2024 IL App (4th) 240777-U

NOS. 4-24-0777, 4-24-0778 cons.

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

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

In re M.P.-E. and M.H., Minors	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Knox County
Petitioner-Appellee,	)	Nos. 17JA11
v.	)	20JA12
Iesha P.-E.,	)	
Respondent-Appellant).	)	Honorable
	)	Curtis S. Lane,
	)	Judge Presiding.

JUSTICE DeARMOND delivered the judgment of the court.
Justices Harris and Zenoff concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court granted appellate counsel's motion to withdraw and affirmed the trial court's judgment, finding no issue of arguable merit could be raised on appeal.

¶ 2 In February 2023, the State filed petitions to terminate the parental rights of respondent mother, Iesha P.-E. (Mother), to her minor children M.H. (born in August 2017) and M.P.-E. (born in March 2020). Following hearings on the State's petitions, the trial court found Mother to be an unfit parent under section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2022)) and determined it was in the minors' best interests to terminate her parental rights.

¶ 3 In July 2024, appellate counsel filed a motion to withdraw as counsel in the consolidated cases and accompanying memoranda, arguing no meritorious issues could be raised

on appeal. For the following reasons, we grant the motion to withdraw and affirm the trial court's judgment.

¶ 4 I. BACKGROUND

¶ 5 A. Initial Proceedings

¶ 6 1. *Knox County Case No. 17-JA-11*

¶ 7 In August 2017, the State filed a petition alleging M.H. was a neglected minor whose environment was injurious to his welfare under section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Act) (705 ILCS 405/2-3(1)(b) (West 2016)). In support of its petition, the State alleged (1) incidents of domestic violence had occurred in the home, (2) Mother tested positive for cocaine and methamphetamine at a prenatal doctor's appointment, (3) Mother "became threatening and verbally abusive" towards hospital staff after the minor's birth, and (4) Mother's parental rights were previously terminated as to her first two children, who were removed from her care in 2014.

¶ 8 In October 2017, based upon a stipulation by the parties, the trial court entered an adjudicatory order finding M.H. neglected. The court then entered a dispositional order three months later, finding Mother unfit and unable, for reasons other than financial circumstances alone, to care for, protect, train, or discipline M.H. and the best interests of the minor would be jeopardized if he remained in her custody. The court adjudicated M.H. neglected, made him a ward of the court, and placed his custody and guardianship with the Illinois Department of Children and Family Services (DCFS).

¶ 9 2. *Knox County Case No. 20-JA-12*

¶ 10 In March 2020, the State filed a petition alleging M.P.-E. was a neglected minor whose environment was injurious to his welfare under section 2-3(1)(b) of the Juvenile Act.

Specifically, the State alleged (1) DCFS had taken protective custody of M.H. after Mother tested positive for methamphetamine and cocaine while pregnant with M.H., (2) Mother verbally abused M.H. during their supervised visits and consistently disrespected Help at Home staff, (3) Mother remained unfit in Knox County case No. 17-JA-11 because she failed to correct the conditions that brought M.H. into care, (4) Mother told the hospital staff where M.P.-E. was born "that she chose to give birth out of town because the putative biological father of [M.P.-E.] *** had threatened to harm the baby and had told [Mother] to get an abortion," and (5) Mother told hospital staff she used cocaine while pregnant with M.P.-E.

¶ 11 The trial court entered an adjudicatory order in September 2020 and found M.P.-E. resided in an environment injurious to his welfare. A dispositional order entered the following month found Mother unfit to care for, protect, train, educate, supervise, or discipline M.P.-E. The court adjudicated M.P.-E. neglected, made him a ward of the court, and placed his custody and guardianship with DCFS.

¶ 12 B. Termination Proceedings

¶ 13 In February 2023, the State filed petitions to terminate Mother's parental rights to M.H. and M.P.-E. In relevant part, the petitions alleged Mother failed to make (1) reasonable efforts to correct the conditions which were the basis for removal of the minors from her custody and (2) reasonable progress toward the minors' return to her custody within the following nine-month periods: September 1, 2020, to June 1, 2021; June 2, 2021, to March 2, 2022; and March 6, 2022, to December 6, 2022 (see 750 ILCS 50/1(D)(m)(i)-(ii) (West 2022)).

¶ 14 1. *Unfitness Hearing*

¶ 15 At the unfitness hearing, Jessica Ince, a caseworker for Lutheran Social Services, outlined the services contained in Mother's service plan related to employment, housing,

substance abuse, mental health, domestic violence, anger management, and visitation. At no point during Ince's handling of Mother's case did Mother's visits with the minors increase to more than once a week or become unsupervised.

¶ 16 According to Ince, Mother visited the hospital numerous times between January and July 2021, where she tested positive for multiple substances. On January 3, 2021, Mother tested positive for methamphetamine and amphetamine. Two weeks later, she tested positive for methamphetamine, amphetamine, cannabis, and alcohol after an intentional overdose. On March 3, 2021, Mother tested positive for methamphetamine and alcohol and, due to her treatment of hospital staff, required restraining. Twenty days later, Mother visited the emergency room after a suicide attempt, where she again became combative and tested positive for methamphetamine, amphetamine, and alcohol. Mother tested positive for methamphetamine and amphetamine on April 8, 2021, and again, just five days later, after she was found lying in the road. During her visit to the hospital on April 22, 2021, Mother tested positive for methamphetamine, amphetamine, and alcohol, and she once again required restraining.

