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2019 IL App (4th) 190308-U

NO. 4-19-0308

IN THE APPELLATE COURT
OF ILLINOIS

FILED
October 11, 2019
Carla Bender
4th District Appellate
Court, IL

FOURTH DISTRICT

<i>In re</i> K.M., a Minor)	Appeal from the
)	Circuit Court of
(The People of the State of Illinois,)	Vermilion County
Petitioner-Appellee,)	No. 18JA29
v.)	
Sandra M.,)	
Respondent-Appellant).)	Honorable
)	Thomas M. O’Shaughnessy,
)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Presiding Justice Holder White and Justice Steigmann concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, concluding the trial court’s findings respondent was an unfit parent and it was in the minor’s best interest to terminate her parental rights were not against the manifest weight of the evidence.

¶ 2 Respondent mother, Sandra M., appeals from the trial court’s order terminating her parental rights to K.M. (born January 31, 2018). On appeal, respondent argues the court’s findings she was an unfit parent and it was in the minor’s best interest to terminate her parental rights were against the manifest weight of the evidence. We disagree and affirm.

¶ 3 I. BACKGROUND

¶ 4 In February 2019, the State filed a petition to terminate respondent’s parental rights. The State alleged respondent was an unfit parent as she (1) failed to maintain a reasonable degree

of interest, concern, or responsibility as to the minor's welfare (750 ILCS 50/1(D)(b) (West 2018)); and (2) deserted the minor for more than three months prior to the termination proceedings (*id.* § 1(D)(c)). The State further alleged it was in the minor's best interest to terminate respondent's parental rights and appoint the Department of Children and Family Services (DCFS) as guardian with the power to consent to adoption.

¶ 5 In May 2019, the trial court held fitness and best-interest hearings on the same day. Despite being given notice, respondent failed to appear at the fitness hearing.

¶ 6 During the fitness hearing, the State presented testimony from three caseworkers, Amanda Carpenter, Kelly Cooper, and Aidee Torres. Carpenter was assigned to the minor's case in May 2018, shortly after the minor came into DCFS care, and then served as the caseworker until August 2018. Cooper, Carpenter's supervisor, served as the minor's caseworker from August 2018 through November 2018, while Carpenter was on leave. In November 2018, Carpenter resumed her responsibilities as the minor's caseworker and then served in that capacity until January 2019. In January 2019, Torres was assigned as the minor's caseworker and then served in that capacity through the date of the hearing.

¶ 7 The minor came into DCFS care "due to being born substance exposed," specifically exposed to methamphetamine. After the minor was brought into care, respondent, who had two other children in DCFS care, completed an integrated assessment. The integrated assessment recommended substance-abuse, mental-health, and parenting services.

¶ 8 In September 2018, respondent completed a substance-abuse assessment and then enrolled and began attending both group and individual therapy for her substance-abuse issues. In

November 2018, respondent stopped attending therapy. Respondent also declined to participate in a recommended inpatient treatment program. In January 2019, respondent was discharged from therapy due to inconsistent attendance. In February 2019, respondent expressed a desire to reengage in substance-abuse treatment and to switch treatment facilities. The assigned caseworker told respondent to contact the new treatment facility by the end of the week, which respondent did not do. Throughout the case, respondent was required to report for randomized drug drops. Respondent failed to report for most of the drug drops, and the drops she did complete tested positive for methamphetamine, “benzos,” and “THC.”

¶ 9 At no point did respondent attend recommended parenting classes or schedule a mental-health assessment.

¶ 10 Respondent was initially allowed weekly visitation with the minor. She attended visitation but her attendance was inconsistent. During one visit, respondent provided clothes, diapers, and other items for the minor. Visitation was ultimately suspended due to respondent’s positive drug drops and her failure to report for randomized drug drops. Respondent last visited with the minor in June 2018.

¶ 11 Throughout the case, the minor’s caseworkers contacted respondent by phone, mail, and visits to her home. Respondent often did not respond to the voicemails, texts, letters, or home visits. When respondent did speak with the caseworkers, the caseworkers repeatedly stressed the need for respondent to engage in the recommended services.

¶ 12 The permanency reports in the record, which the trial court took judicial notice over no objection, showed a lack progress with recommended services.

¶ 13 Based on this evidence, the trial court found respondent was an unfit parent as she failed to maintain a reasonable degree of interest, concern, or responsibility as to the minor's welfare. The court found the State failed to establish desertion. The court later entered a written order providing the same.

¶ 14 Following a recess, the trial court commenced a best-interest hearing. Respondent appeared with counsel. The State presented testimony from caseworker Torres.

