2024 IL App (4th) 240845-U

NO. 4-24-0845

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
October 8, 2024
Carla Bender
4th District Appellate
Court, IL

In re R.M., a Minor,	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Schuyler County
Petitioner-Appellee	)	No. 22JA4
v.	)	
Dallas W.,	)	Honorable
Respondent-Appellant).	)	Mark L. Vincent,
	)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Justices Zenoff and Knecht concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, holding that the trial court's determinations that respondent was unfit and termination of his parental rights was in the minor's best interest were not against the manifest weight of the evidence.

¶ 2 Respondent, Dallas W., appeals the trial court's order terminating his parental rights to his son, R.M. (born in 2015). Respondent argues that the court erred in finding him unfit and in finding that termination of his parental rights was in R.M.'s best interest. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On February 9, 2022, the State filed a petition for adjudication of wardship regarding R.M. The petition alleged that R.M. was neglected pursuant to section 2-3(1)(a) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(a) (West 2022)) in that he was not receiving the proper or necessary support, medical or other remedial care necessary

for his well-being. The petition alleged that the Illinois Department of Children and Family Services (DCFS) had received a hotline call stating that Kylie M., R.M.'s mother, was living in "hoarder-like conditions" with her paramour and that they were both suspected drug users. Kylie M. was not cooperative with DCFS's investigation into this report. On February 1, 2022, DCFS advised respondent not to allow R.M. to stay with Kylie M. due to the pending investigation. However, on February 7, 2022, respondent was arrested on felony drug charges, and R.M. was in Kylie M.'s care at that time. The petition alleged that respondent had sent R.M. to stay with Kylie M. for a few days, starting on February 4, 2022. On February 8, 2022, DCFS personnel requested that Kylie M. take a drug test, but she refused.

¶ 5 On February 9, 2022, following a shelter care hearing, the trial court granted temporary custody of R.M. to DCFS.

¶ 6 On April 20, 2022, the trial court entered an order adjudicating R.M. neglected pursuant to the admissions of both parents. On June 29, 2022, the court entered a dispositional order finding it was in R.M.'s best interest that he be made a ward of the court. The court found both parents were unfit and unable to care for R.M. and that placement with either of them would be contrary to R.M.'s best interest. The court granted custody and guardianship of R.M. to DCFS and set the permanency goal as returning home within 12 months. The court ordered that the parents cooperate with DCFS, comply with the terms of the service plan, and correct the conditions which required R.M. to be in care.

¶ 7 Permanency reviews were held on October 26, 2022, and June 5, 2023. At each of the permanency review hearings, the trial court found respondent had failed to make reasonable and substantial progress or reasonable efforts toward returning R.M. home. At the hearing on

June 5, 2023, the court entered an order changing the permanency goal to substitute care pending determination of termination of parental rights.

¶ 8 On June 26, 2023, the State filed a petition to terminate the parental rights of both parents. The petition alleged that respondent was unfit in that he failed to (1) make reasonable efforts to correct the conditions that were the basis for R.M.'s removal during the nine-month period from September 5, 2022, through June 5, 2023 (750 ILCS 50/l(D)(m)(i) (West 2022)); (2) make reasonable progress toward R.M.'s return during the nine-month period from September 5, 2022, through June 5, 2023 (*id.* § l(D)(m)(ii)); and (3) maintain a reasonable degree of interest, concern, or responsibility for R.M.'s welfare (*id.* § 1(D)(b)). The petition alleged that termination of respondent's parental rights was in R.M.'s best interest.

¶ 9 On November 27, 2023, a hearing was held on the unfitness portion of the petition to terminate parental rights. Samantha Borman testified that she was R.M.'s caseworker from February 2022 through November 15, 2023. Borman stated that R.M. was six years old when he came into care and he was currently eight years old. She stated that DCFS became involved in the case after receiving a call that R.M. was residing with respondent in a home with drugs and went hungry at various times. R.M. was removed from respondent's home based on this report, and he could not be placed with Kylie M. because there was another DCFS investigation pending against her. R.M. was currently residing with his paternal grandmother.

