2025 IL App (4th) 250588-U

NO. 4-25-0588

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
October 29, 2025
Carla Bender
4th District Appellate
Court, IL

In re E.C., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Knox County
Petitioner-Appellee,	)	No. 23JA8
v.	)	
Josiah C.,	)	Honorable
Respondent-Appellant).	)	Chad M. Long,
	)	Judge Presiding.

JUSTICE CAVANAGH delivered the judgment of the court.
Presiding Justice Harris and Justice Doherty concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court granted appellate counsel's motion to withdraw and affirmed, concluding no issue of arguable merit could be raised on appeal.

¶ 2 In December 2024, the State filed a petition to terminate the parental rights of respondent, Josiah C., to his minor child, E.C. (born September 2013). Following fitness and best-interest hearings, the trial court granted the State's petition and terminated respondent's parental rights. Respondent appealed, and counsel was appointed to represent him. Appellate counsel now moves to withdraw, citing *Anders v. California*, 386 U.S. 738 (1967), on the basis that he cannot raise any potentially meritorious argument on appeal. The record indicates a copy of counsel's motion and accompanying memorandum of law were sent to respondent by mail to his last known mailing address. It was returned as undeliverable. Respondent has not filed a response. After reviewing the record and counsel's memorandum, we grant the motion to

withdraw and affirm the court's judgment.

¶ 3 I. BACKGROUND

¶ 4 On February 17, 2023, the State filed a petition alleging E.C. was a neglected minor 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)). The petition alleged, *inter alia*, E.C. was in an environment injurious to his welfare in that his mother, Lacey C., had issues of substance abuse and domestic violence. She is not a party to this appeal. The petition also alleged respondent was, at the time, incarcerated after he fled from the police during a traffic stop. E.C. was in the vehicle at the time. He drove recklessly off-road and at high rates of speed trying to flee. He was apprehended and taken to jail.

¶ 5 On May 9, 2023, the trial court adjudicated E.C. neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act (*id.*) and respondent's acquiescence to the allegations as they pertained to him. After a June 13, 2023, dispositional hearing, the court made E.C. a ward of the court after finding respondent unfit and unable, for reasons other than financial circumstances alone, to care for E.C. Custody and guardianship was placed with the Illinois Department of Children and Family Services.

¶ 6 On December 18, 2024, the State filed a petition to terminate respondent's parental rights, alleging he failed to (1) make reasonable efforts to correct the conditions which were the basis for removal of the minor within nine months of adjudication (750 ILCS 50/1(D)(m)(i) (West 2024)); (2) make reasonable progress toward the return of the minor within nine months of adjudication (*id.* § 1(D)(m)(ii)); and (3) maintain a reasonable degree of interest, concern, or responsibility as to the minor's welfare (*id.* § 1(D)(b)). The State named the following two relevant nine-month periods relating to respondent's alleged failure to make

reasonable efforts and/or progress: May 10, 2023, to February 10, 2024, and February 11, 2024, to November 11, 2024.

¶ 7 On January 23, 2025, the trial court conducted a first appearance on the State's petition. Respondent failed to appear, but the court noted abode service to his aunt on December 19, 2024, at his reported address. The court declined to enter a default against respondent due to uncertainty about his address.

¶ 8 On March 11, 2025, the trial court conducted another first appearance after respondent was served by publication. He again failed to appear. The court found respondent in default for fitness purposes.

¶ 9 On April 1, 2025, the trial court conducted a best-interest hearing in respondent's absence. The court continued the matter and directed the preparation of a best-interest report.

¶ 10 On May 8, 2025, the trial court conducted the continued best-interest hearing in respondent's absence. After reviewing the best-interest report, the testimony of Sabrina Earl, the program director for Lutheran Social Services of Illinois (LSSI), the Court Appointed Special Advocate (CASA) report, the statutory best-interest factors, and the arguments of counsel, the court found it was in E.C.'s best interest to terminate respondent's parental rights. E.C. resided with his grandmother, wished to remain with her, and was emotionally attached to her.

¶ 11 This appeal followed.

¶ 12 II. ANALYSIS

¶ 13 On appeal, appellate counsel seeks to withdraw on the basis that he cannot raise any arguments of potential merit.

¶ 14 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). Counsel's request to withdraw must "be accompanied by a brief referring to anything in the record that might arguably support the appeal." *Anders,* 386 U.S. at 744. "[C]ounsel must *** sketch the argument in support of the issues that could conceivably be raised on appeal, and then *** explain why he believes the arguments are frivolous." *S.M.*, 314 Ill. App. 3d at 685. Counsel must then conclude the case presents no viable grounds for appeal. *Id.* In doing so, counsel should review both the unfitness finding and the best-interest determination and indicate in the brief he had done so. *Id.* at 685-86.

