2024 IL App (4th) 240633-U

NO. 4-24-0633

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
August 22, 2024
Carla Bender
4th District Appellate
Court, IL

In re J.L., a Minor	)	Appeal from the
(The People of the State of Illinois,	)	Circuit Court of
Petitioner-Appellee,	)	Knox County
v.	)	No. 23JA73
Tyler L.,	)	
Respondent-Appellant).	)	Honorable
	)	Curtis S. Lane,
	)	Judge Presiding.

JUSTICE ZENOFF delivered the judgment of the court.
Justices Doherty and DeArmond concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, finding respondent's challenge to the trial court's dispositional order was moot.

¶ 2 Respondent, Tyler L., appeals from the trial court's dispositional order finding him unfit and unable to care for his minor child, J.L. (born in 2008). The court also found J.L.'s mother, Holly W., unfit, but she is not a party to this appeal. Respondent argues the court's finding of unfitness was against the manifest weight of the evidence. We affirm.

¶ 3 I. BACKGROUND

¶ 4 In December 2023, the State filed a petition for adjudication of wardship, alleging J.L. was neglected under section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(b) (West 2022)) due to being in an environment injurious to her welfare. The petition alleged respondent was incarcerated in federal prison after attempting to entice a child

into sexual activity (the other allegations in the petition related to the mother only). Following a shelter care hearing, the trial court entered an order placing temporary custody of the minor with the Illinois Department of Children and Family Services (DCFS).

¶ 5 In March 2024, the trial court held an adjudicatory hearing. Respondent was not present. Based on the stipulation of the mother, the court found J.L. neglected.

¶ 6 In April 2024, the trial court held a dispositional hearing. Respondent appeared from federal custody via phone. On the State's motion, the court admitted the caseworker's dispositional report into evidence. The dispositional report indicated respondent was incarcerated at the Thompson Federal Corrections Institution in Thompson, Illinois. The caseworker received respondent's contact information from his attorney but had not yet contacted him. The report further indicated J.L. told the caseworker "that she did not want to see her dad."

¶ 7 The State asked the trial court to find respondent unfit and to place custody of J.L. with DCFS.

¶ 8 Counsel for respondent stated:

> "Your Honor, we don't have really any objection to the recommendations as outlined by the guardian *ad litem*. I believe it would be appropriate for [respondent] to be found unable, not unfit as suggested by the State. I don't believe there's been any evidence proffered as to why there should be a finding of, you know, unfitness as opposed to unable. He's clearly unable to take care of the children because of his current incarceration in the Department of Corrections, but I don't believe I have anything further."

¶ 9 The trial court found respondent both unfit and unable to care for J.L. due to his incarceration, made the minor a ward of the court, and placed J.L.'s custody and guardianship with DCFS.

¶ 10 This appeal followed.

¶ 11 II. ANALYSIS

¶ 12 On appeal, respondent argues the trial court's finding of unfitness was against the manifest weight of the evidence. He does not challenge the court's determination finding him unable to care for J.L.

¶ 13 The trial court must follow the two-step process provided by the Juvenile Court Act when determining whether a minor should become a ward of the court. *In re A.P.*, 2012 IL 113875, ¶ 18. At the adjudicatory stage, the only question considered by the court is whether the minor is abused, neglected, or dependent. 705 ILCS 405/2-21(1) (West 2022). If the court makes such a finding, the matter proceeds to the dispositional stage, where the court determines whether it is consistent with the health, safety, and best interest of the minor and the public that the minor be made a ward of the court. *A.P.*, 2012 IL 113875, ¶ 21. The court also determines whether the parent is unfit, unwilling, or unable to care for the minor. *In re M.M.*, 2016 IL 119932, ¶ 21.

¶ 14 "Any one of these three grounds alone—either unable *or* unwilling *or* unfit—provide a proper basis" to remove the minor from the custody of his or her parent. (Emphases added.) *In re Harriet L.-B.*, 2016 IL App (1st) 152034, ¶ 30. Furthermore, if a parent admits to being unable, unwilling, or unfit at the dispositional hearing, he or she waives any argument as to that ground on appeal. *In re Lakita B.*, 297 Ill. App. 3d 985, 992-93 (1998).

¶ 15 Here, respondent conceded he was unable to care for J.L. at the dispositional hearing. On appeal, he raises no argument challenging the trial court's finding that he was unable.

Respondent thus waived his challenge to the court's unable finding. Accordingly, the only issue he raises on appeal—whether the court's unfitness finding was against the manifest weight of the evidence—is moot because the court's unable finding provides a sufficient basis for removal. See *id.*; *Harriett L.-B.*, 2016 IL App (1st) 152034, ¶ 31 (collecting cases).

¶ 16 III. CONCLUSION

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

¶ 18 Affirmed.