2024 IL App (5th) 231014-U

NOS. 5-23-1014, 5-23-1015, 5-23-1016, 5-23-1017, 5-23-1018, 5-23-1019 cons.



IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

| | | |
|---|---|---|
| *In re* ADDELYN A., ODAI A., and LAITH A., Minors | ) | Appeal from the Circuit Court of Macon County. |
| (The People of the State of Illinois, | ) | |
| Petitioner-Appellee, | ) | |
| v. | ) | Nos. 17-JA-71, 20-JA-280, and 18-JA-287 |
| Kadelin A. and Mohamed A., | ) | |
| Respondents-Appellants). | ) | Honorable Rodney S. Forbes, Judge, presiding. |

JUSTICE CATES delivered the judgment of the court.
Justice Moore concurred in the judgment.
Justice Welch specially concurred.

**ORDER**

¶ 1 *Held*: The circuit court's findings that Mother and Father were unfit, and that the termination of their parental rights were in the children's best interest, were not contrary to the manifest weight of the evidence.

¶ 2 The respondents, Kadelin A. (Mother) and Mohamed A. (Father), were found to be unfit parents and their parental rights were terminated by the circuit court of Macon County as to their minor children, Addelyn A., Laith A., and Odai A. The parents had a history with the Department of Children and Family Services (DCFS). The children were taken into care due to the parents' drug use, alcohol abuse, suicidal statements by Mother, and domestic violence issues.

¶ 3 On April 3, 2017, Addelyn A., born October 23, 2015, was removed from her parents' care after a physical altercation between Mother and Father, and due to positive drug screens on each parent. Mother and Father were homeless but had their own business where they were staying at that time.

¶ 4 Both Mother and Father made significant progress with their service plans, and they obtained stable housing and income. Mother gave birth to Laith A. on December 29, 2017, and he was not initially removed from their care. Addelyn A. was returned to the custody of her parents on January 10, 2018.

¶ 5 Father was subsequently charged with domestic battery. The service plan described Father as "an illegal immigrant from Yemen."[1] He was held at the Pulaski Immigration Detention Center. On December 24, 2018, Mother was arrested for manufacturing and delivering drugs. When Mother was arrested, Addelyn A. returned to foster care, and Laith A. was taken into care. Both parents became unemployed. On November 4, 2020, Mother prematurely gave birth to Odai A., who tested positive for cannabinoids at birth. Odai A. suffered from kidney issues and required specialized care. A temporary custody order was entered on November 25, 2020, regarding Odai A. At that point, DCFS had been granted guardianship of all three children.

¶ 6 Mother and Father were represented by the same attorney for the fitness hearing that took place on July 12, 2023, and on August 17, 2023, as well as the September 15, 2023, best-interest hearing. The circuit court entered a judgment as to parental fitness and permanent termination of each of the children on September 28, 2023. Mother and Father each filed timely notices of appeal

[1]A permanency order dated September 8, 2021, indicated that Father's "immigration status is unknown." Contrary to the representation in the special concurrence, the remainder of the record does not reveal the immigration status of Father.

for each of the children regarding the circuit court's fitness and best interest decisions. The cases were consolidated on appeal.

¶ 7 Termination of parental rights proceedings are governed by the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/1-1 *et seq.* (West 2022)) and the Adoption Act (750 ILCS 50/1 *et seq.* (West 2022)). *In re D.T.*, 212 Ill. 2d 347, 352 (2004). A petition to terminate parental rights is filed under section 2-29 of the Juvenile Court Act, which delineates a two-step process to terminate parental rights involuntarily. 705 ILCS 405/2-29(2) (West 2022). The State must first establish, by clear and convincing evidence, that the parent is an unfit person under one or more of the grounds enumerated in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2022)). 705 ILCS 405/2-29(2), (4) (West 2022); *In re J.L.*, 236 Ill. 2d 329, 337 (2010). If the circuit court finds a parent to be unfit, then the cause proceeds to a determination of whether it is in the best interest of the child for the parent's rights to be terminated. 750 ILCS 50/1(D) (West 2022); *In re M.J.*, 314 Ill. App. 3d 649, 655 (2000).

¶ 8 A determination of unfitness involves factual findings and credibility assessments, and the circuit court's factual findings will not be reversed unless they are against the manifest weight of the evidence. *In re M.J.*, 314 Ill. App. 3d at 655. A determination is against the manifest weight of the evidence if the opposite conclusion is clearly evident. *In re Gwynne P.*, 215 Ill. 2d 340, 354 (2005). The circuit court's finding of unfitness is given great deference because it has the best opportunity to view and evaluate the parties and their testimony. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1064 (2006). This court, therefore, does not reweigh the evidence or reassess the credibility of the witnesses. *In re M.A.*, 325 Ill. App. 3d 387, 391 (2001).

¶ 9 The finding of unfitness in this appeal was based upon grounds where Mother and Father failed to maintain a reasonable degree of interest, concern, or responsibility as to their children's

welfare (750 ILCS 50/1(D)(b) (West 2022)), and Mother and Father failed to make reasonable progress toward the return of their children within nine months following the adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2022)).

¶ 10 "Reasonable efforts" relate to correcting the conditions that led to the removal of the children and are judged by a subjective standard based upon the effort that is reasonable for a particular person involved. *In re Jacorey S.*, 2012 IL App (1st) 113427, ¶ 21. The court must determine whether the parent made earnest and conscientious strides toward correcting the conditions that led to the removal of the children. *In re L.J.S.*, 2018 IL App (3d) 180218, ¶ 24.