¶ 10 Borman testified that, from September 5, 2022, through April 2023, she had in-person contact with respondent at his residence. However, in April 2023, respondent stated he did not want to have any further contact with Borman without his attorney present. She also contacted respondent by phone, but he did not answer her calls. She provided respondent with her phone number and e-mail address.

¶ 11 Borman testified that respondent completed an integrated assessment in April 2022. Borman developed a service plan based on the integrated assessment. Pursuant to the service plan, respondent was required to cooperate with DCFS and complete parenting, mental health, and substance abuse services. Borman provided respondent with a copy of the service plan. Borman testified that the service plan was reviewed every six months. She stated that respondent made unsatisfactory progress toward cooperating with DCFS because in April 2023, he refused to have any further contact with DCFS without an attorney present. His progress with substance abuse services was also unsatisfactory. Borman stated that respondent began substance abuse treatment but failed to complete it. He also failed to complete any random drug drops during the relevant nine-month period. Borman indicated that DCFS offered transportation every time a random drug drop was requested.

¶ 12 Borman testified that respondent's progress with mental health services was also unsatisfactory. Respondent was required to complete a mental health assessment and participate in any services recommended as a result of the assessment. However, Borman never received a mental health assessment for respondent. Borman stated that respondent selected a mental health provider to see for treatment, but he failed to provide Borman with any progress notes or other documentation or communication from his provider, even though Borman explained the importance of providing her with this information. Borman did not have a current release for respondent, so she was unable to obtain information about his treatment directly from his provider.

¶ 13 Borman stated that respondent also failed to complete a parenting program despite being referred to two different providers. To her knowledge, respondent never attended a single parenting class. She spoke to respondent about completing a parenting program, and respondent

said he would work on it. She offered transportation to parenting classes to respondent, but he declined.

¶ 14 Borman testified that, during the nine-month period in question, approximately 36 supervised visits with R.M. were scheduled for respondent and he attended approximately 20 of them. He regularly attended visits at the commencement of the case, but he started missing visits toward the end. His visits were eventually suspended due to his failure to attend. Borman testified that she received reports that when R.M. came home after some visits, he would feel anxious, cry, and "talk[ ] about being yelled at during the visits." For this reason, DCFS never considered increasing the number of visits or moving to unsupervised visits. Borman stated that respondent's last visit with R.M. was on April 21, 2023. Despite his behavior after the visits, R.M. participated in the visits and looked forward to them until respondent stopped attending. DCFS was prepared to discuss restarting visitation at a child and family team meeting, but respondent failed to attend the meeting. DCFS offered to provide respondent transportation to the visits, but he declined, stating he did not need it.

¶ 15 Borman testified that there was no point during the nine-month period in question when they were closer to returning R.M. to his parents than when the case commenced due to the parents' lack of participation in services. At some point during the nine-month period, respondent informed Borman that he had been kicked out of his father's house, was homeless, and did not have a vehicle. Borman testified that respondent never told her that he did not have Internet access to complete online services and he requested that one of his services be completed online rather than in person.

¶ 16 The State requested that the trial court take judicial notice of the adjudicatory order, dispositional order, and two permanency hearing orders.

¶ 17 During arguments, respondent's counsel stated that respondent did not have a vehicle, home, or phone plan during the nine-month period in question. Respondent's counsel argued that respondent's visits with R.M. went well, except for when respondent "raised his voice," upsetting R.M.

¶ 18 The trial court found respondent unfit based on all three grounds alleged in the petition. The court stated that "whatever efforts or progress was made, it was not reasonable by any means." The court found that the reasons counsel offered for respondent's lack of progress were not credible. The court noted there were "many other avenues and *** services offered to help get around those problems" and that respondent failed to relay to Borman that he was having issues with phone access. The court also found respondent's failure to complete drug drops to be significant, as one of the reasons D.M. was taken into care was that drugs were found in respondent's home. The court noted that respondent made no efforts in key areas, like parenting classes and drug testing.

