2019 IL App (4th) 180665-U

NOS. 4-18-0665, 4-18-0695 cons.

FILED
February 20, 2019
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re E.W., a Minor	)	
	)	Appeal from the
(The People of the State of Illinois,	)	Circuit Court of
Petitioner-Appellee,	)	Macon County
v. (No. 4-18-0665)	)	No. 17JA56
Ewan W.,	)	
Respondent-Appellant).	)	
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In re E.W., a Minor	)	
	)	
(The People of the State of Illinois,	)	
Petitioner-Appellee,	)	
v. (No. 4-18-0695)	)	
Juanita M.,	)	Honorable
Respondent-Appellant).	)	Thomas E. Little,
	)	Judge Presiding.

JUSTICE CAVANAGH delivered the judgment of the court.
Justices Knecht and Harris concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's order terminating respondent parents' parental rights was not against the manifest weight of the evidence.

¶ 2 Respondents, Juanita M. and Ewan W., are the parents of the minor, E.W. They appealed separately after the trial court terminated their parental rights. They contend the court erred by (1) finding them unfit and (2) finding it was in the minor's best interest to terminate their parental rights. We consolidated the appeals and affirm the court's judgment.

¶ 3 I. BACKGROUND

¶ 4 In March 2016, the Department of Children and Family Services (DCFS) established an intact-family case after respondent mother and the minor's maternal grandmother were yelling at, cursing at, and shaking the minor in the emergency room of a hospital. Respondent mother was at the hospital for evaluation and treatment for her mental-health issues. She was experiencing a manic episode after having not taken her psychotropic medication. The Youth Advocate Program provided services to the family to ensure E.W.'s safety and that respondent mother complied with her medication regime while E.W. remained in her care.

¶ 5 One year later, in March 2017, respondent mother was transported to the hospital for suicidal ideations. She admitted she had not been taking her medication. She was hallucinating and hearing voices. She stated she wanted to kill herself because, according to her, her four-year-old child, E.W., was beating her after he had seen his father do the same. Despite her accusations, the police found no reason not to release E.W. to respondent father. After a few hours in the hospital, where she tested positive for cannabis and methamphetamines, respondent mother was transferred to the crisis unit at Heritage Behavioral Health Center (Heritage). DCFS advised respondent father not to leave E.W. with respondent mother until it was determined she was stable. Respondent father disregarded the advice and also refused to stop using cannabis, so E.W. was taken into protective custody. Further, respondent father denied any incidents of domestic violence.

¶ 6 In March 2017, the State filed a petition for the adjudication of wardship as to E.W. The State's petition alleged E.W. was neglected pursuant to sections 2-3(1)(a) and (1)(b) and abused pursuant to section 2-3(2)(ii) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(a), (1)(b), (2)(ii) (West 2016)), in that he was not receiving the proper care necessary for his well-being, his environment was injurious to his welfare when he resided with

both respondents, and he was at a substantial risk of physical injury in respondents' care. The grounds for the State's allegations were as follows: (1) respondent mother was not compliant with her medication and suffered suicidal ideations; (2) respondent mother was diagnosed with schizophrenia; (3) respondent mother and respondent father have unresolved substance-abuse issues; and (4) E.W. had witnessed domestic-violence incidents between respondent father and respondent mother. At the June 2017 adjudication hearing, the trial court found the State had proved by a preponderance of the evidence the allegations of neglect in the wardship petition. After an October 2017 dispositional hearing, the court entered a dispositional order (1) finding respondent mother and respondent father unfit and unable to care for, protect, train, educate, supervise, or discipline E.W.; (2) making E.W. a ward of the court; and (3) placing his custody and guardianship with DCFS.

¶ 7 In June 2018, the State filed a motion to terminate both respondents' parental rights to E.W. The motion asserted respondents were unfit because they (1) abandoned the minor (750 ILCS 50/1(D)(a) (West Supp. 2017)); (2) failed to maintain a reasonable degree of interest, concern, or responsibility as to E.W.'s welfare (750 ILCS 50/1(D)(b) (West Supp. 2017)); (3) deserted E.W. for more than three months prior to the unfitness proceedings (750 ILCS 50/1(D)(c) (West Supp. 2017)); (4) failed to make reasonable efforts to correct the conditions that were the basis for E.W.'s removal (750 ILCS 50/1(D)(m)(i) (West Supp. 2017)); (5) failed to make reasonable progress toward the return of the minor during any nine-month period following adjudication of neglect, namely June 26, 2017, to March 26, 2018 (750 ILCS 50/1(D)(m)(ii) (West Supp. 2017)); and (6) failed to make reasonable progress toward the return of the minor during any nine-month period following adjudication of neglect, namely September 19, 2017, to June 19, 2018 (750 ILCS 50/1(D)(m)(ii) (West Supp. 2017)).

