blamed Miller for a bruise on her arm, she later recanted. DCFS then referred respondent for domestic-violence services.

¶ 16 Horcharik stated both parents were indicated for medical neglect in December 2016 because C.M. was not wearing her hearing aid during recommended times. Respondent had engaged in services, but her progress began to decline in December 2016. She was unsuccessfully discharged in April 2017. Although respondent and Miller continued to meet with their parenting instructor, progress was minimal. Horcharik stated respondent completed her domestic-violence intake in November 2016, but she did not follow through with group sessions. She also completed a psychological assessment in December 2017, after the unfitness motion had been filed. Horcharik stated respondent was engaged in services but she did not complete them. While Horcharik believed respondent "had a hard time retaining information," she opined respondent "didn't feel like she needed the services" because she "already knew how

to parent." Respondent "never took responsibility of her own mistakes [or] her own actions, [as] it was always somebody else's fault." Horcharik opined it was not realistic to expect respondent to be able to parent within three to six months.

¶ 17 Following arguments by counsel, the trial court found respondent unfit on all three grounds alleged by the State. The court noted respondent had not successfully completed any programs. Although respondent visited with C.M., the court found respondent did not pick up on cues from the minor and could not meet minimal parenting standards if given an additional three to six months to work on her services. Further, although respondent showed some positive signs early on, the situation began to deteriorate in December 2016 and respondent "blamed all her problems" on others, "never really accepted responsibility," and hated DCFS.

¶ 18 In April 2018, the trial court conducted the best-interests hearing. Horcharik testified C.M. is in a potential adoptive placement and has been in the same placement since December 2016. C.M. is well-bonded with her foster parent. While C.M. initially showed some developmental concerns, Horcharik stated C.M. was "successfully discharged from services because she had made such substantial developmental progress since being placed back into care." Horcharik stated C.M. feels comfortable and safe with her foster mother.

¶ 19 On cross-examination, Horcharik testified respondent continued to visit with C.M. to maintain a bond between them. However, as C.M. has gotten older, she "struggles to go to the visits" and "does not want to leave the foster home."

¶ 20 In making its best-interests ruling, the trial court stated it considered the statutory factors and found the most applicable were the child's sense of attachment and her need for permanence, stability, and continuity of relationships with parent figures. The court noted C.M. has resided in the foster home for almost 18 months and she has a bond with her foster

mother. The court found C.M. has made "substantial progress" in the home and she is getting the care she needs. The court found it in the minor's best interests that respondent's parental rights be terminated. The court also terminated Miller's parental rights. This appeal followed.

¶ 21 II. ANALYSIS

¶ 22 A. Unfitness Findings

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

¶ 24 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, 177-78 (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 N.T.*, 2015 IL App (1st) 142391, ¶ 27, 31 N.E.3d 254. " 'A court's decision regarding a parent's fitness is against the manifest weight of the evidence only where the opposite conclusion is clearly apparent.' " *In re M.I.*, 2016 IL 120232, ¶ 21, 77 N.E.3d 69 (quoting *In re Gwynne P.*, 215 Ill. 2d 340, 354, 830 N.E.2d 508, 517 (2005)).

¶ 25 In this case, the trial court found respondent unfit for failing to make reasonable progress toward the return of the minor to her within nine months after the adjudication of neglect and/or abuse. The State specified the nine-month periods to be July 29, 2016, to April 29, 2017, and February 21, 2017, to November 21, 2017.

¶ 26 "Reasonable progress" is an objective standard that "may be found when the trial court can conclude the parent's progress is sufficiently demonstrable and of such quality that the child can be returned to the parent in the near future." *In re Janine M.A.*, 342 Ill. App. 3d 1041, 1051, 796 N.E.2d 1175, 1183 (2003).

> "[T]he benchmark for measuring a parent's 'progress toward the return of the child' under section 1(D)(m) of the Adoption Act 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." *In re C.N.*, 196 Ill. 2d 181, 216-17, 752 N.E.2d 1030, 1050 (2001).

"The law does not afford a parent an unlimited period of time to make reasonable progress toward regaining custody of the children." *In re Davonte L.*, 298 Ill. App. 3d 905, 921, 699 N.E.2d 1062, 1072 (1998). "At a minimum, reasonable progress requires measurable or demonstrable movement toward the goal of reunification." *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1067, 859 N.E.2d 123, 137 (2006).

¶ 27 In the case *sub judice*, C.M. was taken into care in June 2016 based on not receiving the proper care necessary for her well-being and being in an injurious environment. Respondent was referred for parenting services, a mental-health assessment, counseling, and maintaining the home. Lyon testified respondent attended a "lot of her visits" and parenting classes, but there were "concerns about her abilities to retain what she's learned and put that into practice." Lyon stated respondent did not follow through with counseling and was terminated

from the program. Respondent's therapy was closed due to noncompliance. While she attempted to reengage, she failed to attend any appointments. Walters testified respondent failed to make progress and believed it would be unsafe for C.M. to be returned to the home. McCoy opined respondent would be unable to parent within six months because she "needed some serious counseling" and "maybe some mental health medication to be able to care for a baby 24/7." Horcharik testified respondent had engaged in services, but she failed to complete them. While she attended a domestic-violence intake, she failed to follow through with group sessions. Respondent met with her parenting instructor, but her progress was minimal. Moreover, respondent's progress began to decline in December 2016. Horcharik stated respondent never took responsibility for her own actions and mistakes and blamed Miller or DCFS.

