2024 IL App (4th) 240415-U

NOS. 4-24-0415, 4-24-0442 cons.

FILED
July 31, 2024
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re A.R. and A.G., Minors	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois),	)	Winnebago County
Petitioner-Appellee,	)	Nos. 21JA211
v.	)	22JA235
Virginia R.,	)	
Respondent-Appellant).	)	Honorable
	)	Erin B. Buhl,
	)	Judge Presiding.

JUSTICE DeARMOND delivered the judgment of the court.
Justice Lannerd and Justice Knecht concurred in the judgment.

ORDER

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

¶ 2 In December 2023, the State filed motions to terminate the parental rights of respondent, Virginia R. (Mother), to her minor children, A.G. (born December 2020) and A.R. (born September 2021). Following a hearing on the State's motions, the trial court found Mother an "unfit person" 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 Mother's parental rights. On appeal, Mother argues the court erred in terminating her parental rights where its unfitness finding was against the manifest weight of the evidence. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On May 18, 2021, the State filed a neglect petition, alleging A.G. was a neglected minor under the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(b) (West 2020)). The petition alleged A.G.'s environment was injurious to her welfare in that her father, Christopher F., who is not a party to this appeal, had a history of domestic violence. It further alleged Mother had "a substance abuse issue which prevent[ed] her from properly parenting," thereby placing A.G. at risk of harm.

¶ 5 At an adjudicatory hearing in September 2021, Mother stipulated to the allegations contained in count II of the neglect petition. In December 2021, the trial court entered a dispositional order finding Mother fit, willing, and able to appropriately care for, train, and discipline A.G. The court placed guardianship and custody of A.G. with Mother.

¶ 6 On June 8, 2022, the State filed a neglect petition with respect to A.R. The petition alleged A.R.'s environment was injurious to his welfare in that Mother was not cooperating with caseworkers or the court in regard to A.G.'s case. The petition further alleged Mother "allowed her paramour, a registered sex offender, to have access" to the minors. Moreover, A.R.'s environment was injurious to his welfare due to instances of domestic violence involving Mother. That same day, the State filed a motion to modify guardianship and custody in A.G.'s case. After a shelter care hearing, the trial court placed custody and guardianship of the minors with the Illinois Department of Children and Family Services.

¶ 7 On December 13, 2023, the State filed motions to terminate Mother's parental rights. The motions alleged Mother was an unfit parent in that (1) she failed to maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare (750 ILCS 50/1(D)(b) (West 2022)) (count I), (2) she failed to protect the minors from conditions within the environment injurious to the minors' welfare (750 ILCS 50/1 (D)(g) (West 2022)) (count II), and

(3) she failed to make reasonable progress toward the return of the minors to her care during a nine-month period after the minors were adjudicated neglected (750 ILCS 50/1(D)(m)(ii) (West 2022)) (count III). The relevant nine-month periods alleged in count III were January 31, 2023, to October 31, 2023, and March 8, 2023, to December 8, 2023. In the motions, the State also included the minors' putative fathers, Christopher F. and Jesse V. However, both putative fathers failed to appear at the termination proceedings and were defaulted.

¶ 8 On January 31, 2024, the trial court conducted the fitness hearing. The State presented the testimony of Annette Givens, a caseworker with Lutheran Social Services of Illinois. Givens testified she had been the minors' caseworker since June 2022. According to Givens, A.G. initially came into care after incidents of domestic abuse between Mother and Christopher F., and A.R. came into care "because a sex offender had access to [the] minors."

¶ 9 Mother's service plan required her to complete substance abuse services, parenting classes, domestic violence services, individual counseling, and mental health counseling. Givens indicated Mother was unsuccessfully discharged from individual counseling twice due to lack of attendance. Further, Mother was unsuccessfully discharged from parenting classes twice, due in part "to not following the homework rules they have set in place, not turning in the homework, turning in blank pages, [and] not turning it in on time." On cross-examination, Givens stated she did not add Stan Smith, Mother's paramour, to the service plan because Mother "was not forthcoming with his information." However, Givens acknowledged she attempted to contact Smith via cell phone but was unable to do so. With regard to mental health services, Givens noted Mother never completed the mental health assessment.

¶ 10 Stan Smith testified he was currently in a dating relationship with Mother and they had been living together for "[a]lmost 2 years." Smith confirmed he was a registered sex offender. He recalled an incident when Mother was on the phone with Givens in which he stated he did not want Mother to give Givens his Social Security number. Smith clarified, "No. I didn't mean it. I didn't mean what I said about not giving it to her."

¶ 11 The trial court took the matter under advisement. On February 15, 2024, the court found the State proved by clear and convincing evidence Mother failed to (1) maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare, (2) protect the minors from conditions within the environment injurious to their welfare, and (3) make reasonable progress during the time periods alleged by the State. Specifically, the court noted Mother "failed to demonstrate a reasonable level of responsibility and reasonable progress with respect to services regarding her mental health, substance use, protective parenting skills, and underlying domestic violence issues." The court then addressed Mother's continued relationship with Smith, stating, "Givens testified that she has been unable to add [Smith] to the service plan or facilitate assessments, such as a sex offender assessment, to determine his risk level and service needs or implement other services to address these unchanged safety concerns."

