2024 IL App (4th) 240325-U

NOS. 4-24-0325, 4-24-0327, 4-24-0328, 4-24-0329 cons.

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
July 3, 2024
Carla Bender
4th District Appellate
Court, IL

In re Jai. A., R.A., Ki. A., and Ka. A., Minors	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Sangamon County
Petitioner-Appellee,	)	Nos. 20JA227
v.	)	20JA229
Tenile C.,	)	20JA230
Respondent-Appellant).	)	20JA231
	)	
	)	Honorable
	)	Karen S. Tharp,
	)	Judge Presiding.

JUSTICE DeARMOND delivered the judgment of the court.
Justices Doherty and Vancil concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, concluding the trial court did not err in terminating respondent's parental rights.

¶ 2 In May 2023, the State filed petitions seeking to terminate the parental rights of respondent, Tenile C. (Mother), to her minor children, Jai. A. (born November 2011), R.A. (born October 2016), Ki. A. (born October 2017), and Ka. A. (born October 2017). Following a February 2024 hearing on the State's petitions, the trial court found Mother unfit within the meaning of section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2022)) and, after finding it was in the minors' best interest, terminated her parental rights.

¶ 3 On appeal, Mother argues the trial court's unfitness and best interest findings were against the manifest weight of the evidence. We affirm.

¶ 4 I. BACKGROUND

¶ 5 A. The Neglect Petitions and the Adjudicatory and Dispositional Orders

¶ 6 In August 2020, the State filed petitions seeking to adjudicate the minors neglected under the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/1-1 *et seq.* (West 2020)). The State alleged the minors were neglected due to being in an environment injurious to their welfare in that (1) Mother allowed their father, Terrance A., who she knew was a sex offender, to have access to them; (2) they resided in a home with unsanitary conditions; and (3) their parents engaged in domestic violence (*id.* § 2-3(1)(b)). In November 2020, the trial court adjudicated the minors neglected pursuant to Mother's admission to the domestic violence allegation. In a separate dispositional order entered in December 2020, the court found Mother unfit, unable, or unwilling for reasons other than financial circumstances alone to care for the minors, made them wards of the court, and placed their guardianship and custody with the Illinois Department of Children and Family Services.

¶ 7 B. The Termination Proceedings

¶ 8 1. *The State's Petitions*

¶ 9 On May 17, 2023, the State filed petitions seeking to terminate Mother's parental rights to all the minors. The State alleged Mother was unfit due to (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 (a) reasonable efforts to correct the conditions which were the basis for the removal of the minors from her (*id.* § 1(D)(m)(i)) or (b) reasonable progress toward the return of the minors to her within three nine-month periods following the adjudication of neglect (*id.* § 1(D)(m)(ii)), namely from November 12, 2020, to August 12, 2021, August 12, 2021, to May 12, 2022, and May 12, 2022, to February 12, 2023; and (3) an inability

to discharge parental responsibilities due to an intellectual disability, and this inability was expected to last beyond a reasonable period of time (*id.* § 1(D)(p)).

¶ 10 2. *The Unfitness Hearing*

¶ 11 The trial court began the unfitness hearing on December 14, 2023, and completed it on February 15, 2024.

¶ 12 a. Dr. Tetyana Kostyshyna

¶ 13 Dr. Tetyana Kostyshyna is a licensed clinical psychologist. Kostyshyna conducted Mother's psychological evaluation on December 8, 2022. Kostyshyna diagnosed Mother "with mild intellectual disability, with stimulant use disorder, with alcohol use disorder and with cannabis use disorder." Kostyshyna assessed Mother with an intelligence quotient of 71. When asked if Mother had " 'the ability to profit from parenting training,' " Kostyshyna answered, "So, she is not going to benefit from educational classes on parenting *** with her low intelligence with a score of 71. *** She would always struggle to take care of herself and others." Kostyshyna explained:

> "[Mother] does suffer from mild intellectual disability, which means that her emotional regulation is also compromised, and her coping abilities and resilience are compromised. When she has angry outbursts, they are similar to the outbursts and impulsivity of children age 11, which is consistent with her mental age equivalent. *** [S]he would struggle with this cognitive deficit throughout her life because it's congenital."

Kostyshyna opined within a reasonable degree of medical certainty that Mother was an unfit parent.

