

NOTICE

This Order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

2024 IL App (4th) 241028-U

NO. 4-24-1028

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

December 19, 2024

Carla Bender
4th District Appellate
Court, IL

<i>In re</i> A.B., a Minor)	Appeal from the
)	Circuit Court of
(The People of the State of Illinois,)	Sangamon County
Petitioner-Appellee,)	No. 21JA96
v.)	
Stephan R.,)	
Respondent-Appellant).)	Honorable
)	Karen S. Tharp,
)	Judge Presiding.

JUSTICE LANNERD delivered the judgment of the court.
Justices Steigmann and Knecht concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, concluding the trial court’s determination respondent was an unfit parent was not against the manifest weight of the evidence.

¶ 2 In February 2024, the State filed a petition to terminate the parental rights of respondent, Stephan R., to his minor child, A.B. (born July 2021). Following the fitness and best interest hearings, the trial court granted the State’s petition and terminated respondent’s parental rights. (A.B.’s mother, Wendy B., signed a final and irrevocable surrender and is not a party to this appeal.) Respondent appeals, arguing the court’s determination he was an unfit parent was against the manifest weight of the evidence. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On July 26, 2021, the State filed a petition for adjudication of wardship, alleging A.B. was a neglected minor in that his environment was injurious to his welfare pursuant to the

Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(b) (West 2020)). The petition alleged A.B. was born with cocaine in his “blood, urine, or meconium” and listed Wendy B. as A.B.’s mother. No father was listed on the adjudicatory petition; however, a summons for the adjudicatory hearing was sent to Paul S. After the shelter care hearing, the trial court found probable cause for the State’s petition.

¶ 5 When the summonses issued for Wendy B. and Paul S. were returned undelivered, the State filed an affidavit for service by publication in September 2021. Notice of the adjudicatory hearing was published in the Auburn Citizen on September 30, 2021. Wendy B. and Paul S. failed to appear at the adjudicatory hearing held in October 2021. At that hearing, the trial court found the State proved A.B. was a neglected minor as alleged in the petition and set the case for a dispositional hearing in November 2021. At the dispositional hearing, (1) Wendy B. and Paul S. failed to appear; (2) the court found “the minor’s parents, guardian or legal custodian are unfit, unable or unwilling for some reason other than financial circumstances alone to care for, protect, train, educate, supervise or discipline the minor”; and (3) the court granted custody and guardianship of A.B. to the Illinois Department of Children and Family Services.

¶ 6 In April 2022, the State filed a petition to terminate parental rights, listing Wendy B. as A.B.’s mother and Paul S. as the putative father. Respondent was not notified about A.B.’s existence until a year after his birth, when Wendy B. was surrendering her parental rights. The record is unclear on how respondent was notified about A.B.’s existence or that he may be A.B.’s father. On May 24, 2022, at a status hearing, respondent appeared via Zoom and stated he may be A.B.’s father. Consequently, the trial court ordered DNA testing to determine paternity. That same day, Wendy B. signed a final and irrevocable surrender, which listed respondent as A.B.’s father. Paul S. also signed a final and irrevocable surrender.

¶ 7 On August 31, 2022, the trial court entered an order indicating DNA results established respondent was A.B.'s father.

¶ 8 In February 2024, the State filed a petition to terminate respondent's parental rights, alleging:

a. [Respondent] has failed to maintain a reasonable degree of interest, concern, or responsibility as to [A.B.]'s welfare;

b. [Respondent] has been subject to habitual drunkenness or addiction to drugs other than those prescribed by a physician for at least one year immediately prior to the commencement of the unfitness proceeding;

c. [Respondent] has failed to make reasonable efforts to correct the conditions which were the basis for the removal of the minor from him within 9 months following an adjudication of Neglect under Illinois Compiled Statutes, Chapter 705, Section 405/2-3, specifically October 21, 2021 to July 21, 2022;

d. [Respondent] has failed to make reasonable progress toward the return of the minor to him within 9 months following an adjudication of Neglect under Illinois Compiled Statutes, Chapter 705, Section 405/2-3, specifically October 21, 2021 to July 21, 2022;

e. [Respondent] has failed to make reasonable efforts to correct the conditions which were the basis for the removal of the minor from him during any 9 month period following an adjudication of Neglect under Illinois Compiled Statutes, Chapter 705, Section 405/2-3, specifically July 21, 2022 to April 21, 2023;

f. [Respondent] has failed to make reasonable progress toward the return of the minor to him during any 9 month period following an adjudication of Neglect

