2019 IL App (2d) 190613-U
No. 2-19-0613
Order filed October 18, 2019

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re T.P., N.P., T.P., and T.P., Minors.	)	Appeal from the Circuit Court
	)	of Winnebago County.
	)	
	)	Nos. 16-JA-128
	)	16-JA-129
	)	17-JA-29
	)	17-JA-30
	)	
(The People of the State of Illinois,	)	Honorable
Petitioner-Appellee, v. Tonesha H.,	)	Mary Linn Green,
Respondent-Appellant.)	)	Judge, Presiding.

JUSTICE JORGENSEN delivered the judgment of the court.
Justices Hudson and Bridges concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's findings that respondent is unfit and that it is in the minors' best interests for parental rights to be terminated are not contrary to the manifest weight of the evidence. Affirmed.

¶ 2 On July 12, 2019, the trial court found that the State had established by clear and convincing evidence that respondent, Tonesha H., is an unfit parent to her children, T.P., N.P.,

T.P., and T.P.,[1] and that it is in the children's best interests that respondent's parental rights be terminated. Respondent appeals.

¶ 3 I. BACKGROUND

¶ 4 On April 11, 2016, the State filed a neglect petition as to T.P. (first) and N.P., alleging that their environment was injurious and placed them at risk of harm in that: (1) respondent and their father, Theotis, had a history of domestic violence occurring in the home where the children reside; (2) on March 15, 2016, Theotis squeezed respondent's neck until she passed out; and (3) Theotis stated multiple times that he wanted polices officers to shoot and kill him. See 705 ILCS 405/2-3(1)(b) (West 2016).

¶ 5 At the shelter care hearing, the court took judicial notice of a statement of facts that summarized four instances of Theotis's violent conduct, including an incident in February 2015, when respondent heard N.P. cry out that Theotis was whipping her. Respondent confronted Theotis, and he punched her twice in the face. Respondent was six-months pregnant with T.P. (first). She called 911; N.P had a red mark on the shoulder where she was struck by a belt. In addition, after an incident in February 2016, N.P. reported to her grandmother that "daddy pushed mommy, mommy grabbed a knife, and stabbed daddy in the eye." In March 2016, Theotis battered respondent over use of a debit card. He bit her and put her in a choke hold; she

[1] There are three children with initials T.P. To the extent our analysis requires any differentiation between them, we will refer to them in birth order. Respondent is the biological mother to all four children. However, the younger twins, T.P. (second) and T.P. (third) have a different father from T.P. (first) and N.P. The father of the twins is not involved in these proceedings. Theotis P., the father of T.P. (first) and N.P., appealed the termination of his rights in a separate appeal, No. 2-19-0612.

reported that she became unconscious. The children were home during the altercation. Respondent went with the children to a domestic violence shelter. She obtained a plenary order of protection against Theotis, and the children were listed as protected parties. Theotis was arrested for aggravated domestic battery, was later convicted, and was sentenced to a term of imprisonment. On July 28, 2016, the court adjudicated minors T.P. (first) and N.P. neglected.

¶ 6 Twins T.P. (second) and T.P. (third) were born on January 25, 2017. The State filed a neglect petition. The court held a shelter care hearing and received evidence of respondent's indictment and guilty plea for aggravated battery and unlawful use of a weapon regarding an incident that occurred while this case was pending and in which she got into a fight with a woman at a drive thru and a taser gun fell out of her pocket. In addition, there was evidence that respondent and Theotis continued to have contact. On February 2, 2017, the court found the twins neglected.

¶ 7 The court held five permanency review hearings between January 2017 and August 2018. It never found respondent to have made reasonable progress. On August 27, 2018, the State moved to terminate respondent's parental rights.

¶ 8 At the unfitness hearing, the evidence reflected that respondent's therapy and visitation were, at times, interrupted due to her incarceration. She missed a visitation with the twins and did not inquire about them for one month. A CASA report dated February 13, 2019, reflected that respondent and the twins had not had any contact of any kind in six months, and her last visit with T.P. and N.P. was six months earlier.

