

NOTICE
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2019 IL App (4th) 190189-U

NOS. 4-19-0189, 4-19-0190, 4-19-0191 cons.

IN THE APPELLATE COURT
OF ILLINOIS

FOURTH DISTRICT

FILED
August 19, 2019
Carla Bender
4th District Appellate
Court, IL

<i>In re</i> J.B.-A., a Minor)	Appeal from the
)	Circuit Court of
(The People of the State of Illinois,)	Vermilion County
Petitioner-Appellee,)	No. 17JA34
v. (No. 4-19-0189))	
Khydijah B.,)	
Respondent-Appellant).)	
)	
_____)	
<i>In re</i> J.B., a Minor)	No. 17JA35
)	
(The People of the State of Illinois,)	
Petitioner-Appellee,)	
v. (No. 4-19-0190))	
Khydijah B.,)	
Respondent-Appellant).)	
)	
_____)	
<i>In re</i> I.B., a Minor)	No. 17JA47
)	
(The People of the State of Illinois,)	
Petitioner-Appellee,)	
v. (No. 4-19-0191))	Honorable
Khydijah B.,)	Thomas M. O’Shaughnessy,
Respondent-Appellant).)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Presiding Justice Holder White and Justice Cavanagh concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, concluding the trial court’s findings respondent was

unfit and it was in the minors' best interests to terminate respondent's parental rights were not against the manifest weight of the evidence.

¶ 2 Respondent mother, Khydijah B., appeals from the trial court's orders terminating her parental rights to J.B. (born February 14, 2013), J.B.-A. (born May 15, 2016), and I.B. (born June 1, 2017). On appeal, respondent argues the court's findings she was an unfit parent and it was in the minors' best interests to terminate her parental rights were against the manifest weight of the evidence. We disagree and affirm.

¶ 3 I. BACKGROUND

¶ 4 In October 2018, the State filed petitions to terminate respondent's parental rights to J.B., J.B.-A., and I.B. The State alleged respondent was an unfit parent as she failed to (1) maintain a reasonable degree of interest, concern, or responsibility as to the minors' 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 minors within a nine-month period following the adjudications of neglected, namely January 9, 2018, to October 9, 2018 (*id.* § 1(D)(m)(i)); and (3) make reasonable progress toward the return of the minors to her custody within a nine-month period following the adjudications of neglected, namely January 9, 2018, to October 9, 2018 (*id.* § 1(D)(m)(ii)). The State further alleged it was in the minors' best interests to terminate respondent's parental rights and appoint the Department of Children and Family Services (DCFS) as guardian with the power to consent to adoption.

¶ 5 In March 2019, the trial court held fitness and best-interest hearings on the same day. Respondent did not appear at the hearings. Prior to conducting the fitness hearing, respondent's counsel informed the court she had not had contact with respondent "in a very

extensive period of time” and the minors’ caseworker, Jill Miller, had been unable to locate respondent.

¶ 6 During the fitness hearing, the State presented testimony from the minors’ caseworker. The caseworker testified she was assigned to the matter around April 2017. Within the first month of the case opening, respondent completed an integrated assessment. The integrated assessment recommended substance-abuse and mental-health services and cooperation with DCFS. Respondent did not complete the recommended services or cooperate with DCFS. The caseworker described respondent’s contact with her as “sporadic,” with the caseworker last meeting with respondent in June 2017 and hearing from respondent in August 2017. On July 10, 2017, respondent reported to be in Chicago. On August 25, 2017, respondent reported to be in Atlanta. Since August 2017, the caseworker had attempted to make contact with respondent each month. The caseworker’s search suggested respondent may have been at various addresses across the country. The caseworker sent certified letters to the addresses but never received a response. In December 2018, respondent contacted DCFS by telephone. The caseworker called respondent back the next day but respondent did not answer and the caseworker could not leave a message as no voicemail had been set up. Since the case was opened, respondent visited the minors on approximately three occasions, with the last visit occurring in June 2017. The caseworker was not aware of respondent ever sending gifts or letters to the minors. Based on this evidence, the court found respondent unfit for all the reasons alleged in the State’s petitions. The court later entered written orders providing the same.