under Illinois Compiled Statutes, Chapter 705, Section 405/2-3, specifically July 21, 2022 to April 21, 2023;

g. [Respondent] has failed to make reasonable efforts to correct the conditions which were the basis for the removal of the minor from him during any 9 month period following an adjudication of Neglect under Illinois Compiled Statutes, Chapter 705, Section 405/2-3, specifically April 21, 2023 to January 21, 2024;

h. [Respondent] has failed to make reasonable progress toward the return of the minor to him during any 9 month period following an adjudication of Neglect under Illinois Compiled Statutes, Chapter 705, Section 405/2-3, specifically April 21, 2023 to January 21, 2024.”

The trial court set the case for a hearing on the State’s petition. The fitness portion of the hearing occurred on June 13, 2024, and the best interest portion occurred on July 25, 2024. Because respondent’s arguments on appeal relate solely to the fitness portion of the hearing, we discuss only those factors necessary to understand his contentions on appeal.

¶ 9 A. Fitness Hearing

¶ 10 Before the fitness hearing began, despite being represented by appointed counsel, respondent requested a continuance to hire private counsel and “line up witnesses.” The trial court denied respondent’s request, noting the first appearance on the State’s petition occurred in March 2024 and a pretrial was held in April 2024; thus, respondent had plenty of time to prepare and hire an attorney.

¶ 11 Prior to calling its first witness, the State requested the trial court take judicial notice of the following: the adjudicatory order entered in October 2021; the dispositional order entered

in November 2021; the final and irrevocable surrenders signed by Wendy B. and Paul S. in May 2022; and the DNA results establishing respondent is the father of A.B. The State then offered into evidence four service plans, as State's exhibit Nos. 1 through 4, without objection. Following the admission of the service plans, the State presented testimony from Adriane Beck.

¶ 12 1. *Adriane Beck*

¶ 13 a. Direct Examination

¶ 14 Adriane Beck, a former caseworker for the Center for Youth and Family Solutions (CYFS) was the caseworker assigned to respondent's case from February 2022 to March 2023. During her time as the caseworker, she authored the July 2022 and January 2023 service plans. The July 2022 service plan was a "skeleton service plan" because CYFS had just received the DNA testing results confirming paternity in June 2022. Additionally, at that time, respondent had not completed the integrated assessment. Because of this, respondent received no ratings in the July 2022 service plan.

¶ 15 Once respondent completed the integrated assessment, the following tasks were recommended: cooperation, employment and housing, substance abuse treatment, parenting, visitation, and counseling. Beck explained to respondent he needed to complete these services to get custody of A.B. Respondent was rated unsatisfactory overall in the January 2023 service plan. At that time, respondent did not have suitable housing or consistent employment. Respondent was cooperative with Beck; however, there was a period from July 2022 to September 2022 when respondent did not communicate with Beck. During that time, respondent did not engage in any services or visit with A.B. In October 2022, respondent began attending counseling. However, when respondent entered inpatient substance abuse treatment in December 2022, he stopped counseling. Respondent then resumed counseling in February 2023. Similarly, respondent began

parenting classes in November 2022 but could not complete the program due to inpatient treatment. Respondent restarted the parenting classes in February 2023. Although respondent successfully completed inpatient treatment in January 2023 and was attending outpatient treatment, he failed to submit to random “drug drops.” Beck requested respondent submit to four random drops per month, and a failure to complete a drop constituted a positive result. Respondent received supervised visitation for two hours every week and consistently attended visitation, except during the period from July 2022 to September 2022.

¶ 16 According to Beck, CYFS was never close to recommending custody of A.B. should be returned to respondent because respondent failed to provide consistently clean drug drops; respondent continued to have a relationship with Wendy B., despite being advised this relationship would hinder A.B.’s return to him; and respondent did not make enough progress in his services “to warrant a return home.”

¶ 17 b. Cross-Examination

¶ 18 On cross-examination by respondent’s counsel, Beck acknowledged respondent was the “non-offending parent” and not listed in the adjudicatory petition. Additionally, respondent had completed the integrated assessment, as requested, following the July 2022 paternity results. During her time as the caseworker, respondent was making some efforts in his services but had not made progress. Beck acknowledged respondent was rated satisfactory on his cooperation and substance abuse treatment services in the January 2023 service plan. Additionally, although respondent had not made progress in his mental health services, he agreed to participate in counseling. Respondent also attended some of the required parenting classes but had not completed the entire course. Respondent attended all visits with A.B. from September 2022 to March 2023. Beck acknowledged respondent was providing drug drops for probation. However,

she did not “count” these drops because (1) if respondent tested positive, probation would not tell her what he tested positive for, only that the result was positive; (2) she did not know whether they were random; and (3) she did not know if anyone observed respondent provide the urine sample. Beck admitted respondent told her he missed multiple drug drops due to his employment.