¶ 9 Between February and July 2017, drug tests reflected that respondent tested positive for THC or alcohol on at least six occasions. In announcing its findings, the court noted the documents reflected a history of domestic violence between respondent and Theotis. The court

found that respondent had been offered Facetime and Skype opportunities with the children but, from June 2018 to the date of hearing, she had not taken advantage of that option. Respondent had failed drug drops in March 2017, testified that she had been smoking THC, and missed two drug drops in January 2018. In addition, the court found that the evidence reflected that respondent had been offered child-parent psychotherapy, with sessions taking place between December 2017 and June 2018. The reports showed that respondent did not make progress on that therapy, having cancelled multiple sessions, which interrupted progress. In addition, before the sessions ended in June 2018, respondent had not yet acknowledged N.P.'s history of trauma and had become confrontational with her therapist about it. Moreover, there were at least two incidents of domestic violence between respondent and her paramour, one as recent as October 2017, and she had not yet completed individual counseling about non-violent relationships. Respondent had received an unsatisfactory rating in domestic violence services and child protection, and the court noted that it had found that respondent had not made reasonable progress in multiple permanency review orders. The court noted that the intended progress in visitation did not occur and, so, a return home never occurred. Finally, the court found that counseling reports established that her progress with N.P. was not good, did not show a positive attachment, and that the prognosis with the twins was "guarded." The court found that respondent continued a relationship with Theotis, despite his lack of commitment to services and a no-contact order, and that she had a lack of protective skills for the children who were at an increased risk. "I could go on, but I think those are the highlights[.]"

¶ 10 At the best-interests hearing, the court heard evidence that, since 2017, the two older children, T.P. (first) and N.P., have been placed together in a traditional foster care home. They are closely bonded with the foster mother and father and are involved with the foster parents'

extended family members. The foster parents ensure that the children attend all medical appointments and that their educational needs are met. Neither child has an individualized education plan or behavioral disorder. T.P. does, however, have diagnoses, including developmental delays, sensory integration, adjustment disorder, and sleep disorder. For a period, when there was too much stimulation, she would engage in head banging and could act with aggression. N.P. showed signs of trauma and anxiety. Both children have improved since living with the foster parents.

¶ 11 The court also heard evidence that, in December 2018, in the foster home, T.P. was burned with hot water in the shower. Foster father took her to the hospital, where she stayed for around one month. T.P. was temporarily removed from the foster home pending investigation, but later returned, because the agency felt that the foster home is where she had progressed the most (in her temporary home, the head banging returned and was "out of control," and there were periods when she would cry for a long time), she asked to go home to the foster parents' house, and the physicians and agency all felt that the foster father had reacted to the situation appropriately and in a timely manner. The child's CASA representative also noted that the evidence reflected that the incident was an accident that could have happened in a "second," and that it was handled appropriately. T.P. has received care for her wounds and does not have significant scarring. Further, the issue that caused her to become burned was mitigated through a corrective action plan. Specifically, the foster parents live in a rental home, and the landlord was contacted after it was discovered that the water heater was one for a commercial building. The foster parents did not have any control over the water heater. The corrective action plan requires that the home's water heater have on it a control device with which children cannot tamper.

Also, a temperature gauge was placed on the shower head, so that the water temperature cannot reach a certain high temperature. Finally, only supervised baths, no showers, are permitted.

¶ 12 As to the twins, they were placed with their foster family almost immediately after their birth. They saw their older siblings for birthdays, holidays, weekends, and play dates. Both twins were bonded with their foster parents, in the only home they have ever known.

¶ 13 All foster parents wished to provide permanency through adoption for the children in their care.

¶ 14 The last time the caseworker observed respondent's interactions with the children, T.P. (first) did not smile much and N.P. seemed to have anxiety and appeared uncomfortable. The twins seemed indifferent when meeting respondent, with one not interacting with her at all.

¶ 15 The twins' foster mother testified that she texted respondent and invited her over weekly between March and August 2017, but respondent came only four times. Those visits were productive, and respondent was appropriate and seemed to love and care for them.

¶ 16 Respondent testified that, before N.P. was removed from her care at age four, she had an "amazing" bond with her, taking her to swim classes, camp, and the mall. Also, N.P. was in an African dance group at church, and respondent would read to her and do her preschool homework with her. Respondent identified photos of her and the time she spent with the children, as well as a certificate of completion for the parenting class she took through the Youth Services Bureau.