¶ 7 During the best-interest hearing, the State again presented testimony from the minors’ caseworker. The caseworker testified the minors had resided with their maternal

grandmother since February 2018. The maternal grandmother was a licensed foster parent and expressed a desire to adopt the minors. The caseworker, who visited the foster home on a monthly basis, observed the minors to be loved, supported, and cared for by their foster mother. The caseworker believed the minors were bonded to their foster mother. J.B. expressed a desire “to stay with his Lovey,” while J.B.-A. and I.B. were too young to express where they desired to stay. J.B.-A. and I.B. had spent a majority of their lives in their foster mother’s care. J.B. was in counseling and was doing well. J.B.-A. and I.B. had minor behavior issues typical for their ages. The caseworker referred J.B.-A. and I.B. for early intervention services to allow for developmental therapy. Respondent had made no contact with the minors since 2017. The caseworker testified she did not believe the minors were bonded to respondent. The caseworker supported placement with the foster mother with the goal of adoption. Based on this evidence, the court, after considering the statutory best-interest factors found in section 1-3(4.05) of the Juvenile Court Act of 1987 (705 ILCS 405/1-3(4.05) (West 2016)), found it would be in the minors’ best interests to terminate respondent’s parental rights. The court later entered written orders terminating respondent’s parental rights to each minor.

¶ 8 This appeal followed.

¶ 9 II. ANALYSIS

¶ 10 On appeal, respondent argues the trial court’s findings she was an unfit parent and it was in the minors’ best interests to terminate her parental rights were against the manifest weight of the evidence.

¶ 11 A. Unfitness Finding

¶ 12 Respondent contends the trial court’s finding she was an unfit parent was against

the manifest weight of the evidence where she “expressed concern for her children and began the initial assessments required of her.” Respondent additionally asserts she should have been given more time to cooperate and participate due to her mental-health issues.

¶ 13 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 trial court’s finding of parental unfitness 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.” (Internal quotation marks omitted.) *In re M.I.*, 2016 IL 120232, ¶ 21, 77 N.E.3d 69.

¶ 14 In this case, the trial court found respondent to be an unfit parent in part because she failed to maintain a reasonable degree of interest, concern, or responsibility as to the minors’ welfare (750 ILCS 50/1(D)(b) (West 2016)). See *In re M.I.*, 2016 IL 120232, ¶ 43 (“A parent’s rights may be terminated if even a single alleged ground for unfitness is supported by clear and convincing evidence.” (Internal quotation marks omitted.)). “[I]n determining whether a parent showed reasonable concern, interest or responsibility as to a child’s welfare, we have to examine the parent’s conduct concerning the child in the context of the circumstances in which that conduct occurred.” *In re Adoption of Syck*, 138 Ill. 2d 255, 278, 562 N.E.2d 174, 185 (1990).

¶ 15 While the evidence showed respondent initially showed some interest, concern, and responsibility for the minors’ welfare by taking the first step to complete an integrated assessment after the case opened, her later actions demonstrated she failed to maintain that interest, concern, and responsibility. Respondent did not complete recommended services or

cooperate with DCFS. Respondent only visited with the minors on approximately three occasions, with the last visit occurring almost two years prior to the fitness hearing. Respondent did not maintain regular contact with the caseworker assigned to monitor the minors' welfare. As to her suggestion she should have been given additional time to cooperate with DCFS or to participate in services, respondent did not seek such relief before the trial court nor is there any indication such an extension would have changed the result in this case. Based on the evidence presented, we cannot say the trial court's finding respondent was an unfit parent was against the manifest weight of the evidence.

¶ 16 B. Best-Interest Findings

¶ 17 Respondent contends the trial court's findings it was in the minors' best interests to terminate her parental rights were against the manifest weight of the evidence where her "mental[-]health issues kept her from fully cooperating with services" and "her bond with the children was not proven to not exist."

¶ 18 At the best-interest stage, a "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). The State must prove by a preponderance of the evidence termination is in the child's best interests. *Id.* at 367. When considering whether termination of parental rights would be in a child's best interest, the trial court must consider several statutory factors within the context of the child's age and developmental needs. 705 ILCS 405/1-3(4.05) (West 2016).

¶ 19 This court will not reverse a trial court's finding termination of parental rights is in a child's best interests unless it is against the manifest weight of the evidence. *In re Anaya*

J.G., 403 Ill. App. 3d 875, 883, 932 N.E.2d 1192, 1199 (2010). Again, a finding is against the manifest weight of the evidence only if the facts clearly demonstrate the court should have reached the opposite conclusion. *Id.*

¶ 20 The minors had resided with their licensed foster mother, their maternal grandmother, since February 2018. The minors were loved, supported, and cared for by their foster mother. The caseworker believed the minors were bonded to their foster mother. The foster mother expressed a desire to adopt the minors. Contrary to respondent's argument, the evidence showed an absence of a bond between her and the minors: (1) the minors had not had contact with respondent since 2017 and (2) the caseworker testified she did not believe the minors were bonded to respondent. Based on the evidence presented, we find the trial court's findings it was in the minors' best interests to terminate respondent's parental rights were not against the manifest weight of the evidence.

¶ 21 III. CONCLUSION

¶ 22 We affirm the trial court's judgment.

¶ 23 Affirmed.