¶ 19 On cross-examination by the guardian *ad litem*, Beck acknowledged she never performed an assessment of respondent’s home to determine whether it was appropriate for A.B., but she stated she was never allowed to enter the home. During the period from July 2022 to September 2022, she attempted to contact respondent via phone but did not keep track of how many times she attempted to contact him. Beck observed multiple visits between respondent and A.B. Those visits went well; respondent would bring gifts for A.B. and attempted to learn as much as he could about A.B.’s dietary and medical restrictions.

¶ 20 c. Trial Court’s Questions

¶ 21 Beck admitted she did not search for respondent on the putative father registry. Additionally, Beck did not know why respondent was on probation.

¶ 22 2. *Amanda Osborne*

¶ 23 a. Direct Examination

¶ 24 Amanda Osborne, a caseworker for CYFS, was assigned to respondent’s case in March 2023. Osborne authored the July 2023 and January 2024 service plans; all respondent’s recommended services remained the same throughout all the service plans. There was an administrative case review after each service plan was completed, which respondent attended. Osborne went over each service plan with respondent and explained he needed to complete the recommended services to gain custody of A.B. Despite this, respondent was rated unsatisfactory overall in both service plans. Throughout her time as the caseworker, respondent was cooperative

and would engage in services, but Osborne's main concerns were his substance abuse and mental health.

¶ 25 Despite respondent's engagement in outpatient substance abuse treatment, he was unsuccessfully discharged from Family Guidance Center in December 2023 for threatening a provider. After being discharged from Family Guidance Center, respondent completed an intake at Gateway Foundation (Gateway); however, he was told he could not attend that program due to his unstable mental health. To Osborne's knowledge, respondent did not attend any further substance abuse treatment after being discharged from Family Guidance Center. Additionally, respondent would not comply with drug drops as requested. Osborne requested respondent comply with 54 random drops during her time as the caseworker; out of those 54 drops, respondent failed to comply with 32. Additionally, when respondent did comply with drops, he tested positive for tetrahydrocannabinol (THC) on 18 occasions and positive for cocaine on 2 occasions. The State admitted a spreadsheet of all 54 requested drops, dates, and results, without objection, as State's exhibit No. 5. Osborne acknowledged respondent obtained a medicinal marijuana card during her time as the caseworker; however, she still had concerns about respondent's marijuana usage because she believed he was self-medicating with it.

¶ 26 Respondent attended counseling at CYFS but was never successfully discharged from services. Osborne requested respondent see a psychiatrist, and respondent indicated he had an appointment; however, respondent never signed a consent for her to verify he attended this appointment. Additionally, respondent suffered a mental health crisis sometime between October 2023 and January 2024, where the mobile crisis center had to be contacted by his counselor.

¶ 27 Although respondent successfully completed parenting classes, always attended visits with A.B., and the visits went well, visitation was never unsupervised. Then, at the end of

2023, respondent refused to communicate with Osborne. According to Osborne, CYFS was never close to recommending respondent be granted custody of A.B. due to concerns about his mental health and substance abuse.

¶ 28

b. Cross-Examination

¶ 29

On cross-examination by respondent's counsel, Osborne acknowledged respondent was rated satisfactory in all services except substance abuse treatment in the July 2023 service plan. Osborne explained, to be rated satisfactory, the parent does not need to complete the service but must "be engaged in making progress in the goals." Osborne acknowledged respondent was engaged in services. When asked about his substance abuse treatment, Osborne stated respondent was engaged in substance abuse treatment at Family Guidance Center consistently; however, he was inconsistent in submitting to requested drug drops. Osborne acknowledged respondent provided drops at Family Guidance Center as part of his treatment, but those drops were not random. Respondent did inform her he was having problems attending requested drops due to his work schedule. After this, she switched his drug drops to a different agency with different hours to help accommodate him. Osborne acknowledged she never offered to have respondent come to CYFS for an oral toxicology screen. Although Osborne still had concerns about respondent's marijuana usage, respondent did obtain a medicinal marijuana card and informed her he was using marijuana to treat his post-traumatic stress disorder and anxiety. Respondent was also honest with Osborne when he relapsed and tested positive for cocaine. Osborne reached out to respondent's probation officer to discuss his sobriety, but she never heard back. When asked about respondent's progress in counseling, Osborne testified respondent attended counseling regularly at CYFS until January 2024. At that point, respondent informed Osborne he would be attending counseling at Memorial Behavioral Health Center, but she never received a consent to verify he was engaged in

