2025 IL App (4th) 250177-U

NOS. 4-25-0177, 4-25-0178, 4-25-0179 cons.

FILED
June 13, 2025
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS0

FOURTH DISTRICT

In re B.H.-R., J.H.-R., and N.H.-R., Minors	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Peoria County
Petitioner-Appellee,	)	Nos. 21JA450
v.	)	23JA64
April W.,	)	23JA65
Respondent-Appellant).	)	
	)	Honorable
	)	David A. Brown,
	)	Judge Presiding.

JUSTICE GRISCHOW delivered the judgment of the court.
Presiding Justice Harris and Justice Knecht concurred in the judgment.

ORDER

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

¶ 2 In August 2024, the State filed a petition to terminate the parental rights of respondent, April W., to her minor children, B.H.-R. (born in December 2021), J.H.-R., and N.H.-R. (twins born in April 2024). In February 2025, the trial court entered an order terminating respondent's parental rights. Respondent appealed, and counsel was appointed to represent her. Appellate counsel now moves to withdraw, citing *Anders v. California*, 386 U.S. 738 (1967), on the basis she cannot raise any potentially meritorious arguments on appeal. We grant the motion and affirm the court's judgment.

¶ 3 I. BACKGROUND

¶ 4 A. Procedural History

¶ 5 1. *The Opening of B.H.-R.'s Case*

¶ 6 In December 2021, the State filed a petition seeking to adjudicate B.H.-R. neglected under the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3 *et seq.* (West 2020)). The State alleged B.H.-R. was neglected due to being in an environment injurious to his welfare. *Id.* § 2-3(1)(b). More specifically, the State alleged respondent (1) was found unfit in Peoria County case No. 18-JA-108 on May 22, 2018, there was no subsequent finding of fitness, and she had not completed services that would result in the finding of fitness; (2) had been diagnosed with anxiety and depression; (3) was previously involved in juvenile abuse and neglect proceedings (Peoria County case Nos. 11-JA-35 and 11-JA-36) and surrendered her rights to her minor children; (4) was found unfit on December 16, 2009, in Marshall County case Nos. 09-JA-2, 09-JA-3, and 09-JA-4; and (5) was also indicated by the Illinois Department of Children and Family Services (DCFS) for substantial risk of physical injury or having an environment injurious to health and welfare by neglect on March 13, 2018, inadequate supervision on September 28, 2009, environmental neglect on September 22, 2009, and inadequate supervision on June 17, 2009.

¶ 7 On January 3, 2022, the trial court held a shelter care hearing, where respondent did not object to B.H.-R. being placed in shelter care. On February 23, 2022, respondent orally stipulated to the contents of the State's petition, and the court entered an adjudication order finding B.H.-R. neglected based upon the contents of the State's petition, respondent's stipulation, and the State's proffer. On that same day, a dispositional order was entered finding respondent unfit based upon the contents of the petition and dispositional reports previously filed

on February 9, 2022, and February 22, 2022. B.H.-R. was made a ward of the court.

¶ 8 2. *The Opening of J.H.-R.'s and N.H.-R.'s Cases*

¶ 9 On April 14, 2023, the State filed petitions seeking to adjudicate twins J.H.-R. and N.H.-R. neglected. The petitions alleged the twins were in an injurious environment (*id.*) based on (1) respondent's prior findings of unfitness in cases involving her other children and the lack of a subsequent finding of fitness, (2) her failure to complete services that would result in a finding of fitness, (3) the termination of her parental rights in another case, and (4)her previously being indicated by DCFS for creating a substantial risk of physical injury or environmental injury to the health or welfare of her children by neglect.

¶ 10 On August 7, 2023, the twins were adjudicated neglected based upon the contents of the State's petition, the State's proffer, and judicial notice of B.H.-R.'s case.

¶ 11 3. *Permanency Reports*

¶ 12 On January 8, 2024, the trial court entered a permanency order for the twins, which set the initial goal to return home. Respondent was found to be making mixed efforts toward reunification. On that same day, a permanency order was issued for B.H.-R., maintaining the goal of substitute care and noting that respondent was making inconsistent efforts towards reunification.

¶ 13 On May 13, 2024, another permanency review order was entered for B.H.-R., maintaining the goal of substitute care pending a court decision. On that same day, the goal for the twins was also changed to substitute care pending a court decision. The trial court found respondent was making reasonable efforts but insufficient reasonable progress with all the children.

