2024 IL App (4th) 240480-U

NOS. 4-24-0480, 4-24-0481, 4-24-0482 cons.

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
July 30, 2024
Carla Bender
4th District Appellate
Court, IL

In re B.G., C.G., and R.G., Minors	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Sangamon County
Petitioner-Appellee,	)	Nos. 22JA168
v.	)	22JA169
Rachel P.,	)	22JA170
Respondent-Appellant).	)	
	)	Honorable
	)	Karen S. Tharp,
	)	Judge Presiding.

JUSTICE VANCIL delivered the judgment of the court.
Justices Zenoff and DeArmond concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, holding the trial court's determinations that (1) respondent was unfit and (2) it was in the best interests of her children to terminate her parental rights were not against the manifest weight of the evidence.

¶ 2 Respondent, Rachel P., appeals an order terminating her parental rights as to her minor children, B.G. (born in 2010), C.G. (born in 2017), and R.G. (born in 2021), after a determination that she was an unfit parent and it was in her children's best interests to do so. Respondent argues the trial court's conclusions regarding her parental fitness and the best interests of her children were against the manifest weight of the evidence. She also argues the court erred in not allowing her to present evidence at the hearing on the termination of her parental rights. The children's father, Nicholas G., signed final and irrevocable consents to adoption for all three children and is not a party to this appeal. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On August 25, 2022, B.G., C.G., and R.G. were taken into protective custody following an investigation by the Illinois Department of Children and Family Services (DCFS). Petitions for adjudication of neglect were filed for each child, alleging the children were neglected under section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Court Act) in that the drug use of their parents, Nicholas G. and Rachel P., created an environment injurious to their welfare (705 ILCS 405/2-3(1)(b) (West 2022)). On August 29, 2022, the trial court found probable cause to believe the children were neglected and placed them in the temporary custody and guardianship of the guardianship administrator for DCFS.

¶ 5 On October 19, 2022, an order was entered adjudicating the minors neglected, and the parents were admonished that they must cooperate with DCFS, comply with the terms of their service plans, and correct the conditions that led to the minors being taken into care or risk the termination of their parental rights. On December 14, 2022, the children were made wards of the court, with the trial court finding that reasonable efforts aimed at family preservation and reunification had been unsuccessful. On March 8, 2023, a permanency hearing was held, at which it was determined that it was still in the children's best interests to set a permanency goal of returning home to their parents. The parents were again admonished of the necessity of complying with the service plans provided to them.

¶ 6 On September 5, 2023, the State filed a motion for termination of parental rights. On September 27, 2023, the State filed a supplemental motion for termination of parental rights, alleging both parents were unfit. On October 13, 2023, the father signed, for each child, a final and irrevocable consent to adoption by the foster parents with whom each had been placed. At

the time, B.G. was living with Ashley V., a paternal cousin, and her husband, William V., while C.G. and R.G. lived with Krystal M., another paternal cousin.

¶ 7 The hearing on the State's motion took place on two dates: January 25, 2024, and March 14, 2024. The trial court heard testimony from three witnesses: Megan Fellows, a case supervisor with Family Service Center (FSC), Melissa Pease, an FSC caseworker, and respondent.

¶ 8 A. Megan Fellows's Testimony

¶ 9 Megan Fellows testified that the children were removed from the parents' care due to substance abuse, domestic violence, and suspected drug trafficking. She testified that an initial service plan was provided to respondent, which included services on substance abuse; random toxicology screenings; domestic violence counseling; mental health counseling; parent counseling; and requirements to maintain sobriety, income, and safe and legal housing. Successful completion of the services was necessary to reunify respondent with her children.

¶ 10 Fellows classified respondent's cooperation with the agency and caseworkers as "[m]inimal to none." She attended only 1 of 33 scheduled drug tests and tested positive for methamphetamine and amphetamines at the one she did attend. Although referrals were made to set her up with parenting classes and mental health counseling, she either did not complete the services or never attended. FSC was never able to initiate domestic violence services for respondent because she needed 30 days of sobriety prior to beginning treatment, and, to Fellows's knowledge, had never achieved that. Respondent visited her children weekly at the onset of her plan, but she stopped in June 2023, after a new condition was implemented requiring her to submit to drug screenings 24 hours prior to the visits. This condition resulted from respondent appearing to be under the influence at a prior visit with her children. Fellows also

testified the visits were moved from FSC to DCFS, where there was security, following visits in which respondent became aggressive with FSC staff members.

