2025 IL App (4th) 250194-U

NO. 4-25-0194

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
June 12, 2025
Carla Bender
4th District Appellate
Court, IL

In re R.A., a Minor	)	Appeal from the
(The People of the State of Illinois,	)	Circuit Court of
Petitioner-Appellee,	)	Tazewell County
v.	)	No. 22JA37
Kenneth P.,	)	
Respondent-Appellant).	)	Honorable
	)	Katherine G. P. Legge,
	)	Judge Presiding.

JUSTICE CAVANAGH delivered the judgment of the court.
Justices Knecht and Grischow concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, finding the trial court's orders (1) finding respondent remained dispositionally unfit and (2) terminating wardship and closing the case were not against the manifest weight of the evidence.

¶ 2 In March 2022, the State filed a shelter care petition for R.A. (born August 2016). Following a combined adjudicatory and dispositional hearing, the trial court adjudicated the minor neglected and made him a ward of the court, finding respondent, Kenneth P., unfit, for reasons other than financial circumstances alone, to care for the minor. In February 2025, the court appointed the minor's grandparents as guardians, terminated its wardship, and closed the case. On appeal, respondent argues the court's order finding he was dispositionally unfit, terminating wardship, and closing the case was against the manifest weight of the evidence. We affirm.

¶ 3 I. BACKGROUND

¶ 4 In March 2022, the State filed a shelter care petition for R.A. pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (705 ILCS 405/2-3(1)(b) (West 2022)), contending the minor's environment was injurious to his welfare. The petition alleged that on March 16, 2022, police officers responded to a single-vehicle accident. The airbags of the vehicle had deployed, and the vehicle was abandoned. Inside the vehicle, various drug paraphernalia and information belonging to the minor's mother (who is not a party to this appeal) were discovered. Officers eventually located the minor's mother at her home. The minor was observed to have injuries from a seatbelt consistent with being involved in a vehicle accident. He was transported to a hospital for further evaluation. The mother was subsequently charged with driving under the influence "and various other charges."

¶ 5 The trial court entered an order placing the minor in the temporary custody of the Illinois Department of Children and Family Services (DCFS). At the time of the temporary custody order, the father of the minor was listed as unknown.

¶ 6 In July 2022, the State filed a supplemental shelter care petition, alleging respondent was "found unable" in Peoria County case No. 21-JA-156 and had his parental rights terminated in Peoria County case No. 97-JA-195. Respondent subsequently filed an answer to the petition stipulating to the allegations.

¶ 7 On August 12, 2022, the matter proceeded to a combined adjudicatory and dispositional hearing. The trial court entered an adjudicatory order finding the minor neglected. The court entered a dispositional order finding respondent unfit for reasons other than financial circumstances alone to care for the minor. The goal for the minor was to return home.

¶ 8 A permanency order from February 2023 showed respondent remained unfit, demonstrated mixed efforts, and demonstrated no reasonable progress. A permanency order from

July 2023 showed respondent remained unfit, had made reasonable efforts, but had not made reasonable progress. The March 2024 permanency order showed the same, but the goal had been changed from return home to guardianship.

¶ 9 On February 7, 2025, a permanency hearing was held. The trial court noted several reports, including one from December, "January 10th," and a "January 31st update." The December 10, 2024, report showed respondent had been "cooperative and communicative" with DCFS, was attending counseling services, completed parenting and domestic violence classes, and completed a drug and alcohol assessment in February 2023, with no recommended additional services. The report showed respondent had tested positive for hydrocodone and morphine on August 5, 2024. Respondent also tested positive for cocaine and hydrocodone on September 10, 2024. Respondent tested negative for all substances in October and November 2024. The report noted respondent had prescriptions for hydrocodone and morphine only. Regarding visitation with R.A., the report stated respondent's interactions with the minor were typically positive and "no significant parenting issues have been noted." The report noted R.A. refused to attend a visitation with respondent in October 2024. During the next visit, the report stated R.A. "struggles with wanting to visit with [respondent] as [R.A.] feels each time he visits with [respondent] he disappoints his mother." According to the report, R.A. does not refer to respondent as " 'dad' " and requires "prompting when it comes to being physically affectionate and hugging" respondent. The report also showed R.A. remained in his placement with his maternal grandmother, where his needs were being met and he was doing well.