¶ 14 b. McKenzie Vorreyer

¶ 15 McKenzie Vorreyer was the caseworker from April 2021 to September 2023. Vorreyer testified all but one service plan was rated unsatisfactory for Mother. Vorreyer rated one service plan (from February 17, 2022) satisfactory for Mother because "she had really started doing her services, was very engaged with passing her drug screens, [and was] doing very well." However, Mother tested positive for cocaine in April 2022. Mother completed substance abuse treatment before this positive test and was required to complete it again afterwards. Vorreyer referred Mother to substance abuse treatment again in April 2022. Mother did not begin treatment until June 2022 and did not complete it until October 2022. (The January 31, 2023, service plan states Mother completed this in November 2022.) Also in April 2022, Vorreyer went on an unannounced visit to the relative placement's (maternal grandmother's) home and saw Mother dropping the minors off—which meant she violated the condition of her service plan restricting her to only supervised visits. (Vorreyer learned this "happen[ed] all the time.") After the minors were removed from this home, Mother began sending Vorreyer angry and profane text messages. Communication between Mother and Vorreyer never improved. There was never a point after April 2022 when Vorreyer was close to recommending the minors be returned to Mother.

¶ 16 c. Kelly Johnston

¶ 17 Kelly Johnston had been the caseworker since September 1, 2023. Johnston testified Mother's compliance with her August 14, 2023, service plan was unsatisfactory. Mother completed various services but required a new referral to substance abuse treatment because she tested positive for cocaine in August and September 2023. Mother began participating in an intensive outpatient program, had been compliant, and had been providing clean, random drug

drops. However, there was never a point when Johnston was close to recommending returning the minors to Mother.

¶ 18 d. Mother

¶ 19 Mother testified she was a shift manager at Hardee's and worked a second job as a cashier at Walgreen's to afford rent for a larger home in the event the minors are returned to her. When asked to explain what she "took away" from domestic violence services, Mother responded, "I took away different people, how they can be violent in their own ways, but like they always play victim, but they are really the ones that are the violent person." Mother acknowledged her struggles with substance abuse but maintained she had "not been around cocaine" since April 2021. Mother acknowledged she tested positive for cocaine after April 2021 because she purchased "laced" marijuana off the street. (Mother purchased marijuana this way despite having a medical marijuana card and knowing she should purchase it from a dispensary to avoid contamination with other substances.) Mother began intensive outpatient treatment in December 2023 and completed 75 of the 80 hours of the program. When asked to describe what she learned from the program, Mother explained, "I don't be around negative people or people that try to bring you back. Surround a lot with some sober people, people that want to be sober that don't want the drug. I wasn't really addicted—I'm addicted to marijuana, but I wasn't addicted to cocaine."

¶ 20 e. The Trial Court's Unfitness Findings

¶ 21 The trial court observed, during the first nine-month period, Mother performed only two of six required drug drops, both of which were positive for cocaine. Mother began outpatient substance abuse treatment, but by January 2021, she was inconsistent in her participation and was in danger of being discharged. The court noted that by that time, there was

no proof Mother had begun domestic violence services and she "clearly" did not complete them by the end of the first nine-month period. The court acknowledged Mother took parenting classes, but in all the areas assessed, "she was rated out as high or medium risk. Nowhere in that whole thing did she ever rank out as low risk in any of the areas. She was medium and high risk even after the services." The court observed Mother was "basically led through every area of her testimony" regarding her services. "So it is not very clear to the Court that [Mother] had much insight after going through the services."

¶ 22 During the second nine-month period, Mother completed substance abuse treatment in January 2022 and attended some counseling appointments. However, the trial court did not know what was discussed during those appointments. There was "nothing after February of [20]22 until it picks up again in October," which was after the end of this period. The court also noted Mother tested positive for cocaine in April 2022.

¶ 23 During the third nine-month period, Mother missed drug drops in the first three months. While Mother completed a second attempt at substance abuse services in November 2022, she missed a drug drop in January 2023. After the end of this period, and after again completing substance abuse treatment, Mother tested positive for cocaine in August and September 2023. Accordingly, Mother was referred to substance abuse treatment for the third time.

¶ 24 The trial court found the State met its burden of proving Mother "failed to maintain a reasonable degree of responsibility." For the first two nine-month periods, the court did not find Mother failed to make reasonable efforts but did determine Mother failed to make reasonable progress. The court found Mother failed to make either reasonable efforts or reasonable progress during the third nine-month period. The court also found the State met its

burden of proving Mother was unable to discharge parental responsibilities due to an intellectual disability and this inability would extend beyond a reasonable period of time.

¶ 25 3. *The Best Interest Hearing*

¶ 26 After delivering its unfitness findings, the trial court proceeded to the best interest hearing.

