2025 IL App (4th) 241256-U

NO. 4-24-1256

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

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

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| *In re* Z.W., a Minor | ) | Appeal from the |
| | ) | Circuit Court of |
| (The People of the State of Illinois, | ) | Peoria County |
| Petitioner-Appellee, | ) | No. 22JA223 |
| v. | ) | |
| Jeryan P., | ) | Honorable |
| Respondent-Appellant). | ) | David A. Brown, |
| | ) | Judge Presiding. |

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

**ORDER**

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

¶ 2 In March 2024, the State filed a petition to terminate the parental rights of respondent, Jeryan P., as to his minor child, Z.W. (born in 2022). In August 2024, the trial court terminated respondent's parental rights and changed the permanency goal to adoption. (Z.W.'s mother is not a party to this appeal.)

¶ 3 Respondent appealed, and this court appointed counsel to represent respondent. Counsel has filed a motion to withdraw pursuant to *Anders v. California*, 386 U.S. 738 (1967), arguing respondent's appeal presents no potentially meritorious issues for review. We grant the motion to withdraw and affirm the trial court's judgment.

¶ 4 I. BACKGROUND

¶ 5 In November 2022, the State filed a petition to adjudicate Z.W. neglected under the

Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/1-1 *et seq.* (West 2022)), alleging Z.W. was in an environment injurious to his welfare (*id.* § 2-3(1)(b)). The State alleged Z.W.'s mother tested positive for cocaine on the date of Z.W.'s birth, had a criminal history, and was found unfit in cases involving additional children. The State alleged respondent had a criminal history and was currently on parole. Respondent stipulated to the allegations.

¶ 6 In January 2023, the trial court adjudicated Z.W. neglected, found respondent unfit, made Z.W. a ward of the court, and placed guardianship and custody with the Illinois Department of Children and Family Services. The court ordered respondent to complete multiple tasks and perform services to correct the conditions leading to the adjudication and removal of Z.W.

¶ 7 In March 2024, the State filed a petition for termination of parental rights, alleging respondent was unfit under section 1(D)(m)(ii) of the Adoption Act (750 ILCS 50/1(D)(m)(ii) (West 2022)) for failing to make reasonable progress toward the return of Z.W. to his care within nine months after the adjudication of neglect. The State alleged a nine-month period of April 25, 2023, to January 25, 2024. The State also alleged respondent was unfit under section 1(D)(b) of the Adoption Act (*id.* § 1(D)(b)) for failing to maintain a reasonable degree of interest, concern, or responsibility as to Z.W.'s welfare. Respondent filed an answer stipulating the State could prove him unfit as alleged in the petition but denied termination of his parental rights was in Z.W.'s best interest.

¶ 8 In August 2024, the trial court conducted a hearing, at which the State provided a proffer showing respondent did not complete any of the recommended services or tasks assigned to him and was currently incarcerated following a conviction of aggravated discharge of a firearm by a felon. Additionally, respondent had not had any engagement with Z.W. Respondent did not object to the proffer, did not provide any argument concerning fitness, and stood on his stipulation

of unfitness. The court accepted the State's proffer. The court then found respondent unfit because he had no contact with Z.W., showing he did not maintain a reasonable degree of interest, concern, or responsibility as to Z.W.'s welfare. The court also noted respondent's stipulation and found the State could provide sufficient evidence to show respondent failed to make reasonable progress toward the return of Z.W. to his care.

¶ 9 The trial court next held a best-interest hearing. The court accepted a best-interest report from Z.W.'s caseworker, Janelle Robinson, stating Z.W.'s foster parents, who were his maternal grandparents, had cared for him since he was born and wished to provide permanency for him through adoption. The foster parents met Z.W.'s needs of safety, welfare, health, and education, and Z.W. was meeting his developmental targets. Z.W.'s perception of his foster parents seemed to be that they were his parents, rather than substitute caregivers. Robinson also provided testimony consistent with the contents of the report and testified Z.W. was the only child in the foster home and had his own bedroom.

¶ 10 On cross-examination, respondent's counsel inquired whether the foster father had been indifferent about adoption and might prefer guardianship. Robinson agreed he did not have a preference. However, she stated the foster parents had signed a permanency commitment for adoption.

¶ 11 Respondent testified he preferred guardianship so he could maintain his parental rights. Respondent stated he was not eligible for release from incarceration until 2030.

¶ 12 The trial court found it was in Z.W.'s best interest to terminate respondent's parental rights. The court noted it considered the required statutory factors. The court found Z.W.'s growth and development were related only to the actions of the foster parents and Z.W. needed permanency. The court further found respondent was not available to care for Z.W. based on his

unfit status and incarceration. Accordingly, the court terminated respondent's parental rights and changed the permanency goal to adoption.

¶ 13 This appeal followed.

¶ 14 II. ANALYSIS

¶ 15 Respondent's appellate counsel moves to withdraw. Counsel supports her motion with a memorandum of law providing a statement of facts, a discussion of potential claims, and arguments why those issues lack arguable merit. Notice of counsel's request to withdraw was sent to respondent's last known address. This court advised respondent he had until November 25, 2024, to respond to the motion. Respondent did not file a response.