¶ 17 Ince also testified that on May 12, 2021, Mother called 911 to report a man in the home with a knife. However, Mother ultimately assaulted an emergency medical technician after they arrived, and she needed to be sedated and restrained. Ince further testified that between May 17 and July 27, 2021, Mother visited the hospital no less than 17 times for issues related to substance abuse and combativeness. Notably, Mother was admitted to the hospital for six days in June after she overdosed on cocaine laced with fentanyl.

¶ 18 Lexi Hager testified she worked as Mother's caseworker from early fall 2021 through fall 2022. By the time Hager received Mother's case, Mother had completed parenting and domestic violence services. However, she failed to comply with her mental health and

substance abuse services. Mother was also required to submit to four drug screens each month. As of July 2021, Mother failed to appear for six drug screens, tested positive for benzodiazepines at least once, and failed to appear another eight times between August 2021 and February 2022.

¶ 19 Additionally, the trial court took judicial notice of Mother's convictions for aggravated battery in Knox County case Nos. 20-CF-692 and 21-CF-535, which resulted in her being sentenced to four years' imprisonment in September 2022. Karen Moore, a caseworker for DCFS, took over Mother's case that same month. According to Moore, Mother did not engage in substance abuse treatment until January 2023 and decided "to go to the gym instead of participating in her child and family team meeting" at the end of that month.

¶ 20 In making its unfitness determination, the trial court noted Mother's "multitude of problems," including her attempts to harm herself, her attacks on others, and her ongoing legal issues, which resulted in a prison sentence. Ultimately, the court found Mother unfit, noting the State "met their burden in all of these cases by clear and convincing evidence for all allegations."

¶ 21 2. *Best-Interests Hearing*

¶ 22 The matter then proceeded to the best-interests hearing. The best interests report indicated M.H. and M.P.-E. had been in DCFS care for their entire lives. Their current foster family welcomed each of them into their home "as one of their own." In "just over 6 months," the minors had "built a strong bond" with their foster parents. The minors' foster parents provided for their "basic needs of food, shelter, clothing, and safety." They ensured the minors' medical, mental, and emotional needs were met. The children attended school and preschool regularly and were building strong bonds within their foster family's community and church.

¶ 23 At the best-interests hearing, Dan Powell testified he was the current DCFS child welfare specialist assigned to Mother's case. Powell described the minors' foster placement as "a

good home" and a stable environment. The children appeared well cared for and were striving in their current placement. They shared a bedroom with bunk beds and were "very excited to show [Powell] *** the toys *** that they have. They spend a lot of time together as a family." When Powell visited, the minors were frequently "watching TV with the foster mom or *** outside playing." The boys seemed very bonded with their foster parents, referred to them "affectionately, lovingly," and called them "mom and dad." According to Powell, the foster parents expressed their desire to adopt M.H. and M.P.-E.

¶ 24 Ultimately, the trial court found it was in the best interests of M.H. and M.P.-E. to terminate Mother's parental rights.

¶ 25 This appeal followed. In July 2024, appointed counsel for Mother on appeal filed a motion for leave to withdraw as Mother's counsel and attached supporting memoranda of law, citing *Anders v. California*, 386 U.S. 738 (1967), and *People v. Jones*, 38 Ill. 2d 384, 231 N.E.2d 390 (1967). This court granted Mother leave to file additional points and authorities on or before August 12, 2024. None have been filed.

¶ 26 II. ANALYSIS

¶ 27 A. *Anders* Motions

¶ 28 The *Anders* procedure pertaining to an appellate counsel's motion to withdraw applies to findings of parental unfitness and termination of parental rights. Under *Anders*, a brief must accompany counsel's motion to withdraw, outlining any issues in the record which might arguably support the appeal, explaining why counsel finds those issues frivolous, and concluding that the case presents no viable grounds for appeal. *In re S.M.*, 314 Ill. App. 3d 682, 685, 732 N.E.2d 140, 143 (2000). The appellate court will then review the record to determine whether the

available arguments are wholly without merit. *People v. Meeks*, 2016 IL App (2d) 140509, ¶ 10, 51 N.E.3d 1109.

¶ 29 On appeal, Mother's appointed counsel examined whether the trial court's unfitness findings and best-interests determinations were against the manifest weight of the evidence and concluded any such claims would be frivolous. After reviewing the record and the applicable law, we agree.