¶ 19 On April 19, 2024, a best-interest report prepared by Jenny Metzroth, a public service administrator with DCFS, was filed. The report stated that respondent failed to complete the services required of him under the service plan. It also stated that he was arrested on November 6, 2023, and subsequently attended substance abuse treatment and resided in a halfway house. He then returned to his father's home and was arrested on theft charges. The report stated he was currently incarcerated on pending charges of theft, indecent solicitation, aggravated criminal sexual abuse, traveling to meet a minor, and grooming.

¶ 20 The report stated that R.M. had been placed with his paternal grandmother since first being taken into care and was thriving in that placement. The report stated that R.M. was "bonded strongly" with his grandmother and she was willing to provide a permanent home for

him. The report noted that R.M. had not had a visit with his father for "over nearly one year," and it recommended that the parental rights of respondent and Kylie M. be terminated so that R.M. could be adopted by his grandmother.

¶ 21 On May 3, 2024, a best-interest hearing was held. Metzroth testified that she had overseen R.M.'s case since May 2022. She stated R.M. had resided with his paternal grandmother since the case was opened in February 2022 and she was willing to adopt him. R.M.'s grandmother had a job and stable housing, and she provided for R.M.'s basic needs of food, shelter, clothing, medical care, dental care, and education. Metzroth had visited R.M.'s grandmother's home on two occasions. The home was free of clutter and obvious safety hazards, and R.M. had his own room. Metzroth stated the last time she was at R.M.'s home, he was asking for his grandmother's help with his homework and he was "just clearly very comfortable with her being his person." She stated there appeared to be love and affection between R.M. and his grandmother. Metzroth stated she had been told that R.M. calls his grandmother "mom."

¶ 22 Metzroth testified she believed termination of respondent's parental rights was in R.M.'s best interest because R.M. wished to remain with his grandmother, as that was his "safe space." Metzroth noted that neither of R.M.'s parents were able to successfully complete the services necessary to have him returned. Metzroth stated R.M. was content with visiting respondent at the beginning of the case, but the visiting supervisor subsequently reported concerns about some interactions. R.M. then became upset about going to some of the visits, and the visits eventually stopped.

¶ 23 Respondent's counsel asked Metzroth if respondent's mother had raised respondent. Metzroth stated that she did not know. Counsel asked Metzroth if it would concern

her to learn that respondent's mother had left him when he was a young child. Metzroth stated it would not concern her in regard to R.M. because she was meeting all of R.M.'s needs.

¶ 24 During argument, respondent's counsel stated that respondent's mother left him when he was a young child and respondent began experimenting with drugs and alcohol around that time. Counsel noted that the best-interest report stated respondent completed drug treatment. Counsel noted that respondent's lack of money, transportation, and a home prevented him from completing services. Counsel also noted respondent had not been convicted of the charges pending against him. The State discussed the statutory best-interest factors and argued that termination of respondent's and Kylie M.'s parental rights was in R.M.'s best interest.

¶ 25 The trial court stated that it had considered the evidence and arguments presented. The court found that termination of respondent's and Kylie M.'s parental rights was in R.M.'s best interest because the statutory factors "ha[d] been met." The court noted that R.M.'s grandmother had been meeting his needs and provided a good placement for him. The court noted the concerns raised by respondent's counsel about his mother leaving him when he was a young child. The court stated it was not aware of those concerns prior to the hearing, and it was "not really considering those [concerns]." The court noted that many years had passed "since whatever was alleged." The court also noted R.M. had been placed with his grandmother for several years at the time of the best-interest hearing and found that R.M. appeared to be thriving in her care.

¶ 26 The trial court entered an order terminating respondent's parental rights. This appeal followed.

¶ 27 II. ANALYSIS

¶ 28 A. Fitness

¶ 29 Respondent argues that the trial court erred in finding him unfit. Respondent argues that, under the circumstances, he made reasonable efforts to correct the conditions that led to R.M.'s removal and maintained a reasonable degree of interest, concern, and responsibility toward R.M. Respondent acknowledges he "still had work to do," but he contends the State did not provide him with enough time.