¶ 27 a. Kelly Johnston

¶ 28 Johnston testified Jai. A. was in a specialized foster home, R.A. was in a licensed foster home in Colorado, and Ki. A. and Ka. A. were together in a licensed foster home. Jai. A.'s foster parents were willing to serve as guardians for him since they were older and had already adopted several children. All the minors were doing well in their placements and wanted to remain in them. (Johnston visited R.A. in Colorado every three months.) All the minors' medical and educational needs were being met in their current placements. Johnston reported "permanency commitment forms were filled out" for the adoptive placements. Johnston observed bonds between the minors and their foster parents and other children residing in the homes. All the minors called their foster parents "Mom and Dad." Johnston believed it was in the minors' best interest to remain in their current placements and for Mother's parental rights to be terminated.

¶ 29 On cross-examination, Johnston acknowledged she had "never witnessed a visit" between Mother and the minors, but she agreed Mother loved them. Johnston also agreed the minors had a sense of familiarity, security, and attachment with Mother. Nevertheless, the minors had never asked Johnston when they would be able to live with Mother again.

¶ 30 b. Mother

¶ 31 Mother testified the minors asked her "all the time" when they could come home. She also maintained all the minors had a bond with her. Mother stated the minors sometimes cried at the end of visits but she "let[s] them know that it's okay, and hopefully, they will be home soon." Mother brought toys, clothing, and food to visits. Mother felt it would be in the minors' best interest for her parental rights to be maintained.

¶ 32 c. The Trial Court's Best Interest Findings

¶ 33 The trial court stated, while it would not read aloud all the best interest factors, it was "considering them all." The court found the minors' "physical safety and welfare *** including food, shelter, health, [and] clothing," were being provided for in their current placements. With respect to the minors' senses of attachment and being valued and their senses of security, familiarity, and continuity of affection, the court noted the minors "have been out of Mother's care for three and a half years." While Mother has visited the minors, "[s]he has never been with them more than three hours at a time in three and a half years." The court found the minors' current placements to be their least disruptive placement alternatives.

¶ 34 The trial court considered the minors' needs for permanence, stability, and continuity of relationships with parental figures. The court stated:

> "These children need permanence. They have been in care way too long. We have given the parents, and I would just say at the outset, I am taking judicial notice of the evidence in the unfitness portion of the proceeding, but we have given the parents over, I mean, it's now been four nine-month time periods that have gone by since adjudication. I'm still not at a place after that period of time that I could place the children with either parent. They need permanence. They deserve permanence. They are stable in their

> homes. *** According to the caseworker, they are happy in their placements. They are doing well in their placements.
>
> ***
>
> My question is how much longer would I need to wait for either of these parents to not only address their issues but show a period of stability? Even though Mother had engaged in services, she has never shown a period of stability where she was ever able to benefit from the services and show progress. I can't wait any longer. I have probably waited too long at this point. These children need permanence."

The court found it in the minors' best interest to terminate Mother's parental rights.

¶ 35 This appeal followed.

¶ 36 II. ANALYSIS

¶ 37 On appeal, Mother argues the trial court erred in terminating her parental rights where its unfitness and best interest findings were against the manifest weight of the evidence.

¶ 38 A. Unfitness Finding

¶ 39 The Juvenile Court Act and the Adoption Act govern the termination of parental rights. *In re D.F.*, 201 Ill. 2d 476, 494, 777 N.E.2d 930, 940 (2002). Together, the statutes outline what the State must show before a person's parental rights may be terminated—the State must first show the parent is an "unfit person," and then the State must show terminating parental rights serves the best interest of the child. *Id.* at 494-95.

¶ 40 " 'The State must prove parental unfitness by clear and convincing evidence.' " *In re A.L.*, 409 Ill. App. 3d 492, 500, 949 N.E.2d 1123, 1129 (2011) (quoting *In re Jordan V.*, 347 Ill. App. 3d 1057, 1067, 808 N.E.2d 596, 604 (2004)). The Adoption Act provides several

grounds on which a trial court may find a parent "unfit." 750 ILCS 50/1(D) (West 2022). One ground for parental unfitness is "[f]ailure to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare." *Id.* § 1(D)(b). This includes "all situations in which a parent's attempts at maintaining a reasonable degree of interest, concern, or responsibility are inadequate, regardless of whether that inadequacy seems to stem from unwillingness or an inability to comply." *In re M.I.*, 2016 IL 120232, ¶ 26, 77 N.E.3d 69. The language in section 1(D)(b) is disjunctive in that "any of its three elements—the failure to maintain a reasonable degree of interest *or* concern *or* responsibility as to the child's welfare—may be considered on its own as a basis in determining whether the parent is unfit." (Emphases in original.) *In re Nicholas C.*, 2017 IL App (1st) 162101, ¶ 24, 77 N.E.3d 1173. "Noncompliance with an imposed service plan[and] a continued addiction to drugs *** have [both] been held to be sufficient evidence warranting a finding of unfitness under subsection (b). [Citations.]" *In re Jaron Z.*, 348 Ill. App. 3d 239, 259, 810 N.E.2d 108, 125 (2004).