¶ 14 B. The Termination Petitions

¶ 15 The State filed a petition to terminate respondent's parental rights to B.H.-R. on August 8, 2024. The petition alleged respondent was unfit in that she failed to make reasonable progress toward the return of B.H.-R. during any nine-month period following the adjudication of neglect spanning the relevant period of July 30, 2023, to April 30, 2024. See 750 ILCS 50/1(D)(m)(ii)(West 2022).

¶ 16 On August 29, 2024, the State filed a petition to terminate respondent's parental rights pertaining to N.H.-R. and J.H.-R. The petition alleged respondent was unfit in that she failed to make reasonable progress toward the return of the twins during any nine-month period following the adjudication of neglect, the relevant period being October 20, 2023, to July 20, 2024. See *id.*

¶ 17 C. The Fitness Hearing

¶ 18 The trial court conducted a fitness hearing in January 2025. In exchange for having the other counts dropped, respondent changed her answer and stipulated to her unfitness in the remaining counts alleging her failure to make reasonable progress toward reunification in all three children's termination petitions. As a factual basis for respondent's stipulations, the court admitted nine exhibits, heard the State's proffer, and took judicial notice of the court files. There was no objection from either party. The court found that based upon all the evidence presented, there was an adequate factual basis for respondent's stipulation to the lack of reasonable progress. The court entered an order finding the State had established by clear and convincing evidence that respondent was unfit.

¶ 19 D. The Best Interest Hearing

¶ 20 On February 3, 2025, the trial court conducted a best interest hearing for all three

children in this case. All parties were present with their attorneys. Melissa Shaw testified she had been the caseworker for B.H.-R. for three years and the twins since their birth in April 2023. The foster parents desired to adopt all three children. Shaw testified respondent had scheduled monthly visits with her children, which were not consistently attended. Her last visit was in November 2024. The children had infrequent interaction with respondent and had never lived with or been under her full-time care. Respondent did not provide books, toys, or gifts to her children in the last six months. One of the twins, N.H.-R., had developmental delays caused by a chromosomal mutation. The foster parents provided the occupational and physical therapies N.H.-R. required because of his genetic condition. Respondent did not generally attend N.H.-R.'s appointments.

¶ 21 The guardian *ad litem* (GAL) weighed the statutory factors and was in favor of termination. The GAL testified respondent had good intentions, but she was not ready to have the children in her care. The GAL opined it was in the children's best interest to have respondent's parental rights terminated. The GAL noted the children's development and identity were centered with the foster family. The foster family nurtured and cared for the children, and the children had developed a strong attachment to them. Remaining with the foster family was in the children's best interest and the least disruptive placement.

¶ 22 The trial court found all witnesses were credible. The court also acknowledged the medical needs of the children were substantial. Respondent had a minimal relationship with her children, while the foster parents had a bond with the children and provided adequately for the children's safety and welfare. The foster parents provided a religious culture for the children, as well as ties with their extended family. After considering all the statutory factors, the court found the children's sense of security, continuity of affection, and least disruptive placement all

favored termination. The court determined the State met its burden by demonstrating by a preponderance of the evidence that the best interest of all three children favored termination of respondent's parental rights. The court entered an order, which reflected it took judicial notice of the State's exhibits and the best interest report dated December 2024.

¶ 23 This appeal followed.

¶ 24 II. ANALYSIS

¶ 25 The procedure for appellate counsel to withdraw set forth in *Anders* applies to findings of parental unfitness and termination of parental rights. *In re S.M.*, 314 Ill. App. 3d 682, 685 (2000). Under this procedure, counsel's motion to withdraw must "be accompanied by a brief referring to anything in the record that might arguably support the appeal." (Internal quotation marks omitted.) *Id.* Counsel must sketch the arguments in support of such issues and explain why counsel believes the arguments are frivolous. *Id.* In cases involving the termination of parental rights, counsel should review the finding of unfitness and the best interest determination and indicate he or she has done so in his or her brief. *Id.*at 685-86.

¶ 26 Counsel filed a motion to withdraw in this case, stating she has reviewed the record on appeal and found no irregularities in the proceedings or errors made at the trial court level to support a meritorious appeal. Counsel has identified two potential issues for review: (1) whether the court erred in finding respondent unfit for failing to make reasonable progress toward the return home of the children during the relevant time periods and (2) whether the court's determination that it was in the best interest of the children to terminate respondent's parental rights was against the manifest weight of the evidence.