¶ 30 The involuntary termination of parental rights involves a two-step process and is governed by the Juvenile Court Act) and the Adoption Act. *In re C.W.*, 199 Ill. 2d 198, 210 (2002); *In re D.T.*, 212 Ill. 2d 347, 352 (2004). First, the State must prove by clear and convincing evidence that the parent is "unfit" as defined in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2022)). *C.W.*, 199 Ill. 2d at 210; see 705 ILCS 405/2-29(2) (West 2022). If the trial court finds the parent unfit, it then considers whether termination of parental rights is in the child's best interest. *C.W.*, 199 Ill. 2d at 210; see 705 ILCS 405/2-29(2) (West 2022).

¶ 31 Section 1(D) of the Adoption Act (750 ILCS 5/1(D) (West 2022)) sets forth several grounds upon which a parent may be deemed unfit. The State must allege in its termination petition the specific statutory grounds upon which the charge of parental unfitness is based, but it need not prove every ground it has alleged. *In re Gwynne P.*, 215 Ill. 2d 340, 349 (2005). Rather, "[a] parent's rights may be terminated if even a single alleged ground for unfitness is supported by clear and convincing evidence." *Id.*

¶ 32 Relevant to this appeal, section 1(D)(b) of the Adoption Act (750 ILCS 5/1(D)(b) (West 2022)) provides that one of the grounds of unfitness is a "[f]ailure to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare." Section 1(D)(m)(i), (ii) of the Adoption Act (*id.* § 1(D)(m)(i), (ii)) provides that grounds for unfitness include:

> "Failure by a parent (i) to make reasonable efforts to correct the conditions that were the basis for the removal of the child from the parent during any 9-month period following the adjudication of neglected or abused minor ***, or (ii) to make reasonable progress toward the return of the child to the parent during any 9-month period following the adjudication of neglected or abused minor."

This section provides two independent bases for a determination of unfitness, namely: "(1) the failure by a parent to make reasonable efforts to correct the conditions that were the basis for the removal of the child, *or* (2) the failure to make reasonable progress toward the return of the child." (Emphasis in original.) *In re C.N.*, 196 Ill. 2d 181, 210-11 (2001). "Reasonable efforts relate to the goal of correcting the conditions that caused the removal of the child from the parent [citation], and are judged by a subjective standard based upon the amount of effort that is reasonable for a particular person [citation]." *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1066-67 (2006).

¶ 33 "In contrast, reasonable progress is judged by an objective standard based upon the amount of progress measured from the conditions existing at the time custody was taken from the parent." *Id.*at 1067.

> "If a service plan has been established *** to correct the conditions that were the basis for the removal of the child from the parent and if those services were available, then *** 'failure to make reasonable progress toward the return of the child to the parent' includes the parent's failure to substantially fulfill his or her obligations under the service plan and correct the conditions that brought the child into care during any 9-month period following the adjudication." 750 ILCS 50/1(D)(m) (West 2022).

Our supreme court has held:

> "[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." *C.N.*, 196 Ill. 2d at 216-17.

¶ 34 We will not disturb a trial court's determination that parental unfitness has been established by clear and convincing evidence unless that determination is contrary to the manifest weight of the evidence. *Gwynne P.*, 215 Ill. 2d at 354. "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." *Id.*

¶ 35 Here, the trial court found the State had proven all three grounds of unfitness alleged in its petition by clear and convincing evidence. However, in his brief, respondent argues only that he made reasonable efforts to correct the conditions that were the basis of R.M.'s removal during the relevant nine-month period and that he maintained a reasonable degree of interest, concern, and responsibility for R.M.'s welfare. Respondent does not argue that the court's determination that he failed to make reasonable progress toward R.M.'s return during the nine-month period at issue was against the manifest weight of the evidence. Respondent's failure to challenge the court's finding that he failed to make reasonable progress toward R.M.'s return amounts to a concession that he was unfit on that basis and makes it unnecessary to address his arguments as to the other grounds of unfitness. *In re D.L.*, 326 Ill. App. 3d 262, 268 (2001).

