2025 IL App (4th) 241392-U

NO. 4-24-1392

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
March 7, 2025
Carla Bender
4th District Appellate
Court, IL

In re A.S., a Minor	)	Appeal from the
	)	Circuit Court of
	)	Adams County
(The People of the State of Illinois,	)	No. 23JA17
Petitioner-Appellee,	)	
v.	)	Honorable
Destiny S.,	)	John C. Wooleyhan,
Respondent-Appellant).	)	Judge Presiding.

PRESIDING JUSTICE HARRIS delivered the judgment of the court.
Justices Doherty and Vancil concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court granted appointed appellate counsel's motion to withdraw and affirmed the trial court's judgment terminating respondent's parental rights to her minor child.

¶ 2 Respondent, Destiny S., appealed the trial court's judgment terminating her parental rights to her minor child, A.S. (born in January 2023). Counsel was appointed to represent respondent on appeal. Appointed counsel now moves to withdraw on the basis he can raise no colorable argument that the court erred in terminating respondent's parental rights. We grant counsel's motion to withdraw and affirm the trial court's judgment.

¶ 3 I. BACKGROUND

¶ 4 On January 17, 2023, the State filed a petition for adjudication of wardship with respect to A.S., alleging the minor was neglected 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)) due to an injurious environment. Specifically, the State alleged that respondent had recently given birth to A.S. and had another child in the care of the Illinois Department of Children and Family Services (DCFS) but was not making progress toward that child's return and her parental rights to her eldest child had been terminated in April 2022. The State further alleged that respondent had a "history of using illegal substances, including methamphetamine," and that she had pleaded guilty to unlawful delivery of a look-alike substance in July 2022. Following a shelter care hearing, the trial court entered a temporary custody order finding probable cause to believe A.S. was a neglected minor under a theory of anticipatory neglect.

¶ 5 On June 21, 2023, respondent stipulated to the allegations in the State's petition and the trial court entered an adjudicatory order finding A.S. was neglected. On August 1, 2023, the court entered a dispositional order finding respondent unfit and unable to care for A.S. and making the minor a ward of the court. The court indicated in its order that respondent "needs consistent housing, mental health services, [and] needs to maintain sobriety."

¶ 6 On May 23, 2024, the State filed a petition to terminate respondent's parental rights to A.S. The State alleged, in relevant part, that respondent was an unfit parent within the meaning of section 1(D)(m)(ii) of the Adoption Act (750 ILCS 50/1(D)(m)(ii) (West 2022)) because she failed to make reasonable progress toward A.S.'s return during the initial nine-month period following the adjudication of neglect—*i.e.*, June 21, 2023, to March 21, 2024.

¶ 7 On October 4, 2024, the trial court conducted a fitness hearing and, after finding respondent unfit, immediately proceeded to a best-interest hearing. The State called Jennifer Spohr and Megan Liggett to testify at the fitness hearing. Respondent did not present any evidence.

¶ 8 Spohr testified that she had been A.S.'s caseworker from when the case was opened in January 2023 until February 2024 and she created respondent's service plan. Spohr identified the service plan in open court, and it was admitted into evidence without objection. According to the service plan, respondent was required to: (1) address domestic violence concerns; (2) abstain from illicit substance use and complete all required drug screenings; (3) cooperate with DCFS; (4) attend scheduled weekly visits with A.S.; (5) complete a mental health assessment and comply with all recommendations; and (6) maintain adequate housing and employment. Spohr testified that respondent received "unsatisfactory" ratings in the areas of domestic violence, substance abuse, cooperation, and housing and employment. With respect to domestic violence, the service plan indicated "a domestic violence incident took place between" respondent and A.S.'s biological father, but respondent failed to report the incident to DCFS and ultimately denied that the incident had occurred. As for adequate housing, Spohr testified that respondent had been living in "YWCA housing," but the housing program was temporary, and respondent had no prospects of securing permanent housing in the near future. Respondent's only "satisfactory" rating was in the area of mental health, where she had completed a mental health assessment and was not recommended for further services. Spohr testified that respondent had been regularly attending scheduled visits with A.S. and completing the required drug screenings until late December 2023, when she began testing positive for methamphetamine and marijuana. This led the trial court to enter an order requiring respondent to test negative for all substances prior to visiting with A.S. Spohr testified that respondent did not attend a single visit with A.S. after the court entered its order.