¶ 30 B. Unfitness Finding

¶ 31 "The State must prove parental unfitness by clear and convincing evidence." (Internal quotation marks omitted.) *In re A.L.*, 409 Ill. App. 3d 492, 500, 949 N.E.2d 1123, 1129 (2011). A determination of parental unfitness involves factual findings and credibility determinations, which the trial court is in the best position to make because its "opportunity to view and evaluate the parties *** is superior." (Internal quotation marks omitted.) *In re M.I.*, 2016 IL 120232, ¶ 21, 77 N.E.3d 69. "A trial court's finding of parental unfitness will not be reversed unless it is against the manifest weight of the evidence." *In re Ta. T.*, 2021 IL App (4th) 200658, ¶ 48, 187 N.E.3d 763. "A trial court's decision is against the manifest weight of the evidence only if the opposite conclusion is clearly apparent or the decision is unreasonable, arbitrary, or not based on the evidence." (Internal quotation marks omitted.) *In re N.B.*, 2019 IL App (2d) 180797, ¶ 30, 125 N.E.3d 444.

¶ 32 The Adoption Act provides several grounds on which a trial court may find a parent unfit. "[S]ufficient evidence of one statutory ground *** [is] enough to support a [court's] finding that someone [is] an unfit person." (Internal quotation marks omitted.) *In re F.P.*, 2014 IL App (4th) 140360, ¶ 83, 19 N.E.3d 227. Based on a careful review of the record, we agree with appellate counsel that there is no issue of arguable merit concerning the trial court's

unfitness finding. The State alleged, and the court found, Mother was unfit because she, among other things, failed to make (1) reasonable efforts to correct the conditions which were the basis for removal of the minors and (2) reasonable progress towards the minors' return home within the following nine-month periods: September 1, 2020, to June 1, 2021; June 2, 2021, to March 2, 2022; and March 6, 2022, to December 6, 2022.

¶ 33 During those time periods, Mother failed to appear for 14 drug screens, despite her service plans' requirement she cooperate with substance abuse and mental health services and submit to drug screenings four times each month. Mother also made numerous visits to the hospital, where she repeatedly tested positive for methamphetamine, amphetamine, benzodiazepines, cannabis, and alcohol. She frequently attacked hospital staff and emergency responders, which necessitated the use of restraints and sedation. She tested positive for illicit substances after she was found lying in the road and spent six days in the hospital after overdosing on cocaine laced with fentanyl. Additionally, Mother received a four-year prison sentence for aggravated battery in September 2022. While incarcerated, she did not engage in substance abuse treatment until January 2023, and she even skipped her child and family team meeting scheduled at the end of that month "to go to the gym."

¶ 34 Because the evidence confirms Mother failed to make reasonable progress and reasonable efforts during the relevant nine-month periods, we conclude the trial court's unfitness finding does not stand against the manifest weight of the evidence because the opposite finding (*i.e.*, fitness) is not readily apparent. See *N.B.*, 2019 IL App (2d) 180797, ¶ 30. Accordingly, any argument to the contrary would be meritless.

¶ 35 C. Best Interests Finding

¶ 36 After a parent is found unfit, "the focus shifts to the child." *In re D.T.*, 212 Ill. 2d 347, 364, 818 N.E.2d 1214, 1227 (2004). The issue ceases to be "whether parental rights can be terminated" and becomes "whether, in light of the child's needs, parental rights should be terminated." (Emphases omitted.) *D.T.*, 212 Ill. 2d at 364. The trial court will consider the factors set forth in section 1-3(4.05) of the Juvenile Act (705 ILCS 405/1-3(4.05) (West 2022)). See *In re T.A.*, 359 Ill. App. 3d 953, 959-60, 835 N.E.2d 908, 912-13 (2005). Those factors include: the child's physical safety and welfare; the development of the child's identity; the child's familial, cultural, and religious background and ties; the child's sense of attachments, including where the child feels loved, attached, and valued; the child's sense of security, familiarity, and continuity of affection; the child's wishes and long-term goals; the child's community ties; the child's need for permanence; and the uniqueness of every family and each child. 705 ILCS 405/1-3(4.05) (West 2022). We will not overturn a court's best interests finding unless it is against the manifest weight of the evidence. *In re Jay. H.*, 395 Ill. App. 3d 1063, 1071, 918 N.E.2d 284, 291 (2009).

¶ 37 Here, the evidence shows the best interests factors support the termination of Mother's parental rights. The children's foster parents were committed to adoption, and they provided for the children's physical, emotional, and social needs. They also made sure the minors' "basic needs of food, shelter, clothing, and safety" were met. Powell described the minors' foster placement as "a good home" and a stable environment. Both children attended school and preschool regularly and were building strong bonds within their foster family's community and church. When Powell visited, the minors were frequently "watching TV with the foster mom or *** outside playing." They seemed very bonded with their foster parents, referred to them "affectionately, lovingly," and called them "mom and dad." When weighed against a

legitimate concern for permanency for children of tender years, the trial court's finding termination was in the minors' best interests is not against the manifest weight of the evidence. See *T.A.*, 359 Ill. App. 3d at 960.

¶ 38 All told, the record shows M.H. and M.P.-E. feel loved, valued, secure, and nurtured in their current placement and have structure and continuity, and it supports the trial court's decision. Thus, we agree no meritorious argument could be raised on appeal to reasonably claim the court erred in finding it was in the minors' best interest to terminate Mother's parental rights.

¶ 39 III. CONCLUSION

¶ 40 For the reasons stated, we grant appellate counsel's motion to withdraw and affirm the trial court's judgment.

¶ 41 Affirmed.