¶ 10 A report from January 24, 2025, showed respondent tested negative for all substances on his January 2025 drug test. The report indicated respondent denied abusing cocaine and was unsure why he tested positive for it in September 2024. The caseworker contacted the

testing lab and was advised there were no "other substances or prescription" that would have caused respondent to have a false positive test result for cocaine.

¶ 11 At the permanency hearing, caseworker Cheyenne Denoyer was questioned about respondent's positive test for cocaine. Denoyer stated respondent's cocaine level was 145 nanograms per milliliter. Over the State's objection, the trial court admitted an exhibit from the National Institute for Health stating a positive screening for cocaine metabolites was confirmed when above 150 nanograms per milliliter. Denoyer stated respondent had engaged in services and visitations with R.A. appropriately. When asked about a bond between respondent and R.A., Denoyer characterized respondent's bond with R.A. as "more of a friendship familiarity bond rather than a parent/child bond." Denoyer described an incident where respondent had R.A. assist him in applying a lidocaine patch to respondent's back. Denoyer stated she addressed the matter with respondent at the following visit and "let [respondent] know that could not happen again." When asked if not having respondent in R.A.'s life would be "deleterious," Denoyer responded she was unsure.

¶ 12 The trial court's written order found respondent unfit for the reasons contained in the reports. The court found respondent had made reasonable efforts but "limited progress," noting his positive cocaine test and having R.A. assist him in placing the lidocaine patch.

¶ 13 In January 2025, R.A.'s maternal grandmother, Joni S., and her fiancé, Philip E., filed a petition for guardianship in Tazewell County case No. 25-GR-11, pursuant to the Probate Act of 1975 (755 ILCS 5/1-1 *et seq.* (West 2022)). In the instant matter, Joni S. and Philip E. also filed a motion to terminate guardianship and wardship and close the case. A hearing on the petition was held on February 24, 2025.

¶ 14 At the hearing, Joni S. testified she would provide for R.A. and assume all medical

and educational decision-making responsibilities. She also stated she would provide love and support and fulfill all the requirements of guardian. Philip E. testified consistent with Joni S.

¶ 15 The trial court noted it had reviewed a report filed by Denoyer recommending guardianship by R.A.'s grandparents was in his best interest. Denoyer confirmed she continued to believe granting the petition for guardianship was in R.A.'s best interest. The court found it was in R.A.'s best interest to name Philip E. and Joni S. as guardians. A written order by the court vacated DCFS's guardianship of R.A., appointed Philip E. and Joni S. as guardians of R.A., terminated the court's wardship over R.A., and closed the juvenile court case.

¶ 16 This appeal followed.

¶ 17 II. ANALYSIS

¶ 18 On appeal, respondent argues the record demonstrates he made both reasonable efforts and reasonable progress. He contends, over the entirety of the case, there were 28 drug tests, with only one positive result and one failure to appear with no excuse. He argues the one positive cocaine test should not negate the reasonable progress he demonstrated throughout the proceedings.

¶ 19 Additionally, respondent argues the trial court's termination of wardship order provides him with no statutory mechanism to modify it. Thus, he contends the court's termination of wardship is unduly harsh and not in R.A.'s best interest because it provides no visitation and R.A.'s guardians have refused supervised visits between respondent and R.A. In support, he cites *In re D.V.*, 2024 IL App (4th) 240751.

¶ 20 In *D.V.*, the minors came into protective care in July 2023 due to concerns about (1) the safety of the respondent's home, (2) her alcohol abuse, and (3) her cocaine abuse. *Id.* ¶ 54. From July 2023 through April 2024, the respondent remediated the safety issues with her home