¶ 41 Despite several potential bases for unfitness, "sufficient 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. This court pays " 'great deference' " to a trial court's fitness finding " 'because of [that court's] superior opportunity to observe the witnesses and evaluate their credibility.' " *A.L.*, 409 Ill. App. 3d at 500 (quoting *Jordan V.*, 347 Ill. App. 3d at 1067). We "will not reverse a trial court's fitness finding unless it was contrary to the manifest weight of the evidence, meaning that the opposite conclusion is clearly evident from a review of the record." *Id.*

¶ 42 Here, the trial court found Mother unfit for failing to maintain a reasonable degree of responsibility as to the minors' welfare. 750 ILCS 50/1(D)(b) (West 2022). The court made

this finding based on Mother's lack of compliance with her services during each of the three nine-month periods. During the first period, Mother tested positive for cocaine twice, inconsistently attended outpatient substance abuse treatment, and did not complete domestic violence services. While Mother completed parenting classes, she was rated as medium or high risk in every category on the parenting profile. Upon completion of the class, Mother was at an even higher risk in two categories than before. Those were "Inappropriate Expectations" and "Reverses Family Roles." Mother ended the parenting class still ranked as a high risk for the latter category, with a higher risk of (1) using the children to meet her self-needs; (2) perceiving the children as objects for adult gratification; (3) treating the children as confidants and peers; (4) expecting the children to make her life better by providing love, assurance, and comfort; and (5) exhibiting low self-esteem, poor self-awareness, and a poor social life. During the second period, Mother completed substance abuse treatment in January 2022, yet she tested positive for cocaine in April 2022. During the third period, Mother missed four drug drops. After this period ended, and after completing substance abuse treatment again, Mother tested positive for cocaine twice, requiring a referral for a third service attempt. Mother denied being "around cocaine" since April 2021 and attributed her cocaine-positive test results to smoking "laced" marijuana purchased off the street. Indeed, at the unfitness hearing, Mother confessed she had been "addicted to marijuana." The evidence illustrates Mother's noncompliance with the service plan and continued addiction to drugs, both of which have "been held to be sufficient evidence warranting a finding of unfitness under subsection (b)." *Jaron Z.*, 348 Ill. App. 3d at 259.

¶ 43 Based on the evidence presented at the fitness hearing, the trial court's finding Mother failed to maintain a reasonable degree of responsibility as to the minors' welfare was not against the manifest weight of the evidence, as the opposite conclusion is not clearly evident. See

A.L., 409 Ill. App. 3d at 500. Because we can affirm the court's unfitness finding on this basis, we need not consider the other statutory grounds upon which the court found Mother unfit. See *F.P.*, 2014 IL App (4th) 140360, ¶ 83.

¶ 44 B. Best Interest Finding

¶ 45 Mother also argues the trial court's best interest finding was against the manifest weight of the evidence.

¶ 46 Once a trial court finds a parent an "unfit person," it must next consider whether terminating that person's parental rights serves the child's best interest. "[A]t a best-interests hearing, the 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). When considering whether termination is in a child's best interest, the trial court must consider several factors within "the context of the child's age and developmental needs." 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 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." *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1072, 859 N.E.2d 123, 141 (2006).

¶ 47 A trial court's finding that termination of parental rights is in a child's best interest will not be reversed on appeal unless it is against the manifest weight of the evidence. *In re Dal. D.*, 2017 IL App (4th) 160893, ¶ 53, 74 N.E.3d 1185. The court's decision will be found to be "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." *In re Keyon R.*, 2017 IL App (2d) 160657, ¶ 16, 73 N.E.3d 616.

¶ 48 Here, after considering all the best interest factors, the trial court found they weighed in favor of terminating Mother's parental rights. The court noted the minors' medical needs and their needs for food, shelter, and clothing were all being provided for in their current placements. In relation to the minors' senses of attachment and being valued and their senses of security, familiarity, and continuity of affection, the court noted how in the three and a half years they have spent out of Mother's care, she has never been with them for more than three hours at a time. The court found the minors' current placements to be their least disruptive placement alternatives. Finally, the court found the current placements to fulfill the minors' needs for stability and permanence, noting they "have been in care way too long" and could not be returned to Mother even after four nine-month periods had elapsed.

¶ 49 The evidence supports the trial court's determination that terminating Mother's parental rights served the minors' best interest, meaning the decision is neither unreasonable nor arbitrary. As the evidence does not lead us clearly to the opposite conclusion, we cannot say the court's best-interest determination is against the manifest weight of the evidence. See *id.*

¶ 50 III. CONCLUSION

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

¶ 52 Affirmed.