¶ 9 Liggett testified that she became the minor's caseworker when Spohr left in February 2024. She rated respondent's service plan in April 2024, and the rated plan was

admitted into evidence without objection. Liggett testified that respondent's overall progress in each of the areas in her service plan between October 2023 and March 21, 2024, was rated as "unsatisfactory." Liggett further testified that respondent's visitation rights were suspended on March 21, 2024, because she had refused to complete a single drug screening since January 31, 2024, and, as a result, had not visited with A.S. since that time.

¶ 10 Following the parties' arguments, the trial court found the State had proven respondent unfit by clear and convincing evidence for failing to make reasonable progress toward A.S.'s return during the nine-month period from June 21, 2023, to March 21, 2024.

¶ 11 At the best-interest hearing, the State called Megan McCoy, who had been assigned to A.S.'s case in June 2024. McCoy testified that A.S. was approximately 18 months old at the time of the hearing and had been living in the same traditional foster home since her birth. McCoy testified that she went to the foster home on a monthly basis to observe the interactions between A.S. and her foster parents. According to McCoy, A.S. appeared bonded with her foster parents and the foster parents demonstrated age-appropriate discipline techniques. McCoy further testified that the foster parents met all of the minor's emotional, educational, and medical needs. The foster parents had expressed their desire to adopt A.S. and had signed the appropriate permanency paperwork. McCoy opined that it was in A.S.'s best interest to be adopted by her current foster parents. Respondent did not cross-examine McCoy, present evidence of her own, or provide an argument against terminating her parental rights.

¶ 12 Ultimately, the trial court found the State had proven by a preponderance of the evidence that it was in A.S.'s best interest to terminate respondent's parental rights.

¶ 13 Respondent appealed, and the trial court appointed counsel to represent her on appeal. Appointed counsel now moves to withdraw on the basis he can raise no colorable

argument that the court erred in terminating respondent's parental rights to A.S. We granted respondent leave to file a response to counsel's motion on or before January 16, 2025. Respondent did not file a response.

¶ 14 II. ANALYSIS

¶ 15 On appeal, appointed counsel moves to withdraw on the basis he can raise no colorable argument that the trial court erred in terminating respondent's parental rights to A.S.

¶ 16 A. Unfitness Finding

¶ 17 First, counsel asserts he can raise no colorable argument that the trial court erred in finding respondent unfit for failing to make reasonable progress toward the minor's return during the nine-month period from June 21, 2023, to March 21, 2024. "A reviewing court will not reverse a trial court's fitness finding unless it was contrary to the manifest weight of the evidence, meaning that the opposite conclusion is clearly evident from a review of the record." *In re A.L.*, 409 Ill. App. 3d 492, 500 (2011).

¶ 18 Section 2-29 of the Juvenile Court Act (705 ILCS 405/2-29 (West 2022)) "delineates a two-step process in seeking termination of parental rights involuntarily." *In re J.L.*, 236 Ill. 2d 329, 337 (2010). First, the State must prove by clear and convincing evidence that the parent is unfit. *In re Donald A.G.*, 221 Ill. 2d 234, 244 (2006). In making such a determination, the court considers whether the parent's conduct falls within one or more of the unfitness grounds described in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2022)). *In re D.D.*, 196 Ill. 2d 405, 417 (2001). Under the Adoption Act, an unfit parent includes any parent who fails to make reasonable progress toward his or her child's return during any nine-month period following the neglect adjudication. 750 ILCS 50/1(D)(m)(ii) (West 2022). In addressing section 1(D)(m) of the Adoption Act, our supreme court has stated the following:

"[T]he benchmark for measuring a parent's 'progress toward the return of the child' under section 1(D)(m) of the Adoption Act 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." *In re C.N.*, 196 Ill. 2d 181, 216-17 (2001). This court has described reasonable progress as "an 'objective standard,' " which exists "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.) *In re F.P.*, 2014 IL App (4th) 140360, ¶ 88 (quoting *In re L.L.S.*, 218 Ill. App. 3d 444, 461 (1991)).

