2025 IL App (4th) 241621-U

NOS. 4-24-1621, 4-24-1622 cons.

FILED
April 18, 2025
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re D.D. and R.D., Minors	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Adams County
Petitioner-Appellee,	)	Nos. 22JA83
v.	)	22JA84
Sosha D.,	)	
Respondent-Appellant).	)	Honorable
	)	John C. Wooleyhan,
	)	Judge Presiding.

JUSTICE ZENOFF delivered the judgment of the court.
Justices Steigmann and Grischow concurred in the judgment.

ORDER

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

¶ 2 Respondent, Sosha D., appeals from the trial court's judgment finding her unfit and terminating her parental rights as to her minor children, D.D. (born in 2013) and R.D. (born in 2014). Respondent's counsel now seeks 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 he might make 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. For the following

reasons, we grant counsel's motion to withdraw and affirm the court's judgment.

¶ 3 I. BACKGROUND

¶ 4 On December 19, 2022, the State filed a petition for the adjudication of wardship of D.D. and R.D. The petition alleged that on November 21, 2022, one of the minors reported to an Illinois Department of Children and Family Services (DCFS) investigator and a Quincy police officer that there was domestic violence occurring between respondent and her paramour, David R., where David beat respondent and broke a glass in front of the minors. Quincy police issued David a trespassing ticket and told him not to return to the residence until the ticket was lifted. Respondent agreed to keep David away from her residence. On December 1, 2022, respondent informed the DCFS investigator and police that David returned to her residence, broke in, and sexually assaulted her while the minors were home. Respondent agreed to participate in intact services. However, on December 15, 2022, respondent admitted to her continued involvement with David and expressed that she wanted him to be involved in the intact services. Based on respondent's failure to protect her children from domestic violence in the home, the minors were taken into protective custody. On December 19, 2022, after hearing testimony from the DCFS investigator, the trial court found that there was an immediate and urgent necessity to remove the minors from the home and granted temporary custody to DCFS.

¶ 5 On March 22, 2023, the trial court held an adjudicatory hearing on the State's petition. The State called David Rollins, a DCFS investigator, and Luke Humke, a Quincy police officer, both of whom investigated the reports of domestic violence against respondent. The court found that the State proved the allegations in its petition by a preponderance of the evidence and that the minors were neglected because they were in an environment injurious to their welfare.

¶ 6 The trial court then held a dispositional hearing on May 4, 2023. The court found

respondent unfit and unable to care for the minors because of her failure to protect the minors from violent individuals respondent allowed in the home. The court set the permanency goal as return home within 12 months.

¶ 7 The trial court held five permanency hearings between September 12, 2023, and September 18, 2024, and ordered that custody and guardianship remain with DCFS each time. The court changed the permanency goal to "return home pending status hearing" in December 2023, and then to "substitute care pending determination of termination of parental rights" in September 2024.

¶ 8 On October 3, 2024, the State filed a motion for termination of parental rights as to both D.D. and R.D. The State alleged that respondent failed to make reasonable efforts to correct the conditions which were the basis for the removal of the minors (750 ILCS 50/1(D)(m)(i) (West 2022)), failed to make reasonable progress toward the return of the minors within any nine-month time period after the adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2022)), and failed to protect the minors from conditions in their environment which were injurious to their health and well-being (750 ILCS 50/1(D)(g) (West 2022)). The State identified three nine-month periods: (1) March 2023 to December 2023, (2) December 2023 to September 2024, and (3) September 2024 to the "present."

¶ 9 The trial court held the termination hearing on December 20, 2024. At the State's request, the court took judicial notice of its own temporary custody, adjudicatory, dispositional, and permanency orders throughout the case. The State then called Chris Snyder, a child welfare specialist and the caseworker who had been assigned to respondent's case since December 2022. Snyder testified that domestic violence between respondent and her paramour caused the case to be opened. He explained that he created a service plan for respondent that required cooperation, a

mental health assessment and treatment, permanent housing and employment, a substance abuse assessment and any recommended treatment, a domestic violence assessment and treatment, parenting classes, and visitation.

¶ 10 Snyder first testified to respondent's engagement in services between December 2022 and June 2023. At that point, respondent (1) filled out consent forms for her providers, (2) started attending domestic violence sessions and working with a provider, (3) had an apartment, (4) had completed a mental health assessment and started attending counseling, (5) had completed a substance abuse assessment and started attending sessions, and (6) attended visitation regularly. However, she was not employed and was discharged from parenting classes due to missing a class.

