2025 IL App (4th) 241306-U

NO. 4-24-1306

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
January 16, 2025
Carla Bender
4th District Appellate
Court, IL

In re A.B., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Tazewell County
Petitioner-Appellee,	)	No. 21JA299
v.	)	
Adam B.,	)	Honorable
Respondent-Appellant).	)	Timothy J. Cusack,
	)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Justices Zenoff and Lannerd concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court granted appellate counsel's motion to withdraw and affirmed the trial court's judgment, concluding no issue of arguable merit could be raised on appeal.

¶ 2 Respondent father, Adam B., appeals from the trial court's judgment terminating his parental rights to his son, A.B. (born May 2014). On appeal, respondent's appellate counsel moves to withdraw pursuant to *Anders v. California*, 386 U.S. 738 (1967), on the ground no issue of arguable merit can be raised. For the reasons that follow, we grant appellate counsel's motion and affirm the court's judgment.

¶ 3 I. BACKGROUND

¶ 4 The parental rights of the minor's mother were also terminated during the proceedings below. She is not, however, a party to this appeal. The following is gleaned from the record presented as it relates to respondent.

¶ 5 A. Neglect and Wardship

¶ 6 In November 2021, the State filed a petition for adjudication of wardship, alleging the minor was neglected in that he was subject to an environment injurious to his welfare while living with respondent. See 705 ILCS 405/2-3(1)(b) (West 2020). The petition described, among other things, instances of respondent's substance abuse and domestic violence against the minor's stepmother. On June 2, 2022, the trial court found the minor to be neglected based upon the allegations in the petition and made him a ward of the court.

¶ 7 B. Petition to Terminate Parental Rights

¶ 8 In December 2023, the State filed a petition to terminate respondent's parental rights. In the petition, as later amended, the State alleged respondent was an unfit parent in that he failed to make reasonable progress toward the return of the minor to his care within certain nine-month periods following the minor's adjudication of neglected (750 ILCS 50/1(D)(m)(ii) (West 2022)), namely June 2, 2022, through March 2, 2023, and February 16, 2023, to November 16, 2023. The State further alleged it was in the minor's best interest to terminate respondent's parental rights and appoint the Illinois Department of Children and Family Services (DCFS) as guardian, with the power to consent to adoption.

¶ 9 C. Hearing on the Petition to Terminate Parental Rights

¶ 10 In September 2024, the trial court held a hearing on the State's petition to terminate respondent's parental rights. During the fitness portion of the hearing, the State presented testimony from the minor's caseworker, whom respondent's counsel cross-examined. The State also, over no objection, presented various certified and delegated records. Respondent's counsel called respondent to testify. The following is gleaned from the evidence presented as it relates to the first and second periods alleged in the petition to terminate parental rights.

¶ 11 Respondent was ordered to complete a substance-abuse assessment and any recommended treatment. During the first period, respondent completed the assessment. The assessment resulted in a recommendation for outpatient "Level 1" treatment but, after respondent had a positive drug screen for cocaine, the recommended level of treatment was increased to "Level 2." Respondent completed Level 2 treatment on December 28, 2022. During the second period, respondent's counselor recommended respondent engage in inpatient substance-abuse treatment due to his continued substance use. Respondent completed another substance-abuse assessment and engaged in "Level 1" outpatient treatment. Respondent was unsuccessfully discharged from Level 1 treatment due to his continued substance use. Respondent reported to the minor's caseworker he would not engage in inpatient treatment because he would lose his job. When testifying, respondent acknowledged his substance abuse and indicated he was previously receiving "an eighth" every week in exchange for labor. Respondent maintained he had not engaged in inpatient treatment out of fear of losing his income and his ability to pay for his house and child support obligations.

¶ 12 Respondent was ordered to complete drug screens. During the first period, respondent failed to appear at 7 screens, gave 4 diluted samples, tested positive for cocaine on 6 screens, and tested positive for tetrahydrocannabinol (THC) on 11 screens. Respondent provided the minor's caseworker with information at the end of 2022 indicating he had been prescribed medical marijuana. During the second period, respondent failed to appear at 1 screen, tested positive for cocaine on 7 screens, and tested positive for THC on 22 screens. An incident occurred during the second period where the result of a drug screen was altered. An employee of the agency administering the drug screen was discovered to be friends with respondent on social media.