¶ 11 In total, four service plans were provided to respondent, all containing substantially similar requirements of substance abuse treatment and varying forms of counseling. Of the three plans that had been rated at the time of the hearing, all were rated unsatisfactory based on respondent's actions or lack thereof. Fellows testified, at no point was the agency close to returning the children to respondent.

¶ 12 B. Melissa Pease's Testimony

¶ 13 Melissa Pease testified she was the caseworker beginning on May 31, 2023, and authored the last two of the four plans made for respondent. She stated that respondent had not completed parenting classes, domestic violence services, mental health services, or substance abuse services. She testified to the difficulty of contacting respondent and said she had not had contact with her since August 2023, approximately five months prior to the hearing. Because of this, she was unable to acquire the new consent forms from respondent that were necessary to re-refer respondent to any services.

¶ 14 Pease described an incident in which respondent arrived 15 minutes late to a visit with her children and after being told the visit had been canceled due to her lateness, became "erratic" and proceeded to tailgate the car driven by a case aide carrying her children back to their foster homes. When Pease called respondent to ask her to stop, respondent denied following the case aide's vehicle and said they were only coincidentally driving in the same direction. However, she agreed to stop and changed her route.

¶ 15 Pease testified that respondent had been told of the availability of bus tokens and gas cards to facilitate travel to her appointments but had declined the offer of bus tokens because

she did not want to ride the bus. Pease further testified that she was unable to visit respondent at the home address respondent gave her due to the house being condemned and unsafe.

¶ 16 Finally, Pease testified about the children's relationship with respondent. She stated that B.G., respondent's oldest son, expressed a lack of trust in his mother and a desire not to meet or talk with her. He has his mother blocked on his social media platforms. C.G. and R.G., respondent's two younger children, do not ask about visiting their mother.

¶ 17 C. Respondent's Testimony

¶ 18 Respondent testified that she had received a copy of the initial service plan and was made aware that she needed to satisfy its requirements to be reunited with her children. She gave multiple excuses for missing her scheduled drug drops, such as being confused as to the location where the drops would be performed, lacking a required driver's license, or having her samples dumped out because she took too long in the restroom. She stated that she had text messages with her caseworker at the time confirming that she appeared at the wrong location to take the drug tests and had attempted to confirm the correct location. Her attorney, who was questioning her at the time, told her, "We will get back to that." She further testified the workers with FCS "don't contact [her] ever," and she did not receive referrals from them. She stated she had asked a caseworker for referrals so that she might engage in the required services, and the caseworker had responded, " 'What referrals?' " Again, respondent testified she had text messages proving these interactions.

¶ 19 Respondent denied any erratic behavior with caseworkers and attributed the results of her drug test to a false positive. She stated she was in inpatient treatment at a drug addiction treatment center not because she was addicted to drugs, but because everyone else believed she was. She testified to repeated efforts to keep in contact with her children.

¶ 20 D. Trial Court's Findings as to Respondent's Parental Fitness

¶ 21 The trial court found respondent unfit on three grounds: (1) failing to maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare (750 ILCS 50/1(D)(b) (West 2022)); (2) failing to make reasonable efforts to correct the conditions leading to the children being put into foster care (*id.* § 1(D)(m)(i)); and (3) failing to make reasonable progress toward the return of her children within nine months following an adjudication of neglect (*id.* § 1(D)(m)(ii)). It found respondent's testimony was not credible and pointed to the positive drug test and her admittance to a drug treatment center as proof she did not make reasonable efforts and progress on the main issue in the case, which was substance abuse.

¶ 22 E. Best Interests Determination

¶ 23 The trial court then turned its attention to a best interests determination. Again, Melissa Pease was called to testify. She stated that in the children's current placements, their medical, emotional, educational, and social needs were being met. B.G., respondent's eldest son, was doing well in school, participating in extracurricular activities, and had his own bedroom. C.G. was also doing well in school, while R.G. was doing well in daycare. Pease testified the children all saw each other regularly. B.G. told her he wanted to be adopted and did not want to return to respondent's care. Based on this, and on the fact that the younger children did not ask questions about respondent, Pease did not believe respondent's children still felt an emotional bond with her. Respondent testified she believed she still had a strong bond with her children but acknowledged on cross-examination that the children were safe, loved, and happy in their current placements. At the State's request, the court took judicial notice of the testimony and findings of unfitness.