and completed a rehabilitation program, with no indication she had consumed alcohol. *Id.* Regarding drug testing, the court noted the respondent had missed two weekly drug tests over the course of seven months, one of which was explained because she was at a doctor's appointment for her child. *Id.* ¶ 55. The respondent tested positive for cocaine in January 2024, which the trial court was aware of at a permanency review hearing in March 2024. *Id.* ¶ 56. The respondent's substance abuse therapist submitted a report stating the respondent had felt ashamed for her relapse and was working on addressing it. *Id.* The trial court permitted the respondent to begin supervised overnight visitations with the minors despite the relapse. *Id.* At a subsequent permanency review hearing in April 2024, there was no indication the respondent had further relapsed, and the caseworker believed the respondent had met minimal parenting standards. *Id.* However, the trial court abruptly found the respondent had not made reasonable progress based on the single positive drug test. *Id.* Additionally, there were noted concerns about the respondent's paramour mentioned by the trial court, but the record showed the respondent had separated from her fiancé and was not dating anyone at the time of the April 2024 hearing. *Id.* ¶ 57. This court concluded the respondent had made "significant strides to address all barriers to returning the minors to her care" and found the trial court's finding the respondent had failed to make reasonable progress was against the manifest weight of the evidence. *Id.* ¶ 58.

¶ 21 Regarding the termination of wardship and closing the case, this court found the trial court's decision was based in part on a mistake of law, wherein the court believed it retained jurisdiction over the matter and advised the respondent she could " 're[-]petition' " to modify its judgment should she regain sobriety and "distance[ ] herself from unspecified people." *Id.* ¶ 60. Moreover, this court noted the trial court "discouraged" the respondent from contact with the minors following terminating wardship, stating as follows:

> "Discouraging [the] respondent's contact with the minors plainly was not in the minor's best interests. [The] [r]espondent made substantial progress toward addressing the problems that brought the case into care, and she was rapidly approaching a point where the court could return the minors to her custody without judicial oversight. [The minors' father] wanted to facilitate the minors' relationship with [the] respondent, and there were never any concerns raised about [the] respondent's interactions with the minors after the commencement of the case. If the court harbored any doubts about [the] respondent's long-term sobriety due to her one relapse three months earlier, the court should have given her an additional opportunity to prove herself. We discern no conceivable benefit to either the minors or the public in terminating wardship at this juncture and closing the case with a finding that [the] respondent remained dispositionally unfit, with no way to legally change that status." *Id.* ¶ 62.

This court concluded the trial court abused its discretion and reversed. *Id.* ¶ 63.

¶ 22 In response, the State argues the case was initiated in March 2022, when the minor was five years old, and at that time, respondent had no preexisting relationship with the minor. Over the next two years, the State notes respondent's relationship resembled more of a friendship than a parent/child relationship. The State contends R.A. struggled during interactions with respondent. Furthermore, the State notes after more than two years, respondent tested positive for cocaine without explanation. Additionally, the State points to respondent's poor judgment in

requesting R.A. to assist him with placing a lidocaine medication patch on his back.

¶ 23 Regarding the termination of wardship and guardianship appointment, the State argues *D.V.* is distinguishable from the instant matter. The State notes a proper hearing was held on the minor's grandparents' petition for guardianship. Additionally, the State argues the respondent in *D.V.* was rapidly approaching reunification, with no concerns about her parenting or visitations with the minors, unlike in the instant case, where the caseworker had documented concerns about respondent's interactions with R.A. Lastly, the State argues, unlike the trial court in *D.V.*, the trial court here did not misapprehend the law concerning the termination of wardship.

¶ 24 "[C]ases involving allegations of neglect and adjudication of wardship are *sui generis*, and must be decided on the basis of their unique circumstances." *In re Arthur H.*, 212 Ill. 2d 441, 463 (2004). We review a trial court's determination to terminate wardship "under the manifest-weight-of-the-evidence standard when the court's weighing of facts is at issue; otherwise, it is reviewed for abuse of discretion." (Internal quotation marks omitted.) *D.V.*, 2024 IL App (4th) 240751, ¶ 52. A finding is against the manifest weight of the evidence when the opposite result is clearly evident. *In re Audrey B.*, 2015 IL App (1st) 142909, ¶ 32.

¶ 25 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). This court has explained reasonable progress exists when a trial court

> "can conclude that *** the court, in the *near future*, will be able to order the child returned to parental custody. The court will be able to order the child returned to parental custody in the near future because, at that point, the parent *will have fully complied* with the directives previously given to the parent in order to regain custody

of the child." (Emphases in original.) *In re L.L.S.*, 218 Ill. App. 3d 444, 461 (1991).