¶ 11 Snyder then testified about the period between June and December 2023. Respondent had cooperated by attending meetings but did not communicate a change in phone number to Snyder. She did not update the consent form for domestic violence services, and thus the provider could not release any information to Snyder about respondent's progress. There was a domestic violence incident during this period where David was arrested for attempting to kidnap respondent. Respondent had been evicted from her apartment and was still unemployed. She was discharged from mental health services for failure to attend and reschedule appointments. She was, however, still attending substance abuse sessions. She also started attending parenting classes at the end of this six-month period.

¶ 12 Snyder next discussed respondent's progress between December 2023 and June 2024. Respondent did not cooperate during this time period, as she had missed a couple of monthly visits and one quarterly child and family meeting, which she rescheduled and then missed again. Respondent still had not updated her consent form for her domestic violence services, so Snyder

had no information about her participation in those services. She still did not have housing. She briefly obtained employment at a restaurant but was unable to start working because she did not have a valid identification card. She had been unsuccessfully discharged from another mental health provider and substance abuse counseling due to missing appointments. Respondent completed 14 out of 16 parenting classes but failed the exam and could not complete the course. She then started another parenting class but was discharged for missing sessions. She attended visitation but did not bring snacks or meals with her.

¶ 13 Lastly, Snyder discussed respondent's efforts and progress between June and November 2024. Respondent had still not signed an updated consent form for domestic violence services, even though Snyder discussed the importance of respondent doing so at child and family team meetings. Respondent did not have housing or employment. She had an appointment with a substance abuse counselor, but Snyder did not know if she attended. Respondent was not involved in parenting classes after being discharged from the previous class. She attended visits regularly, once a week for two hours, but did not bring meals or snacks for the children. Visitation was not increased due to respondent's lack of engagement with her service providers.

¶ 14 Snyder summarized that respondent never successfully completed a parenting class, mental health counseling, domestic violence counseling, or substance abuse counseling. On the State's motion and without objection, the trial court admitted three service plans into evidence.

¶ 15 The trial court found that the State proved all three allegations by clear and convincing evidence and that respondent was unfit because she (1) did not make reasonable efforts (750 ILCS 50/1(D)(m)(i) (West 2022)), (2) did not make reasonable progress (750 ILCS 50/1(D)(m)(ii) (West 2022)), and (3) failed to protect the minors from conditions injurious to their health and well-being (750 ILCS 50/1(D)(g) (West 2022)). The court noted that respondent

engaged in some services and consistently attended visitation with the minors. However, the court stated that respondent never completed a parenting class, which would have been the main way to progress toward resolving the issue of domestic violence that brought the minors into care in the first place. The court found that respondent "wasn't involved in services to the degree that would show the type of progress that's contemplated by the statute" and "was just treading water during these nine-month periods of time by attending visits and not making progress on all the other issues." The court further noted that respondent's visitation was never increased or progressed to being unsupervised throughout the case and that DCFS never recommended that custody of the minors be returned to respondent.

¶ 16 The trial court then proceeded to the best-interest portion of the termination hearing. The State recalled Snyder. Snyder testified that the minors were placed with their aunt. They had originally been placed with their grandmother, but DCFS removed them from that placement due to an allegation against the grandmother's paramour. Snyder stated that the minors were bonded with the aunt, who was ensuring that the minors were attending school and mental health counseling. The aunt had recently notified the adoption worker that she did not intend to adopt the minors but was willing to foster them until DCFS found a permanent placement.

¶ 17 The trial court found that it was in the best interest of the minors to terminate respondent's parental rights and find an adoptive placement for the minors. The court noted that even though their current placement had not committed to adoption, there was no evidence to show when, if ever, the minors would be able to return to the custody of the parents.

¶ 18 This appeal followed.

¶ 19 II. ANALYSIS

¶ 20 On appeal, respondent's counsel states that he considered arguments that the trial

court's unfitness and best-interest findings were against the manifest weight of the evidence but concluded that such arguments were not arguably meritorious.

¶ 21 A. Unfitness

¶ 22 The involuntary termination of parental rights involves a two-step process pursuant to section 2-29(2) of the Juvenile Court Act of 1987 (705 ILCS 405/2-29(2) (West 2022)). The State must first prove by clear and convincing evidence that the respondent is unfit. *In re C.M.*, 305 Ill. App. 3d 154, 163 (1999). Here, the trial court found that respondent was unfit because she failed to (1) make reasonable efforts to correct the conditions that were the basis for the removal of the child from the parent during any nine-month period following the adjudication of neglect (750 ILCS 50/1(D)(m)(i) (West 2022)), (2) make reasonable progress toward the return of her children during any nine-month period (750 ILCS 50/1(D)(m)(ii) (West 2022)), and (3) protect the minors from conditions in their environment injurious to their welfare (750 ILCS 50/1(D)(g) (West 2022)). The three relevant periods in this case were (1) March 23, 2023, to December 23, 2023; (2) December 23, 2023, to September 23, 2024; and (3) September 23, 2024, to the "present."