¶ 13 Respondent was ordered to complete individual counseling. During the first period,

respondent engaged in counseling. The counseling sessions were held by telephone by the end of the first period. Respondent missed sessions at the end of the first period and at the beginning of the second period. As a result, he was discharged from counseling on March 22, 2023, and his counselor recommended he engage in inpatient substance-abuse treatment before further counseling.

¶ 14 Respondent was ordered to complete a domestic violence class. During the first period, respondent engaged in the class. In July 2022, approximately one month after commencing the class, an incident of domestic violence occurred between respondent and the minor's stepmother, which resulted in them separating. In November 2022, respondent was unsuccessfully discharged from the class due to a lack of attendance and the failure to complete payment for the class. Respondent testified he missed sessions due to transportation issues. In January 2023, respondent reengaged in a domestic violence class, which he completed in June 2023. While respondent completed the class, there were ongoing concerns of a lack of accountability and victim blaming.

¶ 15 Respondent was ordered to complete a psychological examination and a parenting class. Respondent completed both. The psychological examination resulted in respondent being diagnosed with severe cocaine disorder and narcissistic personality disorder.

¶ 16 With respect to the first period, the minor's caseworker testified to instances where respondent failed to keep her informed about both his place of residence and his romantic relationships. The caseworker also testified to issues with unauthorized and missed visits in early February 2023. With respect to the second period, the caseworker testified to an instance in March 2023 where the minor had reported respondent had referred to the minor's stepmother, who had been in the minor's life since he was two years old, as a "drunk" and told him to not call her

"mom."

¶ 17 Throughout the relevant periods, respondent was gainfully employed. Respondent testified his job affected his ability to complete services.

¶ 18 After considering the evidence and arguments presented, the trial court found respondent was an unfit parent for the reasons alleged in the State's petition. The court specifically, in its oral pronouncement of its decision, emphasized respondent's lack of progress in addressing his substance abuse through the recommended services.

¶ 19 The trial court proceeded to the best-interest portion of the hearing after making its finding of unfitness. The court, over no objection, received a best-interest report for its consideration. The State presented testimony from the minor's caseworker, whom respondent's counsel cross-examined. Respondent's counsel called respondent to testify. The court received an account from the guardian *ad litem* (GAL), whom respondent's counsel examined. The following is gleaned from the evidence presented.

¶ 20 The minor, who was 10 years old at the time of the hearing, had been in multiple placements since being taken into DCFS's care. He had been in his current placement, which was a licensed foster home, for just over a month but had known his foster family for several months. The minor appeared happy and comfortable in his placement; he was excited to show both the caseworker and the GAL his bedroom. The minor participated in activities with his foster family, which included attending church. The minor appeared bonded to his foster family. The minor struggled with behavioral issues. The foster mother ensured the minor was taking his prescribed medications and provided him with clear boundaries, expectations, routines, and structure. The minor's behaviors had stabilized since being in his new placement, and he turned to his foster mother for comfort and security. The foster mother had four other children in her care, two of

whom she had adopted and two of whom she was in the process of adopting. The foster mother received assistance with the children from her ex-husband. The foster mother had expressed a willingness to provide the minor with permanency through adoption. The minor expressed a desire to remain with his foster family.

¶ 21 The minor was bonded to respondent and visited with him monthly. The minor continued to ask about visiting respondent. Respondent testified he had raised the minor since he was three weeks old and did not want his parental rights to him to be terminated. Respondent noted he had repaired the relationship with the minor's stepmother and hoped they would all leave Illinois together to get "a fresh start." Respondent had not completed his recommended services.

¶ 22 The minor's caseworker and the GAL believed it would be in the minor's best interest to terminate respondent's parental rights. Respondent disagreed.

¶ 23 After considering the evidence and arguments presented, as well as the statutory best-interest factors, the trial court found it would be in the minor's best interest to terminate respondent's parental rights.

¶ 24 The trial court entered a written order terminating respondent's parental rights. Thereafter, respondent filed a timely notice of appeal, and the court appointed appellate counsel to represent respondent.

¶ 25 This appeal followed.