¶ 8 On August 16, 2018, the trial court conducted the fitness hearing. The State first presented the testimony of Christine Foster, a one-on-one parenting instructor at Youth Advocate Program. She said she received a referral for both respondents on May 15, 2017. They both completed an assessment on May 30, 2017. Respondent mother was rated as a "medium risk," and respondent father was rated as a "high risk." Respondent mother began the four-month parenting course on May 30, 2017, but she had not successfully completed it by April 2018. Respondent father was an unwilling participant from the beginning but "they encouraged him to do it again [be]cause it—because it was part of his service plan." He participated "for a little while, and then he disengaged. And then he tried to engage again." By March 2018, he returned his book. Thus, according to Foster, neither parent successfully completed their parenting-course task.

¶ 9 Andrea Rolfs, an outpatient therapist at Heritage, testified she first met with respondent mother on April 18, 2017. She was to provide respondent mother with substance-abuse and individual therapy. According to Rolfs, respondent mother successfully completed substance-abuse therapy "about a year ago." Rolfs acquired respondent mother as a patient when another therapist within the agency retired. Respondent mother had been "highly engaged" in therapy with the previous therapist at a time when the group and individual sessions ran concurrently. However, when the group substance-abuse sessions ended, respondent mother's participation and attendance dropped. After 13 failed appointments, Rolfs stopped reaching out to respondent mother. The last time Rolfs saw her was April 24, 2018. Since then, respondent mother has had "four no-shows in a row."

¶ 10 Michelle McRoberts, a DCFS Medicaid counselor for Youth Advocate Program, testified she was assigned to provide mental-health counseling to both respondents. She said she

received a referral from DCFS for respondent father in May 2017. When McRoberts spoke with him, he indicated he had completed an assessment at Heritage and did not need counseling. McRoberts contacted the caseworker, who said despite his prior assessment, respondent father would need to engage in counseling because it had been "re-determined" by the caseworker to have the task placed on respondent father's case plan. McRoberts said she contacted respondent father for a reassessment. He scheduled an appointment but failed to attend.

¶ 11 McRoberts said she received a referral from Youth Advocate Program for respondent mother in March 2018 at respondent mother's request because she was unhappy with her counseling at Heritage. McRoberts scheduled two appointments in March 2018 for respondent mother's assessment, but she failed to attend. In June 2018, McRoberts received a new referral for respondent mother and attempted to contact her but received no response.

¶ 12 Dawn McCoy, a family rehabilitationist, testified she supervised respondents' visits with E.W. through Youth Advocate Program. She conducted the first home visit in June 2017. At that time, she spoke with both respondents at respondent mother's apartment. Respondent father was reportedly living with his sister. The three spoke about respondents' respective case plans and McCoy offered her assistance with any of their tasks. She attempted to have other "drop-in" home visits in July and August 2017, but no one answered the door at the apartment. McCoy said she attended a September 5, 2017, child-family team meeting at DCFS hoping to make contact with respondents but they failed to appear.

¶ 13 McCoy said she began supervising visits between respondent father and E.W. at Youth Advocate Program on October 23, 2017. She described the visits between the two as "good," indicating he provided food, engaged in play, and took E.W. for haircuts. McCoy explained respondent father visited without respondent mother "because there was some trouble

*** in their relationship." Respondent mother claimed respondent father abused her, so the caseworker referred her to Dove, Inc. (Dove) (a social services agency with a domestic-violence program). On October 27, 2017, McCoy attended the intake, where respondent mother claimed respondent father abused her "spiritually, sexually, financially, physically, [and] verbally."

¶ 14 McCoy said respondent father regularly attended visits "at the very beginning" but his attendance as of late was lacking. Of the 65 offered visits, he has attended 42 with 23 "essentially no-call, no-show" appointments.