¶ 28 Respondent argues she engaged in parenting services and counseling, completed psychological and mental-health assessments, completed her domestic-violence intake, and attended visits. However, the evidence indicates she failed to make reasonable progress. While she may have completed some assessments and engaged in services, respondent did not successfully complete those services. Moreover, she failed to put into practice what she learned in parenting classes. The trial court found the testimony of Lyon, McCoy, and Horcharik credible, and all three opined respondent would be unable to parent within three to six months. The evidence indicated respondent's progress, if any, was not of such quality that the minor could be returned to her in the near future. Accordingly, the court's finding of unfitness on this ground was not against the manifest weight of the evidence. Because the grounds of unfitness are independent, we need not address the remaining grounds. 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.").

¶ 29 B. Best-Interests Finding

¶ 30 Respondent argues the trial court's finding it was in the minor's best interests for her parental rights to be terminated was against the manifest weight of the evidence. We disagree.

¶ 31 "Courts will not lightly terminate parental rights because of the fundamental importance inherent in those rights." *In re Veronica J.*, 371 Ill. App. 3d 822, 831, 867 N.E.2d 1134, 1142 (2007) (citing *In re M.H.*, 196 Ill. 2d 356, 362-63, 751 N.E.2d 1134, 1140 (2001)). "[A]t a best-interests hearing, the parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life." *In re D.T.*, 212 Ill. 2d 347, 364, 818 N.E.2d 1214, 1227 (2004); see also *In re Julian K.*, 2012 IL App (1st) 112841, ¶ 80, 966 N.E.2d 1107 (stating once the trial court finds the parent unfit, "all considerations, including the parent's rights, yield to the best interests of the child"). When considering whether termination of parental rights is in a child's best interests, the trial court must consider a number of factors within "the context of the child's age and developmental needs." 705 ILCS 405/1-3(4.05) (West 2016). These include the following:

> "(1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's familial, cultural[,] and religious background and ties; (4) the child's sense of attachments, including love, security, familiarity, continuity of affection, and the least[-]disruptive placement alternative; (5) the child's wishes and long-term goals; (6) the child's community ties; (7) the child's need for permanence, including the need for stability and

> continuity of relationships with parent figures and siblings; (8) the uniqueness of every family and child; (9) the risks related to substitute care; and (10) the preferences of the person available to care for the child." *Daphnie E.*, 368 Ill. App. 3d at 1072, 859 N.E.2d at 141.

See also 705 ILCS 405/1-3(4.05)(a) to (j) (West 2016).

¶ 32 A trial court's finding that termination of parental rights is in a child's best interests will not be reversed on appeal unless it is against the manifest weight of the evidence. *In re Dal. D.*, 2017 IL App (4th) 160893, ¶ 53, 74 N.E.3d 1185. The court's decision will be found to be "against the manifest weight of the evidence only if the opposite conclusion is clearly apparent or the decision is unreasonable, arbitrary, or not based on the evidence." *In re Keyon R.*, 2017 IL App (2d) 160657, ¶ 16, 73 N.E.3d 616.

¶ 33 In this case, the best-interests report indicated C.M. has resided in her foster-care placement since December 2016. Since her birth in May 2016, C.M. has only resided in her parents' home and care for "a little over four months." While C.M. was initially noted to be delayed in terms of her speech, motor skills, mobility, overall development, and hearing, the report indicated C.M. "has made incredible progress." Further, her foster mother remains committed toward advocating for C.M.'s needs and to providing her permanency through adoption. The report concluded C.M's foster mother has made sure C.M.'s "needs and well-being have been kept a priority, which has become very obvious through the amount of progress that [C.M.] has continued to make through her developmental milestones, as well as through the bond" between both of them.

¶ 34 The trial court considered the statutory best-interests factors and found C.M.'s

sense of attachments and need for permanence to be most applicable. The court found C.M. is "clearly bonded with her caregiver" and has made "substantial progress." Horcharik stated C.M. "struggles to go to visits" with respondent and "does not want to leave the foster home." While noting respondent has a bond, "to a degree," with C.M., the court found C.M. "has a very strong need for permanency."

¶ 35 The evidence indicated C.M. is in a good home, her needs are being met, and she is making substantial progress as she grows older. Her foster mother is willing to adopt her, which will provide her with the permanency she needs and deserves. Considering the evidence and the best interests of the minor, we find the trial court's order terminating respondent's parental rights was not against the manifest weight of the evidence.

¶ 36 III. CONCLUSION

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

¶ 38 Affirmed.