2019 IL App (2d) 190166-U
Nos. 2-19-0166, 2-19-0167, 2-19-0168, 2-19-0169 cons.
Order filed July 23, 2019

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IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re F.M., J.M., J.M., and R.M., Minors	)	Appeal from the Circuit Court of Kane County.
	)	Nos. 12-JA-103 12-JA-104 12-JA-105 12-JA-106
(The People of the State of Illinois, Petitioner-Appellee v. Aida G., Respondent-Appellant).	)	Honorable Linda Abrahamson, Judge, Presiding.

JUSTICE JORGENSEN delivered the judgment of the court.
Justices McLaren and Burke concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's unfitness and best-interest findings are not contrary to the manifest weight of the evidence. Affirmed.

¶ 2 On March 4, 2019, the trial court found that the State had established by clear and convincing evidence that respondent, Aida G., is unfit to parent her two daughters, F.M. and J.M. (ages 14 and 7, respectively), and two sons, J.M. and R.M. (ages 11 and 10, respectively).

Further, the court found that it was in the children's best interests that respondent's parental rights be terminated. Respondent appeals. For the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 On May 3, 2012, DCFS received a report that one of respondent's children, age four at the time, arrived at the hospital with bruises and swelling on his eye and forehead. Respondent reported to police that Ramadan M. (father of two of the children) (referred to in the record as "Mack") lived with them and that she did not feel safe. She reported a history of domestic violence by him, and the minors reported that he had punched them, held their heads under water, and hit them in the face. The children were removed from the home.

¶ 5 On September 10, 2012, the State filed four neglect petitions on the basis that respondent failed to protect the children from injurious conditions in their environment. The children were adjudicated neglected on November 7, 2012. More than five years later, on December 11, 2017, the State petitioned to terminate respondent's parental rights on the basis that she was unfit for failing to maintain a reasonable degree of interest, concern, or responsibility as to the children's welfare. 750 ILCS 50/1(D)(b) (West 2016). Further, the State alleged that respondent was unfit for failing to make reasonable efforts to correct the conditions which formed the basis for removal of the children from her care or to make reasonable progress toward their return to her care during the following nine-month periods: (1) November 8, 2012, through August 8, 2013; (2) August 9, 2013, through May 9, 2014; (3) May 10, 2014, through February 10, 2015; (4) February 11, 2015, through November 11, 2015; (5) November 12, 2015, through August 12, 2016; and (6) August 13, 2016, through May 13, 2017. See 750 ILCS 50/1(D)(m) (West 2016).

¶ 6 In sum, as the case progressed, the court found that respondent had made reasonable efforts and progress only *once*; specifically, for the review period covering May 2014, through

February 2015. At that time, the court found that respondent had completed her domestic violence counseling, substance abuse services, and individual therapy. Respondent was employed, was allowed unsupervised visits, kept in touch with her caseworker, and she visited consistently. Further, she had separated from an abusive relationship and had a written safety plan. Respondent did not, however, have a safe and appropriate home. Ultimately, the court found that the State did not meet its burden to show respondent's unfitness based upon a failure to progress between May 10, 2014, through February 10, 2015, noting, "but for the safe, appropriate home, [respondent] had satisfied all of the terms of her service plan pertaining to safety and the reason the kids were removed from her care." The court did not find credible, however, respondent's testimony that the agency failed to assist her in obtaining housing.

¶ 7 For every other alleged time period, the court found at the relevant permanency review hearings and, ultimately, at the unfitness hearing, that respondent failed to make reasonable progress. We choose to focus on the court's findings relevant to the most recent three periods, subsequent to February 2015. Specifically, between February and November 2015, the court found that, although respondent's therapeutic goals remained complete and she had maintained unsupervised visitation, overnight visitation had not commenced, because she still lacked safe and appropriate housing. Although the court had twice held status hearings to check on housing progress, that goal remained unsatisfied at the end of the reporting period.

¶ 8 Next, from November 2015 through August 2016, respondent continued to lack a safe home environment for her children. She lived with her mother (who lived with respondent's father, a man who had served a prison sentence for sexually abusing respondent) and, for a period, had no verifiable employment. In July 2016, police responded to a domestic call at 3 a.m., where respondent "was found to be highly intoxicated and upset, she was screaming that a

car owner was a whore, a bitch, and fucking her man." The officer noticed that the car was vandalized, mirrors were ripped off, doors were open, papers dumped, and respondent's phone was inside the car. Several hours later, police responded to a hang-up call from an intoxicated female at the same location. Upon their return to the scene, respondent directed the officers to an area in the home where Mack was hiding. Although respondent claimed that she was not in a relationship with him and was, at the time, in a relationship with someone else, the caseworker knew nothing about *any* relationship in that timeframe. Respondent was apparently arrested for criminal damage to property related to the car. According to the court, by August 2016, "I think based on the length of time these kids had been in care, the kids started to fall apart and dysregulate." The court noted that the children were demonstrating issues with trust, bonding, and experiencing anxiety, and that they were fearful that respondent was in a continued relationship with Mack.