¶ 36 Moreover, the record clearly demonstrates that the trial court's determination that respondent failed to make reasonable progress toward R.M.'s return during the period from September 5, 2022, through June 5, 2023, was not against the manifest weight of the evidence. Borman testified that, during the relevant period, respondent failed to attend any requested drug drops, failed to complete substance abuse treatment, failed to provide any documentation indicating that he was engaged in mental health services, and failed to attend parenting classes. Respondent was offered transportation to drug drops, visitation, and parenting classes, but he declined it. The evidence indicated that at the beginning of the nine-month period, he visited R.M. regularly and was cooperative with DCFS. However, in April 2023, he informed Borman that he would have no further contact with DCFS without his lawyer present, and his visitation was eventually suspended due to his repeated failures to attend. Respondent also failed to attend a subsequent family and team meeting, during which there was to be a discussion of restarting visitation. The evidence showed that respondent failed to complete any of the services set forth in the service plan and was further from reunification with R.M. by the end of the nine-month period than he was at the beginning.

¶ 37 As respondent has failed to argue that the trial court's determination that he failed to make reasonable progress was against the manifest weight of the evidence and the record clearly demonstrates that it was not, we find the court did not err in finding respondent unfit on this basis. Accordingly, we need not address the other two grounds on which the court found respondent unfit. See *In re M.J.*, 314 Ill. App. 3d 649, 655 (2000) ("[O]n review, if there is sufficient evidence to satisfy any one statutory ground we need not consider other findings of parental unfitness.").

¶ 38 B. Best Interest

¶ 39 Respondent also argues that the trial court's determination that termination of his parental rights was in R.M.'s best interest was against the manifest weight of the evidence. Respondent notes that his counsel cross-examined Metzroth during the best-interest hearing as to whether she knew respondent's mother had abandoned him as a young child. Respondent argues that his parental rights were terminated mainly due to financial reasons, it was not in R.M.'s best interest that his rights be terminated, and it was not in R.M.'s best interest that he be placed with respondent's mother.

¶ 40 "At the best-interest portion of a termination hearing, the State bears the burden of proving by a preponderance of the evidence that termination of parental rights is in the child's best interest." *In re J.B.*, 2019 IL App (4th) 190537, ¶ 31. At this stage, the focus shifts from the parent to the child, and "the parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life." *D.T.*, 212 Ill. 2d at 364. "The issue is no longer whether parental rights *can* be terminated; the issue is whether, in light of the child's needs, parental rights *should* be terminated." (Emphases in original.) *Id.*

¶ 41 Section 1-3(4.05) of the Juvenile Court Act (705 ILCS 405/1-3(4.05) (West 2022)) provides that, when a best-interest determination is required, the trial court must consider several enumerated factors in the context of the child's age and developmental needs. These factors include:

> "(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. See 705 ILCS 405/1-3(4.05) (West 2022).

¶ 42 We will reverse a trial court's best-interest determination only if it is against the manifest weight of the evidence. *J.B.*, 2019 IL App (4th) 190537, ¶ 33.

¶ 43 Here, the trial court's determination that termination of respondent's parental rights was in R.M.'s best interest was not against the manifest weight of the evidence. The evidence at the best-interest hearing showed that R.M.'s physical safety and welfare, the development of his identity, his sense of attachments, and his need for permanence were all served by termination of respondent's parental rights. The evidence showed that R.M. had been residing with his grandmother for over two years, she provided for all of his basic needs, he wished to stay with her, and she was willing to adopt him. Metzroth testified that R.M. was "clearly very comfortable with [his grandmother] being his person" and she had been told that R.M. had begun to call his grandmother "mom." Metzroth testified that respondent's visits with R.M. had been suspended and that respondent had not completed any of the services necessary to be reunited with R.M. The best-interest report indicated that respondent had not had a visit with R.M. in "over nearly one year" and that he was incarcerated on several pending criminal charges.

¶ 44 While Metzroth testified that she was unaware of any abandonment of respondent by his mother when he was a child, respondent presented no affirmative evidence that this actually happened. Moreover, as the trial court noted, this alleged conduct would have occurred

many years before the best-interest hearing, and the State presented evidence that respondent's mother had provided a safe and stable home for R.M. for over two years.

¶ 45 III. CONCLUSION

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

¶ 47 Affirmed.