¶ 24 The trial court determined it was in the best interests of the children to terminate respondent's parental rights. It noted that at any time, respondent could have visited the children, provided she submit to a drug test, yet in nearly half a year, she had not done so. The children were all doing well in their current placements and had formed bonds with their foster families. The court looked at the best interests factors of physical safety, the welfare of the children, food, shelter, health, clothing, the development of the children's identities, and their background ties, including family, culture, and religion, and determined that all their needs were being met in the foster homes. It concluded the children deserved permanence, and they could not wait any longer for respondent to make the necessary progress to provide it to them.

¶ 25 Respondent appealed.

¶ 26 II. ANALYSIS

¶ 27 On appeal, respondent argues (1) the trial court's finding of parental unfitness was against the manifest weight of the evidence, (2) the court's finding that it was in the children's best interests that her rights be terminated was against the manifest weight of the evidence, and (3) the court erred in not allowing respondent to enter evidence at the hearing. We disagree on all counts and affirm.

¶ 28 A. Unfitness Determination

¶ 29 Section 2-29(2) of the Juvenile Court Act provides a two-step process for termination of parental rights. 705 ILCS 405/2-29(2) (West 2022). First, the State must prove by clear and convincing evidence a parent is "unfit" as defined in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2022)). *In re C.W.*, 199 Ill. 2d 198, 210 (2002). Although section 1(D) of the Adoption Act provides numerous grounds for a finding of unfitness, a parent need only be found unfit on one ground to support an unfitness determination. *Id.* at 217.

¶ 30 Section 1(D)(b) of the Adoption Act defines an unfit parent as one who fails to maintain a reasonable degree of interest, concern, or responsibility as to her children's welfare. 750 ILCS 50/1(D)(b) (West 2022). With respect to this factor, courts examine a parent's conduct in the context of the particular circumstances of a case. *In re Adoption of Syck*, 138 Ill. 2d 255, 278-79 (1990). For example, a parent's poverty, difficulty in obtaining transportation to visits, or "whether the parent's failure to visit the child was motivated by a need to cope with other aspects of his or her life or by true indifference to, and lack of concern for, the child" are all factors to be considered in finding a parent unfit under section 1(D)(b). *Id.* at 279. To this end, a parent's *efforts* to maintain a reasonable degree of interest, concern, or responsibility in her children are more important than her *success* in that regard. *Id.* Regardless, it is not enough merely to demonstrate some interest or affection for her children; a parent's degree of interest, concern, or responsibility for her children must be reasonable. *In re E.O.*, 311 Ill. App. 3d 720, 727 (2000). "Noncompliance with an imposed service plan, a continued addiction to drugs, a repeated failure to obtain treatment for an addiction, and infrequent or irregular visitation with the child have all been held to be sufficient evidence warranting a finding of unfitness under subsection (b)." *In re Jaron Z.*, 348 Ill. App. 3d 239, 259 (2004).

¶ 31 A reviewing court will only reverse a trial court's finding of unfitness if it is against the manifest weight of the evidence. *Syck*, 138 Ill. 2d at 274. A decision is against the manifest weight of the evidence only when the opposite conclusion is clearly apparent. *In re N.G.*, 2018 IL 121939, ¶ 29.

¶ 32 We do not find the trial court's determination of unfitness under section 1(D)(b) to be against the manifest weight of the evidence. The court heard testimony from both a supervisor and a caseworker that respondent made virtually no progress on any part of any one of

her service plans, even after being told that adhering to the plans was a necessary step in reunification with her children. She did not seek substance abuse treatment, despite her drug use being the primary reason the children were taken from her care. Nor did she seek mental health treatment or complete recommended parenting or domestic violence courses. Although she initially attended visits with her children, she stopped entirely after FSC imposed a condition requiring drug screenings 24 hours prior to any visit, a condition which only came about after she appeared to be intoxicated at one of the visits with her children.