¶ 9 The agency thereafter discontinued unsupervised visitation and recommended a goal change. Specifically, according to the court, the case had been open for five years, and the agency saw:

> "evidence of domestic violence and that [respondent] had been dishonest. The kids were afraid of Mack and they felt that their mom was still seeing him. And in addition based on this incident and worries about [respondent's] own aggression and substance misuse[,] they recommended a new substance abuse assessment, new individual therapy, and they re-referred [respondent] for domestic violence counseling ***. Still[, respondent] has no home. And it may very well be that due to the length of this case, by then [respondent] is also falling apart and starting to dysregulate. The

> Agency's request that [respondent] be re-assessed for domestic violence and the substance abuse services is legitimate."

¶ 10 During the final timeframe, August 2016 through May 2017, the goal was changed to substitute care pending termination of parental rights.[1] Respondent was no longer employed and had failed to pick up a housing voucher. In March 2017, Mack punched through a window of respondent's car with his fist. The evidence reflected that respondent did not tell the agency about the incident, although no children were around and no one was hurt. However, in April 2017, there was what the court described as a "very serious, very serious domestic violence incident." Specifically, Terreris M., father to two of the children, choked respondent, banged her head, and kept fighting her, even after her mother and brother intervened. Police were called to respondent's mother's house at 2 a.m., and respondent was extremely intoxicated and had visible injuries. Terreris M. later pleaded guilty to domestic battery. Further, respondent's mother testified to a separate incident "sometime between 2016 and 2018," when Mack came to their home and argued with respondent on the front sidewalk.

¶ 11 During this same period, respondent was required to obtain re-assessments in certain areas but, because the goal had changed, DCFS no longer paid for those services. Although respondent testified that she had tried to maintain employment and obtain housing, the court found that, "[a]t some point[,] the best interests of these kids requires [ ] more than trying, requires accomplishment of the goals, and that the conditions need to be corrected so that they can go home. Trying is not enough. And by respondent's own testimony that she was not

[1] The court changed the goal on September 20, 2016; the State did not file its termination petition until more than one year later, on December 11, 2017.

engaged or re[-]engaged in any services or reassessments to address those incidents until December of 2017, which is past the pled timeframe."

¶ 12 The court acknowledged that there was a period where respondent met all of her individual therapeutic goals, but found that the case could not progress to closure due to her failure to obtain safe housing. Thereafter:

> "the kids dysregulated, mom dysregulates resulting in new and renewed services simply to stabilize the family again to ready these kids to go home and to get mom restabilized. So we've kind of come full circle. As we sit here today, [respondent] is no closer to return home than she was at the beginning of the case. Yet we have lost three more years *** in the lives of these kids. Other than recognizing [respondent's] good work toward return home in 2014, given the status of the case at this time that recognition is all I can do about that. It remains the law that failure to make reasonable efforts or reasonable progress during any nine-month period is sufficient."

¶ 13 Therefore, although the court granted respondent's motion for a directed verdict on the State's claim that she was unfit for failing to maintain a reasonable degree of interest, concern, or responsibility as to the children's welfare (750 ILCS 50/1(D)(b) (West 2016)), it found that the State proved respondent's unfitness for failing to make reasonable progress in five of the alleged periods (750 ILCS 50/1(D)(m) (West 2016)).

¶ 14 At the best-interests hearing, the court heard evidence and found that respondent's children are her "life," her "heart," and that she loves them deeply, but that her bond with them did not outweigh other statutory factors. Considering each factor in section 1-3(4.05) of the Juvenile Court Act (705 ILCS 405/1-3(4.05) (West 2016)), and how it applied to the case presently, not just in 2015 when respondent showed progress, the court found that all factors

favored termination with the exception of some it found to be neutral, namely, development of identity; background ties; sense of familiarity and continuity of affection; and uniqueness of every family and child (given the strong bond between respondent and the children). The court recognized that the two female children were placed together with a family member, while the two male children were placed in a traditional foster placement; however, both placements wished to provide permanency for adoption. The court found that, considering all factors, it was in the children's best interest that respondent's parental rights be terminated. Respondent appeals.

¶ 15 II. ANALYSIS

¶ 16 On appeal, respondent challenges both the court's unfitness and best-interest findings. A trial court's unfitness and best-interest findings will not be disturbed on review unless contrary to the manifest weight of the evidence (*i.e.*, unless the opposite conclusion is clearly evident or the finding is not based on the evidence). See *In re Gwynne P.*, 215 Ill. 2d 340, 354 (2005); *In re Janine M.A.*, 342 Ill. App. 3d 1041, 1049 (2003).

¶ 17 For purposes of evaluating respondent's arguments on appeal, we must bear in mind that, even if we were to find persuasive some of respondent's potential arguments attacking the unfitness finding, *any one ground*, properly proved, is sufficient to affirm. *In re Janine M.A.*, 342 Ill. App. 3d at 1049. The question of reasonable progress is an objective one, which requires the court to consider whether the parent's actions reflect that the court will be able to return the child home in the near future. See *In re Phoenix F.*, 2016 IL App (2d) 150431, ¶ 7. In order for there to be reasonable progress, there must be some "demonstrable movement toward the goal of reunification." *In re C.N.*, 196 Ill. 2d 181, 211 (2001). Here, the court's findings that respondent

failed to make reasonable progress toward the return of the children to her home were not contrary to the manifest weight of the evidence.