¶ 16 Counsel argues it would be frivolous to argue the trial court erred in finding respondent unfit. We agree.

¶ 17 Under section 2-29(2) of the Juvenile Court Act (705 ILCS 405/2-29(2) (West 2022)), the involuntary termination of parental rights is a two-step process. First, the State must prove by clear and convincing evidence the parent is "unfit," as defined in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2022)). *In re Donald A.G.*, 221 Ill. 2d 234, 244 (2006). If the State proves unfitness, it then must prove by a preponderance of the evidence that termination of parental rights is in the best interest of the child. *In re D.T.*, 212 Ill. 2d 347, 363-66 (2004).

¶ 18 A trial court's finding of parental unfitness will not be reversed unless it is against the manifest weight of the evidence. *In re N.G.*, 2018 IL 121939, ¶ 29. A decision is against the manifest weight of the evidence only when the opposite conclusion is clearly apparent. *Id.*

¶ 19 Under section 1(D)(b) of the Adoption Act, a parent may be found unfit for failing to "maintain a reasonable degree of interest, concern or responsibility as to the child's welfare." 750 ILCS 50/1(D)(b) (West 2022). In determining whether a parent showed reasonable concern,

interest, or responsibility as to a child's welfare, the court must 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 (1990).

¶ 20 In addition, under section 1(D)(m)(ii) of the Adoption Act, a parent may be found unfit for failing "to make reasonable progress toward the return of the child to the parent during any 9-month period following the adjudication of neglected or abused minor." 750 ILCS 50/1(D)(m)(ii) (West 2022). "Reasonable progress" has been defined as "demonstrable movement toward the goal of reunification." (Internal quotation marks omitted.) *In re Reiny S.*, 374 Ill. App. 3d 1036, 1046 (2007). A trial court may only consider evidence from the relevant time period in determining a parent's fitness based on reasonable progress. *Id.* (citing *In re D.F.*, 208 Ill. 2d 223, 237-38 (2003)).

¶ 21 Here, respondent stipulated he was unfit and did not contest the State's factual allegations. The record is clear he had no interaction with Z.W. and did not complete any services or tasks. Thus, the trial court's determination respondent was unfit was not against the manifest weight of the evidence. Further, as counsel notes, there were no irregularities in the procedures followed in the case.

¶ 22 Additionally, counsel submits it would be frivolous to argue it was not in Z.W.'s best interest to terminate respondent's parental rights.

¶ 23 When a trial court finds a parent unfit, "the court then determines whether it is in the best interests of the minor that parental rights be terminated." *D.T.*, 212 Ill. 2d at 352. "[A]t a best-interests hearing, the parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life." *Id.* at 364. The State must prove by a preponderance of the evidence termination of parental rights is in the minor's best interest. *Id.* at

366. In making the best-interest determination, the court must consider the factors set forth in section 1-3(4.05) of the Juvenile Court Act (705 ILCS 405/1-3(4.05) (West 2022)). These factors include:

> "(1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's background and ties, including familial, cultural, and religious; (4) the child's sense of attachments, including love, security, familiarity, and continuity of affection, and the least-disruptive placement alternative; (5) the child's wishes; (6) the child's community ties; (7) the child's need for permanence, including the need for stability and continuity of relationships with parental figures and siblings; (8) the uniqueness of every family and child; (9) the risks related to substitute care; and (10) the preferences of the persons available to care for the child." *In re Jay. H.*, 395 Ill. App. 3d 1063, 1071 (2009) (citing 705 ILCS 405/1-3(4.05) (West 2008)).

"The court's best interest determination [need not] contain an explicit reference to each of these factors, and a reviewing court need not rely on any basis used by the trial court below in affirming its decision." *In re Tajannah O.*, 2014 IL App (1st) 133119, ¶ 19. On review, "[w]e will not disturb a court's finding that termination is in the [child's] best interest unless it was against the manifest weight of the evidence." *In re T.A.*, 359 Ill. App. 3d 953, 961 (2005).

¶ 24 Here, the evidence demonstrated Z.W. had a bond with his foster family. The foster parents provided for Z.W.'s needs and had signed a commitment to provide permanency for Z.W. While respondent stated he preferred guardianship so he could preserve his parental rights, he admitted he would be incarcerated until at least 2030. We cannot conclude the evidence in the record "clearly calls for the opposite finding" or is such that "no reasonable person" could find as

the trial court found. (Internal quotation marks omitted.) *In re J.H.*, 2020 IL App (4th) 200150, ¶ 68. Accordingly, the court's best-interest determination was not against the manifest weight of the evidence.

¶ 25 After examining the record, the motion to withdraw, and the memorandum of law, we agree with counsel this appeal presents no issue of arguable merit. Accordingly, we grant the motion to withdraw as appellate counsel and affirm the trial court's judgment.

¶ 26 III. CONCLUSION

¶ 27 For the reasons stated, we grant appellate counsel's motion to withdraw and affirm the trial court's judgment.

¶ 28 Affirmed.