¶ 15 In the instant case, counsel asserts he has reviewed the record on appeal, including the report of proceedings of the termination hearing, and has concluded there are no appealable issues of merit. Counsel states he has considered raising an argument the trial court erred in finding respondent unfit. He also indicates he has considered raising an argument challenging the court's best-interest finding. We address each argument in turn and ultimately agree with counsel's conclusion there are no issues of arguable merit to be raised on review.

¶ 16 We initially address appellate counsel's assertion no meritorious argument can be made that the trial court erred in finding respondent failed to make reasonable efforts during the relevant time periods. We agree.

¶ 17 Termination of parental rights under the Juvenile Court Act is a two-step process. *In re Julian K.*, 2012 IL App (1st) 112841, ¶ 1. 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 2024)). *In re Gwynne P.*, 215 Ill. 2d 340, 354 (2005). Pursuant to section 1(D)(m)(i) of the Adoption Act (750 ILCS 50/1(D)(m)(i) (West 2024)), a parent may be found unfit if he fails to "make reasonable efforts to correct the conditions that were the basis for the removal of the child from

the parent during any 9-month period following the adjudication of neglected or abused minor."

¶ 18 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 circuit court's finding on the basis of the evidence in the record." (Internal quotation marks omitted.) *Id.*

¶ 19 Here, E.C. was removed from respondent's care because he was incarcerated and therefore did not have adequate housing for E.C. and he had previously been found unfit, without his fitness being restored by participating in services. During the two identified nine-month periods, as alleged in the petition, respondent did not complete *any* services to establish his fitness. Given respondent's complete lack of effort, we agree with counsel that any argument challenging the trial court's determination that respondent failed to make reasonable efforts to correct the conditions that were the basis for E.C.'s removal from his care would be entirely frivolous.

¶ 20 Likewise, any argument challenging the trial court's finding respondent was unfit for failing to make reasonable progress toward the return of E.C. to his care, as set forth in section 1(D)(m)(ii), would be frivolous. Pursuant to the statute, a parent may be found unfit if he fails to "make reasonable progress toward the return of the child to the parent during any 9-month period following the adjudication of neglected *** minor." 750 ILCS 50/1(D)(m)(ii) (West 2024). A "parent's failure to substantially fulfill his or her obligations under the service plan and correct the conditions that brought the child into care during any 9-month period following the adjudication" constitutes a failure to make reasonable progress for purposes of section 1(D)(m)(ii). *Id.*

¶ 21 Again, respondent failed to complete any of his recommended services during either of the two designated nine-month periods. He was ordered to complete (1) a mental health assessment and follow all recommendations, (2) a substance abuse assessment and follow all recommendations, (3) parenting education classes, (4) a domestic violence screening, and (5) drug screenings. He was also ordered to obtain a legal source of income and provide safe and suitable housing. Although he initiated some services, respondent continued to test positive for methamphetamine and struggled with housing issues. As such, he failed to successfully complete any service and was never close to having E.C. returned to his care. Given this evidence, it is clear respondent failed to make reasonable progress toward the return of the minor during any nine-month period after adjudication and any argument challenging the trial court's finding of unfitness on this ground would be frivolous.

¶ 22 Appellate counsel also asserts he can make no meritorious argument that the trial court's best-interest finding was against the manifest weight of the evidence. In a proceeding to terminate parental rights, the State must prove termination is in the minor's best interest by a preponderance of the evidence. *In re D.T.*, 212 Ill. 2d 347, 367 (2004). When considering whether termination of parental rights would be in the minor's best interest, the court must consider the statutory factors set forth in section 1-3(4.05) of the Juvenile Court Act (705 ILCS 405/1-3(4.05) (West 2024)). The court's decision will not be reversed unless it is against the manifest weight of the evidence. *In re Anaya J.G.*, 403 Ill. App. 3d 875, 883 (2010). A finding is against the manifest weight of the evidence only where the opposite conclusion is clearly apparent. *Id.*

¶ 23 At the best-interest hearing, the trial court considered the best-interest reports, the testimony from LSSI's program director, the CASA report, the statutory factors, and the

arguments of counsel. All of these considerations favored termination of respondent's parental rights. E.C. expressed his desire to remain in his grandmother's home. All of his needs were being provided, he had a strong, bonded, and loving relationship with her, and permanency and stability had been established. Nothing in the record indicated that termination would *not* be in E.C.'s best interest. Therefore, we find the court could reasonably and clearly conclude it was in E.C.'s best interest to terminate respondent's parent rights. We agree with counsel that any argument contesting the court's best-interest finding would be entirely frivolous.

¶ 24 III. CONCLUSION

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

¶ 26 Affirmed.