services there. When respondent was attending counseling at CYFS, his counselor told Osborne “[respondent] was almost saying what she wanted to hear not going in depth into making progress towards addressing his mental health.” When asked about visitation, Osborne acknowledged respondent attended visitation consistently and demonstrated appropriate parenting at visits. Respondent was cooperative with Osborne until the end of 2023, when he refused to communicate with her.

¶ 30 On cross-examination by the guardian *ad litem*, Osborne admitted she never investigated why respondent was on probation and was not aware whether respondent was still on probation.

¶ 31 c. Trial Court’s Questions

¶ 32 Osborne explained that after respondent was unsuccessfully discharged from Family Guidance Center in December 2023, he completed an intake at Gateway in January 2024. Gateway informed him he could not attend services there until his mental health issues were resolved. Osborne acknowledged respondent complied with drug drops more frequently after she moved his testing to a different agency in July or August 2023. When the trial court inquired about why respondent refused to communicate with Osborne in late 2023, she stated respondent did not like how she was running the case, so he stopped communicating with her and her supervisor. Respondent would only communicate with the director of CYFS.

¶ 33 3. Respondent

¶ 34 a. Direct Examination

¶ 35 Respondent was not notified about A.B.’s existence until a year after his birth, when Wendy B. was surrendering her parental rights. After becoming involved with CYFS, respondent was aware he needed to complete services, and he worked toward completing them.

¶ 36 Respondent completed inpatient substance abuse treatment in January 2023 and engaged in outpatient treatment at Family Guidance Center for a year and a half. After leaving Family Guidance Center because of a disagreement with his counselor, respondent completed an intake at Gateway. However, Gateway indicated respondent needed to attend three days a week. Respondent was unable to attend counseling this often due to his employment. Further, respondent acknowledged he was currently on probation and stated he provided random drug drops either once a month or once every two weeks for his probation officer. He never tested positive on a drop for probation.

¶ 37 When asked about his mental health treatment, respondent stated he attended therapy at Memorial Health and has been a patient there since 2019. According to respondent, he signed consents for his caseworker to speak with his providers at Memorial Health. Respondent's psychiatrist put him on medication for his mental health issues. However, respondent does not take this medication because it affects his ability to work with heavy machinery.

¶ 38 Respondent has been employed for a year and a half as a drill operator for Comcast. He works approximately 32 to 40 hours a week, depending on the season. Respondent acknowledged he does not currently have appropriate housing for A.B., but he is working with Springfield Housing Authority to obtain better housing. He asked his caseworker for assistance with housing, but his request was denied.

¶ 39 When asked about his parenting, respondent stated he completed parenting classes a year ago. Those classes taught him how to properly parent his son. He attends visitation regularly but feels he is not able to truly be a parent to A.B. because his visitation is supervised.

¶ 40 Respondent asked the trial court to give him more time to complete services. He told the court, "I would do anything for my son, and if I, you know, had to do the drops, more

engagement with my mental health, you know, to satisfy the courts, I would do it in a heartbeat.”

¶ 41 b. Cross-Examination

¶ 42 On cross-examination by the State, respondent reiterated he signed consents for Memorial Health. Respondent acknowledged his counselor at Family Guidance Center had objections to him obtaining a medical marijuana card. However, the card was issued by his primary care provider, who was aware of his substance abuse history when she issued it.

¶ 43 On cross-examination by the guardian *ad litem*, respondent acknowledged there was a petition to revoke his probation filed in April 2024. That petition alleged (1) he failed to report to probation on two occasions, (2) he refused to provide a urine sample on four occasions, (3) he admitted to marijuana, alcohol, and cocaine usage, and (4) he tested positive for cocaine on a hair follicle test.

¶ 44 c. Trial Court’s Questions

¶ 45 In response to the trial court’s questions, respondent acknowledged he never registered with the putative father registry. Additionally, respondent testified he has been in an on-again, off-again relationship with Wendy B. for about 20 years.