¶ 23 We will not reverse a trial court's finding of unfitness unless it is against the manifest weight of the evidence. *In re Dar. H.*, 2023 IL App (4th) 230509, ¶ 54. A court's finding is against the manifest weight of the evidence "when the opposite conclusion is clearly apparent." *Dar. H.*, 2023 IL App (4th) 230509, ¶ 54. Under this standard, "we give deference to the trial court as the finder of fact because it is in the best position to observe the conduct and demeanor of the parties and the witnesses and has a degree of familiarity with the evidence that a reviewing court cannot possibly obtain." *In re D.F.*, 201 Ill. 2d 476, 498-99 (2002). We "must not substitute [our] judgment for that of the trial court regarding the credibility of witnesses, the weight to be given to the evidence, or the inferences to be drawn." *D.F.*, 201 Ill. 2d at 498-99.

¶ 24 Respondent's appellate counsel first considered arguing that the trial court's finding on the injurious-environment ground was against the manifest weight of the evidence but concluded that this argument would be frivolous. A finding of parental unfitness under section 1(D)(g) is "warranted where the evidence establishes that the parent failed to protect the child from conditions in the child's environment injurious to the child's welfare." *In re C.W.*, 199 Ill. 2d 198, 212 (2002). Evidence under this section "must focus on the child's environment and the parent's failure to protect before removal of the child from the injurious home environment." *C.W.*, 199 Ill. 2d at 215. This evidence may be the same as the evidence "of the parent's conduct which also led to the removal of the child." *C.W.*, 199 Ill. 2d at 219. There is, furthermore, "no requirement under section 1(D)(g) that a parent be permitted a period of time to correct or improve an injurious environment before he or she may be found unfit on this ground." *C.W.*, 199 Ill. 2d at 216.

¶ 25 Counsel is correct that no testimony about the specific circumstances that led to the removal of the children was presented at the unfitness hearing. Snyder only testified that the case opened due to "[d]omestic violence and then the ex-paramour being in the home with the children." While counsel points out that under two conditions a trial court can take judicial notice "of prior sworn testimony or evidence admitted in prior proceedings involving the same minor" (705 ILCS 405/2-18(6) (West 2022)), such as the testimony at the temporary custody or adjudicatory hearings concerning the circumstances of the minors' removal, there is nothing in the record showing that the court did so in this case.

¶ 26 However, there is still enough evidence in the record to support the trial court's unfitness finding on this ground. The court took judicial notice of its temporary custody order, where it found that there was an immediate and urgent necessity to remove the minors from the home because there was "[d]omestic violence in the home" and respondent "continued to allow

her paramor [*sic*] into the home." Additionally, the service plans, which were admitted into evidence, listed the safety threats present when the case was opened, including (1) "[a] caregiver, paramour or member of the household whose behavior is, or has been, violent and out of control," (2) the minors "are exposed to [domestic violence]," (3) David "gets angry, breaks things and has been physical with [respondent]," and (4) respondent "continues to allow [d]omestic abuser back into the home." This evidence of the circumstances that led to the removal of the children is sufficient to support the conclusion that the minors were exposed to domestic violence between respondent and David and that respondent refused to protect the children by excluding David from the home. See, *e.g.*, *In re Janine M.A.*, 342 Ill. App. 3d 1041, 1050 (2003) (holding the respondent failed to protect her children where, despite having "a long history of domestic violence," and thus being "on notice [the father] might be violent toward the children," she still "maintained a relationship with [the father]" and "allowed one of [the] children to be in [his] presence"). The court's finding that respondent failed to protect the minors from injurious conditions in their environment was thus not against the manifest weight of the evidence.

¶ 27 Moreover, counsel correctly notes that even if the trial court's finding of unfitness on the injurious-environment ground was against the manifest weight of the evidence, the court's unfitness finding could nevertheless be affirmed on the reasonable-efforts or reasonable-progress grounds. Indeed, "[a] parent's rights may be terminated if a single alleged ground for unfitness is supported by clear and convincing evidence." *In re D.C.*, 209 Ill. 2d 287, 296 (2004). We thus also consider whether the court reasonably found that respondent failed to make reasonable progress during any nine-month period after the adjudication of neglect in March 2023.

¶ 28 Reasonable progress, which is assessed under an objective standard, exists when a parent's compliance with the service plan and the trial court's directives "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 L.L.S.*, 218 Ill. App. 3d 444, 461 (1991). A parent fails to make reasonable progress toward the return of the child when the parent fails " 'to substantially fulfill his or her obligations under the service plan and correct the conditions that brought the child into care.' " *In re C.N.*, 196 Ill. 2d 181, 217 (2001) (quoting 750 ILCS 50/1(D)(m) (West Supp. 1999)). Importantly, there is "a significant difference between going through the motions, checking off the boxes, and mechanically doing what is asked of the parent, and actually changing the circumstances that brought the children into care." *In re Ta. T.*, 2021 IL App (4th) 200658, ¶ 56. A finding of unfitness is appropriate if "the court will not be able to return the child home in the near future, despite ample time and opportunity for compliance with the court's directives." *Ta. T.*, 2021 IL App (4th) 200658, ¶ 55.

