2025 IL App (4th) 241338-U

NO. 4-24-1338

FILED
March 6, 2025
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re C.C., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Tazewell County
Petitioner-Appellee,	)	No. 22JA154
v.	)	
Candace D.,	)	Honorable
Respondent-Appellant).	)	Timothy J. Cusack,
	)	Judge Presiding.

JUSTICE GRISCHOW delivered the judgment of the court.
Justices DeArmond and Cavanagh concurred in the judgment.

ORDER

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

¶ 2 Respondent, Candace D., appeals from the trial court's judgment finding her unfit and terminating her parental rights as to the minor child, C.C. (born July 2022). The court also terminated the parental rights of the minor's father, Christopher C., who is not a party to this appeal. Respondent timely appealed, and the court appointed counsel to represent her.

¶ 3 Appellate counsel now moves to withdraw pursuant to the procedure set forth in *Anders v. California*, 386 U.S. 738 (1967). See *In re S.M.*, 314 Ill. App. 3d 682, 685-86 (2000) (holding *Anders* applies to termination of parental rights cases and outlining the proper procedure appellate counsel should follow when moving to withdraw). In his supporting brief, counsel

contends any argument that might be made would be meritless. Respondent was given notice that she had the opportunity to respond to the motion to withdraw, but she did not file a response. After reviewing the record and counsel's memorandum, we grant the motion to withdraw and affirm the trial court's judgment.

¶ 4 I. BACKGROUND

¶ 5 On July 21, 2022, a shelter care petition was filed. The petition alleged C.C. was neglected in that his environment was injurious to his welfare pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(b) (West 2022)), as respondent was found unfit "in Tazewell County Case Numbers 2021 JA 228, 2019 JA 280, 2018 JA 11, 12, 13, 14, 15, and there is no subsequent finding of fitness and [respondent] had not completed services to restore her to minimal parenting." The same day, a temporary custody order was entered by the trial court, finding an immediate necessity to remove C.C. from the home, making him a ward of the court, and placing his guardianship with the Illinois Department of Children and Family Services (DCFS).

¶ 6 Respondent filed an answer to the neglect petition on September 8, 2022, denying all the allegations. The same day, the trial court entered an adjudicatory order finding by a preponderance of the evidence C.C. was neglected. At the dispositional hearing held on October 6, 2022, the court found respondent was unfit because she was deemed unfit in numerous previous juvenile cases; she was unable "to care for, protect, train, educate, supervise, or discipline the minor"; and the minor's placement with respondent would be contrary to his health, safety and best interest. C.C. was made a ward of the court, and custody was placed with the DCFS. The order stated reasonable efforts and appropriate services aimed at family unification had been made but had "not eliminated the necessity for removal of the minor from the home and leaving the minor

in the home is contrary to the health, welfare and safety of the minor at this time." The order also provided for supervised visits for respondent.

¶ 7 On October 6, 2022, a supplemental task order was entered, requiring respondent to undergo, comply with, and successfully complete a psychiatric examination, a substance abuse assessment and recommended treatment, counseling, and domestic violence classes, and to submit at least two times a month to random testing for alcohol and/or drugs.

¶ 8 The State filed a petition for the termination of parental rights of both parents on September 5, 2023. The petition alleged respondent was unfit for failure to make reasonable progress toward the return of C.C. to her care within the relevant nine-month period following the adjudication of neglect (November 24, 2022, to August 24, 2023) (750 ILCS 50/1(D)(m)(ii) (West 2022)).

¶ 9 The first appearance on the State's petition to terminate was held on September 21, 2023. Respondent filed an answer to the petition, neither admitting nor denying the allegations of neglect against her. At the hearing, however, respondent, through counsel, stipulated to the unfitness finding and requested a best-interest hearing. The trial court admonished respondent regarding what stipulating meant, and respondent confirmed she understood and wanted to proceed with the stipulation as to her unfitness.

¶ 10 After several continuances, the unfitness prove-up and best-interest hearing was set to be conducted on October 3, 2024, and the matter finally proceeded that day. The State proffered it would present evidence through caseworker Michelle White and the foster mother, Melissa H. White was the caseworker from November 24, 2022, to August 24, 2023. She would testify respondent was ordered to complete domestic violence classes, but respondent never went and was discharged. Respondent never completed a drug and alcohol abuse assessment and was required

to submit to drug/alcohol drops twice a month and acquire stable housing. The last drop respondent completed was on December 29, 2023. Respondent had five negative drops, but she failed to complete all the others. During this period, respondent was assigned a counselor, but she failed to attend appointments and was, therefore, discharged as unsuccessful. The caseworker would further testify respondent was noncompliant with her service plans, and the service plans were rated unsatisfactorily. After considering the pleadings on file and the proffer made by the State, the trial court found the allegations in the petition had been proven by clear and convincing evidence.

¶ 11 The trial court then proceeded to the best-interest portion of the termination proceedings. All parties acknowledged they had received copies of the best-interest reports filed on January 8, 2024, and March 12, 2024, and the addendum filed on August 1, 2024. The State presented evidence through White and Melissa H. The court took judicial notice of the fact respondent had not completed any services that were ordered.