¶ 27 Because we agree this appeal presents no potentially meritorious issues for review, we grant appellate counsel's motion to withdraw and affirm the trial court's judgment.

¶ 28 A. Fitness Finding

¶ 29 Parental rights may not be terminated without the parent's consent unless the trial court first determines, 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 Gwynne P.*, 215 Ill. 2d 340, 354 (2005). A parent may be found unfit if he or she fails "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). This court has defined "reasonable progress" as follows:

> " 'Reasonable progress' is an objective standard which exists when the [trial] court, based on the evidence before it, can conclude that 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. 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 omitted.) *In re L.L.S.*, 218 Ill. App. 3d 444, 461 (1991).

¶ 30 We will not disturb a finding of unfitness unless it is against the manifest weight of the evidence. *In re J.H.*, 2020 IL App (4th) 200150, ¶ 68. "A finding is against the manifest weight of the evidence only if the evidence clearly calls for the opposite finding [citation], such that no reasonable person could arrive at the [trial] court's finding on the basis of the evidence in

the record." (Internal quotation marks omitted.) *Id.*

¶ 31 Here, the evidence established respondent did not make reasonable progress during the relevant nine-month periods. There were times respondent made some progress, especially in the months leading up to the fitness hearing; however, such efforts were insufficient. Respondent ultimately stipulated she was unfit at the adjudicatory hearing. Respondent's stipulation was adequate because she could not maintain stable housing and had multiple unvetted individuals living with her. She persisted in a romantic relationship with the father of the children (who is not a party to this appeal), despite there being evidence of domestic violence in that relationship. Respondent failed to consistently visit her children and offered various excuses for her missed visits. She completed a parenting course but was still unable to comprehend the appropriate feeding techniques for all three children. Despite being ordered to complete random drug drops, respondent did not complete the drops and even tested positive for methamphetamine. Respondent admitted to using illegal drugs. Thus, the evidence established respondent had not made sufficiently demonstrable progress toward completing the required services for the trial court to be able to return the children to her care. Accordingly, this court concludes no meritorious argument could be made that the trial court's finding of unfitness was against the manifest weight of the evidence.

¶ 32 B. Best Interest Finding

¶ 33 When a trial court finds a parent to be unfit, "the court then determines whether it is in the best interests of the minor that parental rights be terminated." *In re D.T.*, 212 Ill. 2d 347, 352 (2004). "[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. In making the best interest finding, 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)).

¶ 34 "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. Additionally, a trial court "may consider the nature and length of the child's relationship with his present caretaker and the effect that a change in placement would have upon his emotional and psychological well-being." *In re Jaron Z.*, 348 Ill. App. 3d 239, 262 (2004). We afford great deference to the trial court's best interest finding due to the court's superior position in viewing the witnesses and judging their credibility. *In re J.B.,* 2019 IL App (4th) 190537, ¶ 33. We will not disturb the trial court's judgment at this stage unless it is against the manifest weight of the evidence. *Id.*

¶ 35 In this case, the foster parents were consistent parental figures who wanted to

provide permanency for the children. The evidence showed the foster parents ensured all the children's needs were met, including N.H.-R.'s extensive medical needs. The foster parents have been consistent figures in the lives of all three children, providing adequate food, appropriate sleeping arrangements, and religious and community ties. The children have all bonded with the foster parents, as well as the other children in the family. By contrast, none of the children established a strong bond with respondent. The scheduled monthly visits were sporadic due to respondent canceling. The trial court recognized respondent loved her children and that she had made progress; however, she failed to make the necessary changes in her life to have the children returned to her care. In addition, it was not clear at what point in time respondent could or would be able to safely and successfully parent the children.

¶ 36 The trial court found that terminating respondent's parental rights was in the children's best interest, considering their physical safety, welfare, formation of identity, sense of security, and need for stability and continuity with their foster parents. The State proved this by a preponderance of the evidence. Based on the evidence adduced, we agree with appellate counsel that no meritorious argument can be made that the court's best interest finding was against the manifest weight of the evidence.

¶ 37 We agree there is no meritorious argument to be made to challenge the trial court's best interest determination and decision to terminate respondent's parental rights.

¶ 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.