¶ 26 II. ANALYSIS

¶ 27 On appeal, respondent's appellate counsel moves to withdraw as counsel on the ground no issue of arguable merit can be raised. See *In re S.M.*, 314 Ill. App. 3d 682, 686-86 (2000) (holding *Anders* applies to parental rights cases). Appellate counsel supported her motion with a brief identifying potential issues and explaining why she believes they would be frivolous. Notice

of the motion to withdraw was given to respondent. Respondent has not filed a response to counsel's motion.

¶ 28 A. Unfitness Finding

¶ 29 Appellate counsel indicates she considered contesting the trial court's unfitness finding but concluded any argument in support thereof would be frivolous. We agree.

¶ 30 In a proceeding to terminate parental rights, the State must prove parental unfitness by clear and convincing evidence. *In re N.G.*, 2018 IL 121939, ¶ 28 . A trial court's finding of parental unfitness will not be disturbed on appeal unless it is against the manifest weight of the evidence. *Id.* ¶ 29. A finding is against the manifest weight of the evidence "only where the opposite conclusion is clearly apparent." *Id.*

¶ 31 Section 1(D)(m)(ii) of the Adoption Act (750 ILCS 50/1(D)(m)(ii) (West 2022)) provides, in pertinent part, a parent will be considered an "unfit person" if he or she fails "to make reasonable progress toward the return of the child to the parent during any [nine]-month period following the adjudication of neglected." "Reasonable progress" has been defined as "demonstrable movement toward the goal of reunification." (Internal quotation marks omitted.) *In re C.N.*, 196 Ill. 2d 181, 211 (2001). The benchmark for measuring a parent's progress toward reunification

> "encompasses the parent's compliance with the service plans and the court's 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." *Id.* at 216-17.

This court has stated 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 [trial] court, in the *near future*, will be able to order the child returned to parental custody." (Emphasis in original.) *In re L.L.S.*, 218 Ill. App. 3d 444, 461 (1991).

¶ 32 In this case, the minor was taken into DCFS's care based, in part, upon respondent's substance abuse. As a result, it was recommended respondent complete a substance-abuse assessment and any recommended treatment. While respondent initially completed the assessment and recommended outpatient treatment, he continued to use cocaine and, during the second identified period of February 16, 2023, to November 16, 2023, was recommended to complete inpatient treatment. Despite the recommendation for inpatient treatment, respondent elected to pursue outpatient treatment. He was unsuccessfully discharged from outpatient treatment due to his continued substance use and never engaged in the recommended inpatient treatment. As the trial court recognized, respondent's failure to adequately address his substance abuse, regardless of his actions with respect to the other recommended services, prevented it from returning the minor to respondent's care in the near future. Therefore, we agree any argument contesting the court's unfitness finding would be frivolous given respondent's lack of progress during the second period identified in the State's petition to terminate parental rights. See *In re Z.M.*, 2019 IL App (3d) 180424, ¶ 70 (stating only one ground for a finding of unfitness is necessary to uphold a finding of parental unfitness).

¶ 33 B. Best-Interest Finding

¶ 34 Appellate counsel indicates she also considered contesting the trial court's best-interest finding but concluded any argument in support thereof would be frivolous. We agree.

¶ 35 In a proceeding to terminate parental rights, the State must prove termination is in the child's best interest by a preponderance of the evidence. *In re D.T.*, 212 Ill. 2d 347, 367 (2004). 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. See 705 ILCS 405/1-3(4.05) (West 2022).

¶ 36 This court will not reverse a best-interest finding unless it is against the manifest weight of the evidence. *In re Anaya J.G.*, 403 Ill. App. 3d 875, 883 (2010). Again, a finding is against the manifest weight of the evidence only where the opposite conclusion is clearly apparent. *Id.*

¶ 37 In this case, the minor, who was 10 years old at the time of the hearing on the petition to terminate parental rights, had recently been placed in an adoptive foster placement after several placements. He appeared to be thriving in his new placement, which provided him with permanency and stability. Conversely, respondent had not completed the recommended services to be able to care for the minor. In particular, respondent, despite being diagnosed with severe cocaine disorder, was not engaging in the necessary services to address his substance abuse. Ultimately, the minor's need for permanency and stability supports the trial court's best-interest finding. We, therefore, agree any argument contesting the court's best-interest finding would be frivolous.

¶ 38 III. CONCLUSION

¶ 39 Because the record reveals no issue of arguable merit can be raised on appeal, we grant appellate counsel's motion to withdraw and affirm the trial court's judgment.

¶ 40 Affirmed.