¶ 18 The crux of respondent's position is that the court did not give adequate weight to her progress and circumstances as a whole, looking at only one period at a time "in a vacuum." Respondent asserts that the court erred by not giving due consideration to the dynamics of her overall progress in light of all circumstances, including the obstacles to achieving goals as a victim of sexual abuse (by her father) and domestic abuse (by her partners). She concedes that she experienced "a period of setback from mid-2016 through mid-2017," but notes that she had re-engaged with services and assessments by December 2017, and had, at one point, accomplished all goals except housing. Respondent argues that the evidence as a whole reflects reasonable progress. We disagree.

¶ 19 Without question, to the extent that respondent accomplished goals, particularly in light of her circumstances, her efforts are laudable. However, respondent minimizes the import of her period of "setback" and the events that happened therein, which included incidents of violence and substance abuse, noting that she was frustrated and that the case had been pending for a long time. We agree that the pendency of the case (particularly the one-year delay between the goal change and the State's filing of the termination petition) was likely frustrating and not entirely respondent's fault. And, as respondent notes, the children were not hurt or even present for the violent incidents that occurred during her setback. However, the court was charged with considering whether, during these periods, there was demonstrable movement to returning the children to respondent's care. The court's findings that the incidents that occurred during these periods did not reflect that it would be able to return the children home in the near future (*In re Phoenix F.*, 2016 IL App (2d) 150431, ¶ 7) or "demonstrable movement toward the goal of

reunification" (*In re C.N.*, 196 Ill. 2d 181, 211 (2001)) were not contrary to the manifest weight of the evidence. Further, even setting aside the incidents involving violence and substance abuse, respondent continued to lack appropriate housing for her four children. While the court properly recognized respondent's progress between May 10, 2014, and February 10, 2015, it was the *only* period of progress reflected between November, 2012 and May, 2017. Thus, respondent, too, is seeking to have progress, in one period, viewed in a vacuum, whereas the evidence as a whole actually reflects that, when the termination petition was filed, the children were no closer to returning home. As such, we simply cannot find that the opposite conclusion is clearly apparent, and the court's unfitness findings, particularly concerning the three periods spanning February, 2015 to May, 2017, are reasonable.

¶ 20 As to the court's best-interests finding, that, too, is considered under the manifest-weight standard of review. See *In re Janira T.*, 368 Ill. App. 3d 883, 894 (2006). The trial court must consider the factors set forth in section 1-3(4.05) of the Juvenile Court Act (705 ILCS 405/1-3(4.05) (West 2016)), including the child's physical safety and welfare; need for permanence, stability and continuity; sense of attachments, love, security, and familiarity; community ties, including school; and the uniqueness of every child. *Id.*

¶ 21 Here, respondent argues that the court erred in finding certain factors neutral or that they favored termination. She contends that the fact that the children are split into two homes weighs against termination, particularly where she can now provide a home for all of them in her brother's house. Respondent further argues that, as their mother, she is central to her children's formation of identity, family, and cultural ties, she is the only consistent person in their lives for all of their lives, and that her family has also worked to maintain relationships with the children.

Further, because she has demonstrated consistent love, attention, and dedication to them throughout the process, respondent asserts that the evidence weighed against termination.

¶ 22 Again, we cannot find that the court erred. Once a parent is found unfit, the parent's interest in maintaining the relationship must yield to the child's interest in a stable, loving home life. *In re D.T.*, 212 Ill. 2d 347, 364 (2004). The children have been with their current placements since 2013. The court found that the foster families were meeting all of the children's needs. Although respondent claims that she can provide housing for all four children in her brother's home, the court noted that there was testimony that she would not allow a home visit there to see if it was suitable.

¶ 23 Respondent's heritage is Hispanic and the children's fathers are African-American. Although respondent wishes to maintain their Hispanic heritage, the foster families encourage both cultures. For example, they have encouraged the children to take Spanish and/or they attend a predominately African-American church. Further, although respondent deeply loves the children, the court found that their needs for love, attachment, and a sense of well-being are also being met by the foster families. The families are strongly supportive of maintaining the siblings' bonds with each other.

¶ 24 In sum, the children had been in their foster homes for six years, while, at the time of the hearing, respondent's visits with them were occurring only once per month. The children need permanency, and the foster families both testified that they are willing to adopt. The trial court thoughtfully considered each statutory factor and the evidence as a whole before rendering its decision. The opposite conclusion is not clearly apparent and, therefore, we will not disturb the court's best-interest determination.

¶ 25 III. CONCLUSION

¶ 26 For the reasons stated, the judgment of the circuit court of Kane County is affirmed.

¶ 27 Affirmed.