We have also emphasized " 'reasonable progress' is an 'objective standard.' " *In re F.P.*, 2014 IL App (4th) 140360, ¶ 88 (quoting *L.L.S.*, 218 Ill. App. 3d at 461).

¶ 26 We find the case *sub judice* distinguishable from *D.V.* The respondent in *D.V.* had made significant progress, but the trial court stressed a single relapse when it was already aware of the relapse from a previous permanency hearing and errantly believed the respondent had been associating with a detrimental paramour. Despite the court being aware of the respondent's relapse, it still permitted additional overnight visitation between the respondent and the minors. More importantly, the respondent admitted to her cocaine relapse and sought services from her counselor to remedy the issue. In the instant case, respondent denied any use of cocaine, despite testimony from the caseworker that there was no credible explanation for a false positive test result. Also, unlike in *D.V.*, there were notable issues with respondent's parenting and visitation with R.A. First, the record does not show respondent had made significant progress. At no point throughout the proceedings had the court ever found respondent had demonstrated reasonable progress. Second, respondent exercised poor judgment by requesting R.A. to assist him in placing a medication patch on his back. Third, the permanency hearing reports showed R.A. was struggling in his interactions with respondent, despite generally positive experiences. Fourth, the caseworker testified the bond respondent and R.A. resembled "more of a friendship familiarity bond rather than a parent/child bond."

¶ 27 Respondent relies heavily on his completion of court-ordered services and minimizes his positive drug test for cocaine and requesting R.A. to assist in putting a medication patch on his back, but we note the completion of court-ordered services alone may not be sufficient

to demonstrate reasonable progress. See *In re R.L.*, 352 Ill. App. 3d 985, 999 (2004). Rather respondent must demonstrate an ability "to implement the skills taught." *Id.* Despite completing substance abuse services and parenting classes, the record shows respondent has failed to implement the skills he would otherwise have learned from the court-ordered services. Therefore, we cannot say the opposite conclusion of the trial court was clearly apparent. Accordingly, we find the court's determination respondent failed to demonstrate reasonable progress was not against the manifest weight of the evidence.

¶ 28 Next, respondent contends the trial court's termination of wardship and closure of the case was in error. As we stated earlier, we review a trial court's determination to terminate wardship under the manifest-weight-of-the evidence standard when the issue involves the court's factual findings. *D.V.*, 2024 IL App (4th) 240751, ¶ 52. The termination of wardship and closing of a case is warranted where the "health, safety, and the best interests of the minor and the public no longer require the wardship of the court." 705 ILCS 405/2-31(2) (West 2022). When determining the best interest of the minor, the 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, 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." *Id.* § 1-3(4.05).

¶ 29 The core of respondent's argument pertaining to the trial court's termination of wardship is that his inability to continue visitation with R.A. is not in R.A.'s best interest. We certainly will not discount any positive experiences between R.A. and respondent; however, this fact alone is hardly sufficient when considered with the numerous factors listed above. First, the record demonstrates R.A.'s relationship with respondent is complicated and nuanced. Thus, any

argument that respondent's relationship to R.A. as his biological father necessarily means it would be in R.A.'s best interest to maintain visitation directly contradicts how a child's sense of attachment should be considered. See *id.* § 1-3(4.05)(d)(i). Second, the evidence from the permanency hearing showed all of R.A.'s needs had been met by his grandparents, whom he had already been placed with. Third, the evidence from the guardianship hearing showed R.A.'s grandparents were willing to continue to provide for all of R.A.'s needs, along with providing love and support. Finally, the caseworker testified it was in R.A.'s best interest that his grandparents be appointed guardians. None of respondent's arguments on appeal undermine any of the trial court's factual findings. Accordingly, we find the trial court's decision to terminate wardship and close the case was not against the manifest weight of the evidence.

¶ 30 III. CONCLUSION

¶ 31 For the reasons stated, we affirm the trial court's judgment.

¶ 32 Affirmed.