¶ 33 Respondent argues that workers with FSC did not "perform their due diligence in ensuring all options of services were available to [respondent], to ensure that [respondent] had the proper support to ensure her enrollment and success through the agency, nor ensure that the necessary classes were clear to [respondent]." We disagree. FSC workers testified respondent received referrals to both parenting classes and mental health counseling, and while they did not refer her directly to a substance abuse treatment center, they gave her the name of one that took walk-ins. Respondent did not pursue this. Caseworkers also provided travel accommodations to respondent, some of which she utilized and some of which she rejected. Further, when the agency was unable to refer respondent to services, it was largely because of respondent's own actions, such as never maintaining the sobriety necessary for enrollment in a domestic violence course or maintaining such inconsistent contact with the agency that re-referrals to future services were impossible. While it may be true, as respondent argues, the agency never referred her for housing, we find it a gross misstatement to say the agency did not offer respondent adequate support or accommodations to at least make progress in the completion of her service plan. Respondent's failure to secure safe and legal housing was only one instance of many of

respondent's failure to comply with her service plans, and obtaining adequate housing would not have cured her failure to comply in other areas.

¶ 34 Respondent also argues the caseworkers were unclear about the classes she needed to complete as part of her service plan, but we are unconvinced. Megan Fellows testified that the initial plan was reviewed with respondent at an in-person meeting. Respondent confirmed this in her testimony. When asked whether she had been provided with a plan, reviewed it with FSC workers, and understood it, she replied, "For the most part, yeah. I mean, there was a lot of—it was all overwhelming, but yeah, I mean, for the most part, I got what I needed to get from it." She was then asked to confirm her understanding that she was expected to complete each service, and she did so for each service, one by one, only stating she didn't recall the requirement that she get a mental health referral, but adding if it was part of her plan, she would have gotten it.

¶ 35 Further, while respondent testified she was confused about where to go to perform her drug tests, she appears to have put only minimal effort into resolving the issue, stating during her testimony that she attempted to contact her caseworker at the time but was unable to reach her. As the trial court noted, this might explain one or two missed drug tests, but not 32. And as shown, drug tests were only one area in which respondent failed to comply with her service plan.

¶ 36 Taking into account the information provided in the record, and even focusing on respondent's efforts rather than her successes, we do not find the trial court's conclusion that respondent failed to maintain a reasonable degree of interest, concern, or responsibility for her children to be against the manifest weight of the evidence.

¶ 37 While the trial court found respondent unfit on two other grounds, namely her failure to make reasonable efforts to correct the conditions which led to the removal of her

children or to make reasonable progress toward their return (750 ILCS 50/1(D)(m)(i), (ii) (West 2022)), we need not address these arguments, as a finding of unfitness under any factor listed in section 1(D) of the Adoption Act is sufficient to support an overall finding of parental unfitness. *C.W.*, 199 Ill. 2d at 217.

¶ 38 B. Witness Credibility

¶ 39 At this point, we address an assertion that respondent frequently raises in her brief on appeal, which is that the State's witnesses, Megan Fellows and Melissa Pease, were not credible witnesses. Respondent argues their lack of credibility further proves the trial court's determination of parental unfitness was against the manifest weight of the evidence. We address this only to say that, under a manifest weight of the evidence standard, reviewing courts give great deference to the findings of the trial court with respect to assessing witness credibility. *In re D.F.*, 201 Ill. 2d 476, 498-99 (2002). We will not substitute our own judgment for that of the trial court. *Id.* at 499. Nor will we reassess witness credibility on review. *In re S.M.*, 314 Ill. App. 3d 682, 687 (2000). As stated previously, we do not find the court's determination of respondent's parental unfitness, including its implicit assessment that the testimony of FSC workers was more credible than respondent's, to be against the manifest weight of the evidence.

¶ 40 C. Best Interests Determination

¶ 41 Upon a finding of parental unfitness, a trial court must then determine whether it is in the child's best interests that parental rights be terminated. *C.W.*, 199 Ill. 2d at 210. In making this determination, a court must consider all the factors listed in section 1-3(4.05) of the Juvenile Court Act. 705 ILCS 405/1-3(4.05) (West 2022). These factors include:

> "(1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's background and ties, including familial, cultural, and

> religious; (4) the child's sense of attachments, including love, security, familiarity, and continuity of affection, and the least-disruptive placement alternative; (5) the child's wishes; (6) the child's community ties; (7) the child's need for permanence, including the need for stability and continuity of relationships with parental figures and siblings; (8) the uniqueness of every family and child; (9) the risks related to substitute care; and (10) the preferences of the persons available to care for the child." *In re Jay. H.*, 395 Ill. App. 3d 1063, 1071 (2009) (citing 705 ILCS 405/1-3(4.05) (West 2008)).