¶ 12 The trial court proceeded directly to the best interest hearing. After evidence and argument, the court found it was in the best interest of the minors to terminate Mother's parental rights.

¶ 13 This consolidated appeal followed.

¶ 14 II. ANALYSIS

¶ 15 We note Mother does not challenge the trial court's best interest finding on appeal. Instead, she argues only that the court's fitness determination was against the manifest weight of the evidence. Accordingly, we confine our analysis to that issue.

¶ 16 The Juvenile Court Act and the Adoption Act govern how the State may terminate parental rights. *In re D.F.*, 201 Ill. 2d 476, 494, 777 N.E.2d 930, 940 (2002). Together, the statutes outline two necessary steps the State must take before terminating a person's parental rights—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. *D.F.*, 201 Ill. 2d at 494-95. Here, Mother only challenges the trial court's determination of unfitness.

¶ 17 In a proceeding to terminate a respondent's parental rights, the State must prove unfitness by clear and convincing evidence. *In re A.L.*, 409 Ill. App. 3d 492, 500, 949 N.E.2d 1123, 1129 (2011). The Adoption Act provides several grounds on which a court may find a parent "unfit." One is a parent's failure to make reasonable progress toward the return of the child to the parent during any nine-month period following the adjudication of neglect or abuse. 750 ILCS 50/1(D)(m)(ii) (West 2022). Reasonable progress includes a parent's compliance with service plans and court 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." *In re C.N.*, 196 Ill. 2d 181, 216-17, 752 N.E.2d 1030, 1050 (2001).

> "We have held that 'reasonable progress' is an 'objective standard' and that a parent has made reasonable progress when 'the progress being made by a parent to comply with directives given for the return of the child is sufficiently demonstrable and of such a quality that the court, in the *near future*, will be able

to order the child returned to parental custody.' " (Emphasis in original). *In re F.P.*, 2014 IL App (4th) 140360, ¶ 88, 19 N.E.3d 227 (quoting *In re L.L.S.*, 218 Ill. App. 3d 444, 461, 577 N.E.2d 1375, 1387 (1991)).

Despite multiple bases for unfitness, "one statutory ground [is] enough to support a [court's] finding that someone [is] an 'unfit person.' " *F.P.*, 2014 IL App (4th) 140360, ¶ 83; see *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1064, 859 N.E.2d 123, 135 (2006) ("A finding of unfitness will stand if supported by any one of the statutory grounds set forth in section 1(D) of the Adoption Act.").

¶ 18 We will not disturb a finding of unfitness unless it is against the manifest weight of the evidence. *In re J.H.*, 2020 IL App (4th) 200150, ¶ 68, 162 N.E.3d 454. "A finding is against the manifest weight of the evidence only if the evidence clearly calls for the opposite finding [citation], such that no reasonable person could arrive at the circuit court's finding on the basis of the evidence in the record [citation]." (Internal quotation marks omitted.) *J.H.*, 2020 IL App (4th) 200150, ¶ 68. "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." (Internal quotation marks omitted.) *In re O.B.*, 2022 IL App (4th) 220419, ¶ 29, 217 N.E.3d 341.

¶ 19 Here, the State proved by clear and convincing evidence Mother failed to make reasonable progress toward the return of the minors during the relevant time periods alleged in the State's termination motion. Pursuant to Mother's service plan, she was to, *inter alia*, (1) complete substance abuse services, (2) complete parenting education classes, (3) participate in domestic violence services, (4) participate in individual counseling, and (5) participate in mental health counseling. At the time of the fitness hearing, Mother was unsuccessfully discharged from individual counseling twice for nonattendance. Mother was also unsuccessfully

discharged from parenting classes twice for "failing to follow the rules and to turn in homework." Further, Mother was not participating in domestic violence services, nor was she engaged in mental health services.

¶ 20 In her brief, Mother argues, other than Smith's initial sex offense, "[t]here was no evidence of any other criminal offense committed by [Smith]. Whether in the future he could pose a risk to children, would be purely a speculation." Mother's argument is inventive. The record reveals several attempts by Givens to collect the necessary information in an attempt to assess Smith's risk level and add him to the service plan. By his own admission, Smith indicated he instructed Mother not to provide Givens his Social Security number, thereby hindering the assessment process.

¶ 21 Based on this record, it was not against the manifest weight of the evidence for the trial court to conclude Mother failed to make reasonable progress during the nine-month periods alleged in the motions for termination of parental rights. Mother did not "substantially fulfill *** her obligations under the service plan" and therefore did not make reasonable progress toward the return of the minors to her care. 750 ILCS 50/1(D)(m)(ii) (West 2022). "As the grounds for unfitness are independent, the trial court's judgment may be affirmed if the evidence supports the finding of unfitness on any one of the alleged statutory grounds." *In re H.D.*, 343 Ill. App. 3d 483, 493, 797 N.E. 2d 1112, 1120 (2003).

¶ 22 III. CONCLUSION

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

¶ 24 Affirmed.