¶ 12 The State called White as its first witness. White testified C.C. had been placed with his foster mother since his birth in July 2022. White testified she had been the caseworker for two years and visited the foster home three times a month. She testified C.C. sought comfort from his foster mother and they have a parent/child relationship. She explained C.C. has a positive relationship with the three teenagers who reside in the home; the home is clean and appropriate; C.C. has appropriate food, clothing, and toys; he has a pediatrician; and the foster mother works from home and can be a full-time caregiver. The foster mother tries to maintain contact between C.C. and his nine other siblings, all of whom are in foster care.

¶ 13 White testified the last time respondent had a supervised visit with C.C. was six months earlier, in April 2024. A visit was scheduled for May, but respondent canceled and never rescheduled. Prior to April, respondent's visits with C.C. were sporadic.

¶ 14 The State next called Melissa , C.C.'s foster mother. Melissa stated she has had custody of C.C. since he was released from the hospital at birth. She also has three teenagers in the home (ages 14, 15, and 16 years). Melissa provided C.C. with his own room and everything he needed. The home is clean, and C.C. has toys and everything he needs. Melissa explained that she stays home with the child, works with him, and sees that all his medical needs are met. If C.C. were available for adoption, she expressed her willingness to do so.

¶ 15 Debbie Harper, the guardian *ad litem* (GAL), stated that she recommended respondent's parental rights be terminated and C.C. be adopted by petitioners. Harper indicated Melissa is doing a "phenomenal job," and she and C.C. are "extremely bonded." She further stated respondent had not done anything to have C.C. returned to her care. The GAL acknowledged respondent's economic circumstances but noted respondent had not even reached out to the agency to request visits or ask for assistance in completing her required services.

¶ 16 The trial court found it had been established by a preponderance of the evidence that termination of respondent's parental rights was in C.C.'s best interest. The court acknowledged C.C. had been in foster care "basically his whole life" and was "thriving there." Respondent failed to take advantage of the avenues available to have visits with C.C. All the best-interest factors weighed in favor of placement with the foster mother, where C.C. continued to thrive. An order was entered terminating respondent's parental rights, and the permanency goal was changed to adoption.

¶ 17 This appeal followed.

¶ 18 II. ANALYSIS

¶ 19 On appeal, appointed appellate counsel has moved to withdraw pursuant to *Anders* and argues that respondent's appeal presents no potentially meritorious issue for review. See *S.M.*,

314 Ill. App. 3d at 685-86. Counsel indicates he has reviewed the record and concluded respondent's appeal is without arguable merit. Along with his motion to withdraw, counsel filed a certificate indicating he mailed a copy of his motion to withdraw and brief in support to respondent. Respondent has not filed a response. Counsel indicates he reviewed the appeal on three possible bases, specifically, (1) whether the trial court's findings as to respondent's unfitness and C.C.'s best interest were an abuse of discretion, (2) whether respondent's counsel was ineffective, and (3) whether there were other errors appearing in the record.

¶ 20 A. Termination of Respondent's Parental Rights

¶ 21 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 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). Counsel raises potential issues with the trial court's decisions on both steps of this process.

¶ 22 1. *Fitness Determination*

¶ 23 The trial court found respondent failed to make reasonable progress toward the return of the child during the relevant nine-month period following the adjudication of neglect, specifically, November 24, 2022, through August 24, 2023. See 750 ILCS 50/1(D)(m)(ii) (West 2022). Illinois courts have defined "reasonable progress" as "demonstrable movement toward the goal of reunification." (Internal quotation marks omitted.) *In re Reiny S.*, 374 Ill. App. 3d 1036, 1046 (2007). A determination of parental unfitness involves factual findings and credibility determinations the court is in the best position to make because "the trial court's opportunity to

view and evaluate the parties *** is superior." (Internal quotation marks omitted.) *In re M.I.*, 2016 IL 120232, ¶ 21. A 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.*

¶ 24 Here, respondent stipulated to the trial court's determination that she was unfit and failed to make reasonable progress toward C.C.'s return to her care. The record reveals respondent was ordered to undergo a psychiatric evaluation, complete individual counseling, submit to two monthly drug tests, maintain stable housing, and complete a substance abuse assessment. According to the testimony and White's report, respondent failed to complete any of the required services and assessments or otherwise correct any of the conditions that warranted DCFS's involvement in this case. The State proved respondent was unable to provide for C.C. in relation to minimum parenting standards and failed to make any progress toward his return to her care.

¶ 25 Given the foregoing, the trial court's acceptance of respondent's voluntary stipulation to her unfitness was not an abuse of discretion, as it was supported by a sufficient factual basis. Any challenge to the court's unfitness determination would be without merit.