¶ 15 McCoy testified she received a telephone call from the caseworker's supervisor on December 15, 2017, informing her of further abuse upon respondent mother by respondent father. It was reported that respondent father had removed all of respondent mother's personal items from her apartment. McCoy took respondent mother to the food pantry to get food. McCoy said she had no further contact with either respondent until June 5, 2018, when she was asked to retrieve respondent mother, who was hiding in a laundromat from respondent father due to claims of abuse. McCoy took respondent mother to Dove for an intake and to a court hearing, wherein she was granted an emergency order of protection. McCoy believes respondent mother "had that dropped" a few weeks later. McCoy said respondent father repeatedly denied the allegations, telling her respondent mother was "lying about all the abuse."

¶ 16 Vicki Brown, a Youth Advocate Program employee, testified she supervised visits between respondents and E.W. In the beginning of the case, she supervised combined visits with both respondents. The visits were separated beginning in September 2017. Thereafter, she supervised only respondent mother's visits with E.W., which she described as "hit and miss" in terms of attendance. Beginning in September 2017, respondent mother was offered 42 visits and

attended 26. She either cancelled or failed to attend on 15 occasions. Brown said respondent mother was "pretty inconsistent throughout."

¶ 17 Tiffany Sisk, a child welfare specialist with DCFS, testified she had been the caseworker since November 1, 2017. Respondents' case plans were first developed in April 2017. Respondent father was to participate in a parenting course and substance-abuse treatment and work toward personal stability. Respondent mother was to participate in a parenting course and mental-health treatment and work toward personal stability. The plan was evaluated in September 2017. Each respondent was rated unsatisfactory. The goals remained the same for the next case plan, which was evaluated in March 2018. Again, each respondent was rated unsatisfactory. Respondent father missed three drug drops and tested positive for cannabis in December 2017. Although substance-abuse counseling was not part of respondent mother's case plan, she was still given random drug tests. She tested positive for cannabis in August 2017 and missed subsequent drug tests. There were no changes to respondent father's case plan, but respondent mother was now to participate in domestic-violence counseling. As of June 19, 2018, neither parent had successfully participated in any task. Sisk discovered that respondent mother's last session with her psychiatrist was in June 2017 and she had again not been taking her medication.

¶ 18 In Sisk's opinion, it was not safe for E.W. to return to respondents' care. In fact, she could not foresee any time in the reasonable future that he would be able to be returned home. She explained she held this opinion "[d]ue to the ongoing cycle of their relationship, inconsistency in their services of parenting, the inconsistency of [respondent mother]'s mental health services, which is initially what brought the case into care was because of her crisis

meltdown, and the reports of abuse, the—putting a child in a domestic violence situation like that would be terrifying."

¶ 19 Respondent father testified he has lived at his sister's residence for approximately four years. He presented the court with three exhibits: (1) a certificate of completion for parenting dated March 29, 2017, issued by Webster Cantrell Hall; (2) a certificate of completion of a substance-abuse evaluation dated June 2017, issued by Heritage; and (3) "the assessment that [he] had done in June 2018 at Heritage." He presented no further evidence.

¶ 20 Respondent mother presented no evidence.

¶ 21 After hearing the parties' arguments, the trial court found both respondents unfit on the grounds alleged in the State's motion to terminate, with the exception of the grounds alleging abandonment and desertion of the minor.

¶ 22 The trial court conducted a best-interests hearing. The State again called Sisk as a witness. She testified E.W. was now five years old and was living in a single-parent traditional foster home. He was placed in the home on March 23, 2017. The foster mother's mother and sister live in the home with other children as well. Sisk said the children get along with each other "[l]ike siblings." She said E.W. was doing "pretty well" in school. He has an individualized educational plan to assist him with his speech and behavioral issues. She said E.W. has developed a bond with his foster parent and siblings. His foster mother desired to adopt him. In Sisk's opinion, it would be best for E.W. to remain in his current foster placement and achieve permanency through adoption.

¶ 23 Respondent father again testified. He said both he and respondent mother were good parents. He said she "was just off her medicine one time."

¶ 24 After considering the evidence presented, including the best-interest report, the trial court entered a written order finding it was in E.W.'s best interests to terminate respondents' parental rights.

¶ 25 This appeal followed.

¶ 26 II. ANALYSIS

¶ 27 Both respondents argue the trial court's findings of parental unfitness were against the manifest weight of the evidence. Pursuant to section 2-29(2) of the Juvenile Court Act (705 ILCS 405/2-29(2) (West 2016)), the termination of parental rights involves a two-step process. First, the State must prove by clear and convincing evidence the parent is "unfit," as that term is defined in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West Supp. 2017)). *In re Donald A.G.*, 221 Ill. 2d 234, 244 (2006). If the court finds a parent unfit, then the State must prove by a preponderance of the evidence it is in the minor's best interests that parental rights be terminated. *In re D.T.*, 212 Ill. 2d 347, 366 (2004).