¶ 19 Here, the evidence presented at the fitness hearing supports the trial court's finding of unfitness. Spohr and Ligget testified that the only "satisfactory" rating respondent received during the relevant nine-month period was in mental health, where she successfully completed a mental health evaluation and was not recommended for further services. Moreover, although respondent had been able to maintain stable housing, the housing was through a temporary program, and she had no prospects of securing permanent housing in the near future. The evidence also shows that respondent failed to report, and ultimately denied the occurrence of, a domestic violence incident between herself and A.S.'s biological father. Critically, respondent began testing positive for methamphetamine and marijuana in December 2023. As a result, the court entered an order requiring her to test negative for all substances before visiting with A.S. Instead of complying with the court's order, respondent refused to complete a single drug screening between January 31, 2024, and March 21, 2024, and her visitation rights were suspended. Thus, the evidence shows that respondent was further from reunification at the end of

the nine-month period than she was at the beginning. Accordingly, we agree with counsel that no colorable argument can be made that the court's finding of unfitness based on a failure to make reasonable progress was against the manifest weight of the evidence.

¶ 20 B. Best-Interest Finding

¶ 21 Next, counsel asserts he can raise no colorable argument that the trial court erred in finding termination of respondent's parental rights was in A.S.'s best interest. We will not reverse a best-interest determination absent a finding it was against the manifest weight of the evidence, which occurs "only if the facts clearly demonstrate that the court should have reached the opposite result." *In re Jay. H.*, 395 Ill. App. 3d 1063, 1071 (2009).

¶ 22 If the State satisfies its burden of proving the respondent unfit, the proceedings advance to the second stage, where the State must prove by a preponderance of the evidence that termination of parental rights is in the minor's best interest. 705 ILCS 405/2-29(2) (West 2022). At the best-interest stage, the focus shifts from the parent to the child, and the issue is "whether, in light of the child's needs, parental rights should be terminated." (Emphasis omitted.) *In re D.T.*, 212 Ill. 2d 347, 364 (2004). Thus, "the parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life." *Id.* Section 1-3(4.05) of the Juvenile Court Act lists the best-interest factors for the court to consider, in the context of the minor's age and developmental needs, when making its best-interest determination: (1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's background and ties; (4) the child's sense of attachments; (5) the child's wishes and long-term goals; (6) the child's community ties; (7) the child's need for permanence; (8) the uniqueness of every family and child; (9) the risks associated with substitute care; and (10) the preferences of the persons available to care for the child. 705 ILCS 405/1-3(4.05) (West 2022).

¶ 23 Here, the evidence presented at the best-interest hearing supports the trial court's best-interest determination. McCoy testified that A.S. was approximately 18 months old at the time of the hearing and had been living in the same traditional foster home since her birth. McCoy went to the foster home monthly to observe the interactions between A.S. and her foster parents. According to McCoy, A.S. appeared to be bonded with her foster parents and the foster parents demonstrated age-appropriate discipline techniques. McCoy further testified that the foster parents met the minor's emotional, educational, and medical needs. The foster parents had expressed their desire to adopt A.S. and had signed the appropriate permanency paperwork. McCoy opined that it was in A.S.'s best interest to be adopted by her foster parents. Respondent did not cross-examine McCoy, present any evidence of her own, or even provide an argument against terminating her parental rights. Accordingly, we agree with counsel that no colorable argument can be made that the court's best-interest determination was against the manifest weight of the evidence.

¶ 24 III. CONCLUSION

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

¶ 26 Affirmed.