Though a court must consider each factor, it need not explicitly reference each factor in its determination. *In re Tajannah O.*, 2014 IL App (1st) 133119, ¶ 19. A court's determination that the termination of parental rights is in a child's best interest will only be reversed if it is against the manifest weight of the evidence. *In re T.A.*, 359 Ill. App. 3d 953, 961 (2005).

¶ 42 Respondent argues the trial court "grossly misapplied" the factors of section 1-3(4.05) in the instant case. We find her arguments unconvincing. She contends that the FSC workers who testified as to whether the children felt a sense of attachment to respondent could not have done so accurately, as neither ever observed respondent's interactions with her children firsthand. Yet the State's first witness, Megan Fellows, supervised three of the four service plans created for respondent, and therefore, she was able to testify as to respondent's progress with her plans and cooperation with the agency, including visitation with her children. Likewise, Melissa Pease authored two of respondent's four service plans and was the caseworker beginning on May 31, 2023. She could therefore testify to respondent's interactions with her children during that time, which included appearing intoxicated at a visit with her children in June 2023 and ceasing all visits with them from that point on. Pease also had direct contact with respondent's children

and testified that B.G., respondent's eldest child, did not trust his mother or desire to have a relationship with her, and C.G. and B.G., respondent's younger children, did not ask about her. It is clear that both witnesses, despite not observing respondent's visitations with her children firsthand, had enough information to conclude that respondent's children did not feel a sense of attachment to her.

¶ 43 Respondent also argues the fact that "the caseworker" (unnamed, but presumably Pease) observed the foster parents' visits with the children, but not respondent's visits, is "conclusive evidence that the caseworker never intended to return the kids home." We find this to be an outlandish claim not supported by anything in the record, and in fact contradicted by the testimony of both witnesses that respondent failed to attend visits with her children to avoid taking the required drug tests beforehand. It is difficult to see how the caseworker somehow maliciously chose not to attend visits between respondent and her children, when such visits , by respondent's choice, stopped happening many months ago.

¶ 44 Finally, respondent argues she never harmed her children and was still willing to engage in services to reunite with her children. While this may be true, it does not compel the conclusion that it is in the children's best interests to return to her. In fact, the trial court listed many factors demonstrating the opposite. Respondent has failed to visit her children since June 2023. They are thriving in their foster placements. The older children are doing well in school, while the youngest is doing well at daycare. They maintain contact with each other and have formed bonds with their foster families and siblings. They are in placements where they are afforded physical and financial safety. Because they reside with relatives of their father, they are able to maintain ties to their family, religion, and culture. Finally, the homes they currently reside in are potential adoptive homes, which, in the future, could give them the security and

permanence they need. Again, we will reverse the court's decision only if it is against the manifest weight of the evidence, or if the opposite conclusion is clearly apparent. *In re M.C.*, 2018 IL App (4th) 180144, ¶ 35. In this case, we do not find the court's ruling to be against the manifest weight of the evidence.

¶ 45 D. Respondent's Evidence at the Hearing

¶ 46 Finally, respondent argues she was not allowed to present evidence at the hearing to terminate her parental rights. The record shows that at different points over the course of her testimony, respondent mentioned possessing text messages that would confirm her version of events. Specifically, when testifying that she attempted to complete drug testing but was unable to find the correct location, respondent stated she had messages with her caseworker at the time proving her attempts. Her attorney, who was questioning her at the time, told her they would produce those text messages later but never revisited it. At another point in her testimony, respondent's attorney requested respondent be allowed to consult her phone, which was not on her, to refresh her recollection of a specific date, to which the trial court replied, "Why don't we move on to something else and come back." Again, respondent's attorney never revisited the issue. Respondent also testified as to having messages showing her attempts to get referrals from a caseworker, who she claimed was not helpful. Respondent's attorney, who was questioning her, made no comment on this statement.

¶ 47 On reviewing the record, we find respondent's assertion that she was denied the opportunity to present evidence to be unfounded. The record indicates that respondent, by way of her attorney, mentioned various messages she had received over the course of her testimony, but there is no indication she ever actually attempted to admit the various text messages into evidence. Similarly, when the trial court suggested returning to respondent's memory of a

specific date at a later point in the hearing, respondent's attorney never did so. The court could not have denied respondent the right to present evidence when she did not first make any attempt to do so. We conclude respondent's argument has no factual basis in the record.

¶ 48 III. CONCLUSION

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

¶ 50 Affirmed.