¶ 28 Because the trial court has the best opportunity to observe the demeanor of the parties and witnesses, it is in the best position to determine the credibility and weight of the witnesses' testimony. *In re E.S.*, 324 Ill. App. 3d 661, 667 (2001). We afford the trial court broad discretion and great deference in matters involving minors. *Id*. Therefore, a reviewing court will not disturb a trial court's unfitness finding unless it is contrary to the manifest weight of the evidence. *Id*. A trial court's decision is against the manifest weight of the evidence only where the opposite conclusion is clearly apparent. *In re Gwynne P.*, 215 Ill. 2d 340, 354 (2005).

¶ 29 Under the Adoption Act, a parent is considered unfit if he or she fails to make a reasonable effort to correct the conditions that led to the minor's removal. 750 ILCS 50/1(D)(m)(i) (West 2016). "Reasonable effort" is a subjective standard and is associated with

the goal of correcting the conditions that caused the minor's removal from the parent's care. *In re J.A.*, 316 Ill. App. 3d 553, 565 (2000). The focus is on the amount of effort reasonable for the particular parent involved. *In re M.A.*, 325 Ill. App. 3d 387, 391 (2001).

¶ 30 E.W. was removed from respondent mother's care due to her untreated mental illness. DCFS released E.W. into respondent father's care until respondent mother could address and treat her condition with the appropriate medication. However, E.W. was then removed from respondent father's care because he insisted on leaving the child unsupervised with respondent mother, refused to quit using cannabis, and he engaged in domestic violence. Thus, in order to correct the conditions that caused the removal of the minor from their care, respondent father needed to address parenting concerns, participate in substance-abuse treatment, and participate in domestic-violence counseling, while respondent mother needed to address her mental-health issues. As the case progressed, neither respondent made reasonable efforts toward correcting their respective issues.

¶ 31 The parenting instructor, Foster, testified that neither respondent successfully completed parenting courses. Their attendance and involvement was sporadic. Foster said she attempted to reengage them both but she was unsuccessful. Respondent mother failed to participate in a mental-health assessment. Respondent father failed to participate in domestic-violence counseling or in substance-abuse treatment. Overall, neither respondent made any demonstrative movement toward correcting the conditions that caused E.W.'s removal or, for that matter, toward *any* task set forth in their respective case plan. Respondents were rated unsatisfactory on all tasks. Based on this evidence, we conclude the trial court's finding that respondents were unfit for failing to make reasonable efforts toward correcting the conditions

that caused E.W.'s removal from their care (750 ILCS 50/1(D)(m)(i) (West Supp. 2017)) was not against the manifest weight of the evidence.

¶ 32 Because we affirm the trial court's finding that respondents met one of the statutory definitions of an "unfit person" (750 ILCS 50/1(D)(m)(i) (West Supp. 2017)), we need not review the other bases for the court's unfitness finding. See *J.A.*, 316 Ill. App. 3d at 564 (only one ground of unfitness needs to be proved by clear and convincing evidence in order to find a parent unfit).

¶ 33 At the best-interest stage of parental-termination proceedings, the State bears the burden of proving by a preponderance of the evidence that termination of parental rights is in the minor's best interest. *In re Jay. H.*, 395 Ill. App. 3d 1063, 1071 (2009). Consequently, at the best-interest stage of termination proceedings, " 'the parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life.' [Citation.]" *In re T.A.*, 359 Ill. App. 3d 953, 959 (2005).

¶ 34 "We will not reverse the trial court's best-interest determination unless it was against the manifest weight of the evidence." *Jay H.*, 395 Ill. App. 3d at 1071. A best-interest determination is against the manifest weight of the evidence only if the facts clearly demonstrate that the court should have reached the opposite result. *Id.*

¶ 35 The trial court considered Sisk's testimony regarding the positive impact E.W.'s foster home was having on his behavior, education, and well-being. She testified his foster home was a potential adoptive placement and that he had established a bond with his foster family. His foster mother was meeting all of his needs. The court noted E.W. had been in the same foster placement since being taken into protective custody and he seemed to consider the immediate and extended foster family as his own. After considering the evidence, and in the interest of

E.W.'s sense of attachment, sense of security, his need for permanence, and his need for stability, the court found it in E.W.'s best interests that respondents' parental rights be terminated. We affirm the court's decision and conclude that the court's best-interest finding 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.