¶ 17 The trial court found that it was in the children's best interests that respondent's parental rights be terminated.

¶ 18 II. ANALYSIS

¶ 19 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). Here, the trial court found respondent unfit under the Adoption Act (Act) (750 ILCS 50/1 *et seq.* (West 2016)) on all three bases alleged by the State, namely her: (1) failure to maintain a reasonable degree of interest, concern, or responsibility as to the children's welfare (750 ILCS 50/1(D)(b) (West 2016)); (2) failure to make reasonable progress toward the return of the children to her care during any nine-month period following the adjudication of neglect or abuse and, specifically, from April 20, 2017, to January 20, 2018, and November 8, 2017, to August 6, 2018 (750 ILCS 50/1(D)(m)(ii) (West 2016)); and (3) as to children T.P. (first) and N.P. only, failure to protect the children from conditions within their environment injurious to their welfare (750 ILCS 50/1(D)(g) (West 2016)).

¶ 20 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. *Janine M.A.*, 342 Ill. App. 3d at 1049. As such, we affirm the court's finding of unfitness because, at a minimum, the court's findings that respondent failed to make reasonable progress toward the return of the children to her care from April 20, 2017, to January 20, 2018, and from November 8, 2017, to August 6, 2018, were not contrary to the manifest weight of the evidence. 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). In assessing progress, the court may consider compliance with service plans, in light of the conditions which gave rise to the removal of the minors from respondent's care, as well as any other conditions which later prevented the trial court from returning the minors to respondent. *Id.*

¶ 21 Here, respondent argues that she successfully completed classes with Youth Services Bureau, completed a substance abuse assessment, and had been successfully discharged from domestic violence counseling and individual counseling. However, all of those achievements, while laudable, occurred prior to April 2017, and, therefore, are outside the relevant periods. In contrast, the court found that, during the relevant periods, respondent had failed drug drops, had not completed required therapy, had not completed additional required domestic violence treatment, and had struggled in her attachment to or progress with the children in visitation. Her therapy and visitation were, at times, interrupted due to her incarceration. She went long periods without seeing or inquiring about the children. Accordingly, in light of the foregoing evidence, the court's findings that it would not be able to return the children home to respondent's care in the near future (*Phoenix F.*, 2016 IL App (2d) 150431, ¶ 7) or that there existed no "demonstrable movement toward the goal of reunification" (*C.N.*, 196 Ill. 2d 181, 211 (2001)) were not contrary to the manifest weight of the evidence.

¶ 22 Similarly, we conclude that it was not against the manifest weight of the evidence for the trial court to conclude that termination of parental rights is in the children's best interests. See *In re Janira T.*, 368 Ill. App. 3d 883, 894 (2006). In making a best-interests determination, the trial court must consider the factors set forth in section 1-3(4.05) of the Juvenile Court Act (705 ILCS 405/1-103(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*.

¶ 23 Here, the court found, given all the evidence and considering the statutory best-interest factors, that the State had met its burden of establishing that it is in the children's best interests that respondent's parental rights be terminated. The evidence established that the incident wherein T.P. (first) was burned, while unfortunate, was handled with appropriate action, treatment, and corrective mitigation. The evidence reflected that she is bonded with her foster parents, wished to return to their care, her progress devolved when she was temporarily removed from their care, and that it remains in her best interests to continue residing with her sister in the foster placement. N.P. is strongly bonded to the foster parents. Similarly, the evidence showed that the twins are strongly bonded with their foster parents, in the only home they have ever known. Respondent did not see the children, or have any contact with the twins, for a six-month period. All foster parents wished to provide permanency through adoption for the children in their care.

¶ 24 We do not doubt that respondent loves her children. However, her testimony regarding that bond primarily concerned only N.P., as the other children were all very young when removed from her care. The record reflects that N.P. had exhibited some signs of trauma and anxiety, as well as discomfort with respondent, which respondent did not acknowledge. In addition, at this juncture, N.P., too, is bonded with her foster family. The court's finding that it is in the children's best interests for respondent's parental rights to be terminated is not contrary to the manifest weight of the evidence.

¶ 25 III. CONCLUSION

¶ 26 For the foregoing reasons, the judgment of the circuit court of Winnebago County is affirmed.

¶ 27 Affirmed.