¶ 26 2. *Best-Interest Determination*

¶ 27 After a parent is determined to be unfit, the trial court "proceed[s] to consider the child's best interests and whether those interests would be served by the child's adoption by the petitioners, requiring termination of the natural parent's parental rights." *In re Adoption of Syck*, 138 Ill. 2d 255, 277 (1990). At this point, the focus shifts from the parent to the child, and "the parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life." *D.T.*, 212 Ill. 2d at 364. "The issue is no longer whether parental rights

can be terminated; the issue is whether, in light of the child's needs, parental rights *should* be terminated." (Emphases in original.) *Id.*

¶ 28 In determining whether termination of parental rights is in a minor's best interest, the trial court must consider the following factors within the context of the minor's age and developmental needs:

> "(1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's familial, cultural[,] and religious background and ties; (4) the child's sense of attachments, including love, security, familiarity, continuity of affection, and the least[-]disruptive placement alternative; (5) the child's wishes and longterm goals; (6) the child's community ties; (7) the child's need for permanence, including the need for stability and continuity of relationships with parent figures and siblings; (8) the uniqueness of every family and child; (9) the risks related to substitute care; and (10) the preferences of the person available to care for the child." (Internal quotation marks omitted.) *In re Dal. D.*, 2017 IL App (4th) 160893, ¶ 52; see 705 ILCS 405/1-3(4.05) (West 2022).

¶ 29 "We will not disturb a [trial] court's finding that termination is in the children's best interest unless it was against the manifest weight of the evidence." *In re T.A.*, 359 Ill. App. 3d 953, 961 (2005). "A trial court's decision is against the manifest weight of the evidence only if the opposite conclusion is clearly apparent or the decision is unreasonable, arbitrary, or not based on the evidence." *In re Keyon R.*, 2017 IL App (2d) 160657, ¶ 16.

¶ 30 C.C.'s basic needs of safety and welfare, including food, shelter, clothing, health, and education, were met by his foster mother, who has had custody of the minor since he was two days old. C.C.'s caseworker recommended it was in C.C.'s best interest to terminate respondent's parental rights. Respondent's counsel could not point to any sustained efforts by respondent to visit or contact the minor, despite the agency's attempt to coordinate visitation. In fact, respondent canceled her last visit with C.C. (which was six months before the termination hearing) and made no efforts to reschedule the visit. The trial court also made specific factual findings regarding the best interest of the minor in support of its decision to terminate parental rights.

¶ 31 Based on the evidence in the record, we agree with counsel's assessment that an argument that the trial court's best-interest determination was against the manifest weight of the evidence would be without arguable merit.

¶ 32 B. Ineffective Assistance of Counsel

¶ 33 Counsel also indicates he considered arguing that trial counsel's representation was ineffective, but he concluded such an argument would be without merit. We agree.

¶ 34 Claims of ineffective assistance of counsel in termination proceedings are reviewed under the two-prong *Strickland* standard (see *Strickland v. Washington*, 466 U.S. 668, 687 (1984)), requiring a showing of both deficient performance and resulting prejudice. *In re Br. M.*, 2021 IL 125969, ¶ 43. That is, "a [respondent] must show that his attorney's representation fell below an objective standard of reasonableness and that a reasonable probability exists that, but for counsel's errors, the result of the proceeding would have been different." *People v. Webb*, 2023 IL 128957, ¶ 21. A respondent's failure to satisfy either prong precludes a finding of ineffective assistance of counsel. *Id*. A court may decide a claim of ineffective assistance of counsel by proceeding to the prejudice prong without addressing counsel's performance. *People v. Hale*, 2013 IL 113140, ¶ 17.

We review claims of ineffective assistance of counsel *de novo*. *Id.*

¶ 35 After careful review, we agree with appellate counsel and conclude the possible claim of ineffective assistance of counsel fails because there is no reasonable probability the outcome of the proceedings would be different. Our review of the record reveals the evidence overwhelmingly supported the trial court's determination that respondent was unfit and that it was in C.C.'s best interest that respondent's parental rights be terminated. Respondent took no meaningful steps to participate in the services required to remedy the conditions that caused C.C. to be placed into foster care. Further, respondent's counsel appeared at every hearing and advocated for his client. The level of counsel's advocacy met the reasonable performance standard under *Strickland*, thus defeating any colorable claim for ineffective assistance.

¶ 36 C. Other Errors in The Record

¶ 37 We agree with appellate counsel's assessment that there are no other colorable claims of error regarding the trial court proceedings in this case. The evidence in this case strongly supported termination. The court's best-interest determination is entitled to great deference and will not be disturbed unless it is against the manifest weight of the evidence. *In re Jay H.*, 395 Ill. App. 3d 1063, 1070 (2009). Respondent failed to maintain any reasonable contact with C.C., complete any court-ordered services, or maintain stable housing. The foster mother met all C.C.'s needs and provided a safe and loving environment for him. These factors align with the statutory best-interest factors in section 1-3(4.05) of the Juvenile Court Act. 705 ILCS 405/1-3(4.05) (West 2022). The court's methodical adherence to required procedures, along with the court's well supported factual findings, fail to reveal any arguable basis for appeal.

¶ 38 III. CONCLUSION

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

¶ 40 Affirmed.