¶ 15 Torres testified the minor was in a specialized foster home due to a health condition involving his heart. Torres visited with the minor three times a month. She observed the minor with his foster parents and had no concerns. The foster parents were supportive and loving. They provided for the minor's needs and ensured he attended medical appointments. The minor attended a daycare capable of caring for his medical needs. The foster parents had family in the area who provided additional support to the minor. The foster parents were willing to offer permanency through adoption. The minor appeared bonded with his foster parents. Respondent had not seen the minor since June 2018. Torres believed the minor was not bonded with respondent.

¶ 16 Based on this evidence, the trial court, after considering the statutory best-interest factors found in section 1-3(4.05) of the Juvenile Court Act of 1987 (705 ILCS 405/1-3(4.05) (West 2018)), found it would be in the minor's best interest to terminate respondent's parental rights. The court later entered a written order terminating respondent's parental rights.

¶ 17 This appeal followed.

¶ 18 II. ANALYSIS

¶ 19 On appeal, respondent argues the trial court's findings she was an unfit parent and

it was in the minor's best interest to terminate her parental rights were against the manifest weight of the evidence.

¶ 20 A. Unfitness Finding

¶ 21 Respondent asserts the trial court's finding she was an unfit parent was against the manifest weight of the evidence where she "completed her substance[-]abuse assessment and integrated assessment."

¶ 22 In a proceeding to terminate a respondent's parental rights, the State must prove unfitness by clear and convincing evidence. *In re Donald A.G.*, 221 Ill. 2d 234, 244, 850 N.E.2d 172, 177-78 (2006). A trial court's finding of parental unfitness will not be disturbed on appeal unless it is against the manifest weight of the evidence. *In re N.T.*, 2015 IL App (1st) 142391, ¶ 27, 31 N.E.3d 254. "A court's decision regarding a parent's fitness is against the manifest weight of the evidence only where the opposite conclusion is clearly apparent." (Internal quotation marks omitted.) *In re M.I.*, 2016 IL 120232, ¶ 21, 77 N.E.3d 69.

¶ 23 In this case, the trial court found respondent to be an unfit parent because she failed to maintain a reasonable degree of interest, concern, or responsibility as to the minor's welfare (750 ILCS 50/1(D)(b) (West 2018)). "[I]n determining whether a parent showed reasonable concern, interest or responsibility as to a child's welfare, we have to examine the parent's conduct concerning the child in the context of the circumstances in which that conduct occurred." *In re Adoption of Syck*, 138 Ill. 2d 255, 278, 562 N.E.2d 174, 185 (1990). "Noncompliance with an imposed service plan or irregular visitation with the minor is sufficient" for a finding a parent is unfit for failing to maintain a reasonable degree of interest, concern, or responsibility as to the

minor's welfare. *In re A.F.*, 2012 IL App (2d) 111079, ¶ 41, 969 N.E.2d 877.

¶ 24 While the evidence showed respondent initially showed some interest, concern, and responsibility for the minor's welfare by completing both an integrated assessment and a substance-abuse assessment, she failed to maintain that interest, concern, and responsibility. Respondent failed to pursue, let alone complete, any of the recommended services, and she failed to maintain regular contact with the caseworkers assigned to monitor the minor's welfare. Respondent also had not had any visits with the minor for almost a year. Based on the evidence presented, we cannot say the trial court's finding respondent was an unfit parent was against the manifest weight of the evidence.

¶ 25 B. Best-Interest Finding

¶ 26 Respondent asserts the trial court's finding it was in the minor's best interest to terminate her parental rights was against the manifest weight of the evidence where "she was willing to cooperate with services to reunify with her child."

¶ 27 At the best-interest stage, a "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). The State must prove by a preponderance of the evidence termination is in the child's best interests. *Id.* at 367. When considering whether termination of parental rights would be in a child's best interest, the trial court must consider several statutory factors within the context of the child's age and developmental needs. 705 ILCS 405/1-3(4.05) (West 2018).

¶ 28 This court will not reverse a trial court's finding termination of parental rights is in

a child's best interests unless it is against the manifest weight of the evidence. *In re Anaya J.G.*, 403 Ill. App. 3d 875, 883, 932 N.E.2d 1192, 1199 (2010). Again, a finding is against the manifest weight of the evidence only if the facts clearly demonstrate the court should have reached the opposite conclusion. *Id.*

¶ 29 Even if respondent had an alleged newfound willingness to cooperate with services to reunify with the minor, she had not seen the minor for almost a year. The minor's caseworker believed no bond existed between respondent and the minor. Conversely, the minor appeared bonded with his foster parents. The foster parents provided the minor with love, support, and care. The foster parents were willing to offer permanency through adoption. Based on the evidence presented, we find the trial court's finding it was in the minor's best interest to terminate respondent's parental rights was not against the manifest weight of the evidence.

¶ 30 III. CONCLUSION

¶ 31 We affirm the trial court's judgment.

¶ 32 Affirmed.