¶ 29 The trial court's unfitness finding in this case based on the failure to make reasonable progress was not against the manifest weight of the evidence. Respondent made some progress by engaging in services between March and June 2023. However, between June 2023 and the termination hearing in December 2024, respondent's engagement stalled. Respondent did not update her consent form for domestic violence services after June 2023, so Snyder was unable to verify whether respondent was engaged in those services. Respondent had been evicted from her apartment in December 2023 and had not found housing as of December 2024. She did not have employment throughout this case. She was discharged from parenting classes twice, mental health counseling twice, and substance abuse counseling once, all for failing to attend. While respondent attended most sessions for one parenting class, she did not pass the final exam. Ultimately, though she regularly attended and behaved appropriately at visitation, she completed no other services in the 22 months that this case was pending and was thus no closer to regaining custody of the minors

in December 2024 than she was in March 2023. The court correctly concluded that respondent had not made reasonable progress toward the return of her children during any of the relevant periods. Thus, appellate counsel is correct that any challenge to the court's unfitness finding would be meritless.

¶ 30 B. Best Interest

¶ 31 Respondent's counsel states that he considered arguing that the trial court's best-interest finding was against the manifest weight of the evidence but concluded that this issue would not have arguable merit. We agree.

¶ 32 If a parent is found to be unfit, the State must then prove that terminating parental rights is in the minor's best interest. *In re J.B.*, 2019 IL App (4th) 190537, ¶ 31. At this step, the focus shifts from the parent to the child. The burden on the State at the best-interest hearing is a preponderance of the evidence. *In re D.T.*, 212 Ill. 2d 347, 366 (2004). When determining a minor's best interest, the trial court must consider the following factors, "in the context of the child's age and developmental needs:"

> "(a) the physical safety and welfare of the child, including food, shelter, health, and clothing;
>
> (b) the development of the child's identity;
>
> (c) the child's background and ties, including familial, cultural, and religious;
>
> (d) the child's sense of attachments, including:
>
> (i) where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);

(ii) the child's sense of security;

(iii) the child's sense of familiarity;

(iv) continuity of affection for the child;

(v) the least disruptive placement alternative for the child;

(e) the child's wishes and long-term goals;

(f) the child's community ties, including church, school, and friends;

(g) the child's need for permanence which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives;

(h) the uniqueness of every family and child;

(i) the risks attendant to entering and being in substitute care; and

(j) the preferences of the persons available to care for the child." 705 ILCS 405/1-3(4.05) (West 2022).

¶ 33 The trial court's best-interest determination will not be disturbed on appeal unless it is against the manifest weight of the evidence. *J.B.*, 2019 IL App (4th) 190537, ¶ 33. We afford great deference to the court's determination, as it is in the best position to view the witnesses and judge their credibility. *In re C.P.*, 2019 IL App (4th) 190420, ¶ 71.

¶ 34 The trial court's best-interest finding was not against the manifest weight of the evidence. The minors had been in foster care for almost two years. Though they had recently changed placements from their grandmother to their aunt, they were bonded to their aunt. See 705 ILCS 405/1-3(4.05)(d) (West 2022). The aunt provided for the safety and welfare of the minors and ensured they received the appropriate education and medical care. See 705 ILCS 405/1-3(4.05)(a) (West 2022). After almost two years in foster care, the court reasonably placed

significant weight on the minors' need for permanence, which was not likely to be with respondent due to her lack of engagement with services. See 705 ILCS 405/1-3(4.05)(g) (West 2022). While the aunt was not able to provide permanency through adoption, she stated her intent for the minors to remain with her until an adoptive placement could be found. The minors' likelihood of adoption is "merely one factor to consider," and even "a child's slim chance of adoption does not *per se* require a finding that termination of parental rights is not in the child's best interest." *In re Tashika F.*, 333 Ill. App. 3d 165, 170 (2002). In light of the other factors and the evidence showing that respondent failed to make progress toward regaining custody of the minors, the court reasonably concluded that terminating respondent's parental rights was in the minors' best interest.

¶ 35 After examining the record, we agree that the issues counsel identified lack arguable merit, and we have identified no other arguably meritorious issues. We therefore grant counsel's motion to withdraw and affirm the trial court's judgment.

¶ 36 III. CONCLUSION

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

¶ 38 Affirmed.