¶ 46 4. Trial Court’s Ruling

¶ 47 Following arguments from the parties, the trial court found the State proved allegations (a), (c), (d), (e), (f), (g), and (h) in its petition by clear and convincing evidence. The court explained allegation (d) in the State’s petition, which alleged failure to make reasonable progress from October 2021 to July 2022, was proven because although respondent was not identified as A.B.’s father until June 2022, it was respondent’s responsibility to register with the putative father registry. Therefore, that time counted against him. The court then acknowledged respondent successfully completed parenting classes and inpatient substance abuse treatment.

However, respondent was unsuccessfully discharged from outpatient substance abuse treatment and tested positive for cocaine twice while involved in outpatient treatment. Additionally, despite being involved in counseling, respondent's mental health issues never improved throughout the pendency of the case. In December 2023, Gateway indicated respondent's mental health issues needed to be addressed before respondent could attend their substance abuse treatment program. Although respondent was prescribed medication by his psychiatrist to treat his mental health issues, he refused to take it because it affected his ability to work with heavy machinery. The court concluded by addressing respondent's testimony, stating:

“Also what’s really interesting is [respondent]’s testimony that if ‘I had more time, I’ll do drops in a heartbeat.’ Well, why didn’t you do them before this? Nothing has changed. If you’re going to do them in a heartbeat now, why didn’t you do them before? You have a significant number of drops that you just didn’t show up for, so I have no idea. I don’t know whether to consider them positive, but certainly there’s no evidence here that you’ve successfully addressed the substance abuse issues. You tested positive *** and we continue to have no-shows for drops. But, you say you would do it in a heartbeat. So, that tells me you could have done it all along, and you didn’t.”

The court then set the matter for a best interest hearing.

¶ 48 B. Best Interest Hearing

¶ 49 After the presentation of evidence and argument by the parties at the best interest hearing, the trial court found it was in A.B.’s best interest for respondent’s parental rights to be terminated.

¶ 50 This appeal followed.

¶ 51

II. ANALYSIS

¶ 52 On appeal, respondent contends the trial court's determination he was an unfit parent was against the manifest weight of the evidence.

¶ 53 The Juvenile Court Act sets forth a two-stage process for the involuntary termination of parental rights. During the first stage, commonly referred to as the fitness hearing, "the focus is on the parent's conduct relative to the ground or grounds of unfitness alleged by the State." *In re D.T.*, 212 Ill. 2d 347, 364 (2004). At the fitness hearing, the burden is on the State to "demonstrate by clear and convincing evidence that the parent is 'unfit' under one or more of the grounds set forth in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2004))." *In re Veronica J.*, 371 Ill. App. 3d 822, 828 (2007). On review, the trial court's finding of parental unfitness is accorded great deference, and this court will not disturb that finding unless it is against the manifest weight of the evidence. *In re H.D.*, 343 Ill. App. 3d 483, 493 (2003). "A decision is against the manifest weight of the evidence when the opposite conclusion is clearly apparent." *In re Ta. T.*, 2021 IL App (4th) 200658, ¶ 48.

¶ 54 In this case, the trial court found respondent unfit on multiple grounds; however, it is well-settled "[a] 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 M.C.*, 2018 IL App (4th) 180144, ¶ 32. A review of the record establishes there was sufficient evidence presented to support the court's finding respondent failed to make reasonable progress toward the return of A.B. within the nine-month period from April 21, 2023, to January 21, 2024. This court has held reasonable progress is an objective standard and a parent has demonstrated 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 and internal quotation marks omitted.) *In re F.P.*, 2014 IL App (4th) 140360, ¶ 88.

¶ 55 As of January 2024, respondent still had unresolved substance abuse and mental health issues. Respondent was unsuccessfully discharged from outpatient substance abuse treatment at Family Guidance Center and unable to begin outpatient treatment at Gateway due to his unstable mental health. Moreover, even when respondent was engaged in outpatient substance abuse treatment, he failed to provide numerous random drug drops as requested and tested positive for cocaine on multiple occasions. Respondent also refused to take medication prescribed by his psychiatrist to manage his mental health issues. Both caseworkers testified the agency was never close to recommending A.B. be placed in respondent’s care due to their concerns about his mental health and substance abuse issues. The trial court aptly noted although respondent was requesting more time to complete services, he failed to make progress in the time given and there was no evidence to support the contention his behavior would change if given more time. Based on this evidence, the court’s decision respondent was an unfit parent due to his lack of progress toward the return of A.B. was not against the manifest weight of the evidence.

¶ 56 III. CONCLUSION

¶ 57 For the reasons stated, we affirm the trial court’s judgment.

¶ 58 Affirmed.