¶ 11 "Reasonable progress" is an objective standard focused on the goal of returning the child to the parent. *In re D.D.*, 309 Ill. App. 3d 581, 589 (2000). Progress is measured by the parent's compliance with the court's directives, services plans, or both and requires the parent to make measurable or demonstrable movement toward the reunification goal in the near future. *In re Daphnie E.*, 368 Ill. App. 3d at 1067.

¶ 12 If the circuit court finds a parent to be unfit, the cause proceeds for the circuit court to determine whether it is in the best interest of the child for the parent's rights to be terminated. 750 ILCS 50/1(D) (West 2020); *In re M.J.*, 314 Ill. App. 3d at 655. During this step, the focus of the circuit court shifts to the best interest of the child and away from the rights of the parent. *In re P.S.*, 2021 IL App (5th) 210027, ¶ 30.

¶ 13 In making a "best interest" determination, section 1-3(4.05) of the Juvenile Court Act requires the circuit court to consider specific statutory factors, in the context of the child's age and developmental needs. 705 ILCS 405/1-3(4.05) (West 2020). "Additionally, a 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).

¶ 14 The circuit court is not required to articulate any specific rationale for its decision, and on review we may affirm the circuit court's decision without relying on any basis used by the circuit court. *In re Tiffany M.*, 353 Ill. App. 3d 883, 893 (2004). A finding that termination is in the child's best interest will not be reversed unless it is contrary to the manifest weight of the evidence. *In re M.F.*, 326 Ill. App. 3d 1110, 1116 (2002). A determination is against the manifest weight of the evidence only if the facts clearly demonstrate that the court should have reached the opposite result. *In re D.M.*, 336 Ill. App. 3d 766, 773 (2002).

¶ 15 The guardian *ad litem* (GAL) filed motions seeking the finding of unfitness and permanent termination of Mother and Father for each of the children. Because the children came into care at different times, the nine-month periods for the parents to make reasonable progress toward the return of their children were different for each child. The motion regarding Addelyn A. included the following nine-month periods: June 19, 2017–March 19, 2018, March 19, 2018–December 19, 2018, December 19, 2018–September 19, 2019, September 19, 2019–June 19, 2020, June 19, 2020 –March 19, 2021, March 19, 2021–December 19, 2021, and May 28, 2021–February 28, 2022. For Laith A., the motion included the following nine-month periods: March 14, 2019–December 14, 2019, December 14, 2019–September 14, 2020, September 14, 2020–June 14, 2021, and May 28, 2021–February 28, 2022. For Odai A., the nine-month periods included: April 7, 2021–January 7, 2022, January 7, 2022–October 7, 2022, and May 14, 2022–February 14, 2022. The GAL additionally filed supplement petitions for each child which alleged additional nine-month time periods including: February 28, 2022–November 28, 2022, and June 10, 2022–March 10, 2023.

¶ 16 Amy Chase, the program coordinator at The Parent Place, a child abuse prevention agency, testified to Mother's progress in parenting classes. Mother began parenting classes in October of 2022. Chase testified that she was unable to determine whether Mother was able to apply the parenting program skills. The parent educator observes up to eight hours of supervised visitation and he was unable to reach the DCFS caseworker or Mother to make the determination of whether Mother successfully completed the program.

¶ 17 Chamica Demus, a parenting educator with Webster Cantrell Youth Advocacy, testified to Father's progress with parenting classes. Father began parenting classes on April 30, 2021. Father had been offered 50 appointments. He attended 35, and there were 15 cancellations or "no-shows." Father finished the 32-week curriculum on April 27, 2022, and the caseworker rated Father unsatisfactory. Demus testified that Father was so "aggressive" and "irate" during the post-assessment requirement that two additional workers intervened to calm Father's behavior. Demus described Father's behavior as he becomes "aggressive in a way where you can barely get a word in with him."

¶ 18 Lynley Young, the foster care supervisor at Webster Cantrell Youth Advocacy, testified that Mother was required to complete substance abuse, mental health, and parenting services. Drug testing was required as part of the substance abuse services. Mother attended 50 out of 81 drug screens. Young testified that hair follicle drug tests were required after the lab determined that urine tests were adulterated. Mother tested positive for THC in one of the hair follicle tests and refused four hair follicle tests.

¶ 19 Mother completed a mental health assessment, and no services were recommended. Mother successfully completed a parenting class after Addelyn A.'s initial removal from their care. Mother was required to complete another parenting course after the children were taken into care in 2018.

Mother had three unsuccessful attempts at parenting class. Then, Mother was incarcerated from June of 2021 until February 2022 for a drug offense. Mother started complying with services after she was released from custody in February of 2022. Mother completed parenting classes on January 26, 2023. According to Young, Mother also was not compliant with attending family team meetings and communicating with her caseworker. Young testified that Mother was never rated satisfactory on her service plan.

¶ 20 Father was required to complete a substance abuse assessment, anger management courses, parenting classes, a psychological assessment, and drug screens. Father did not successfully complete anger management classes. Father did not complete a psychological assessment. Father completed a substance abuse assessment. Substance abuse services were not recommended but Father was required to complete drug screenings. Father was required to take 105 drug tests, and he completed 48. Several tests were adulterated, and four hair follicle tests were refused. On February 16, 2023, Father completed a hair follicle test, and he tested positive for ecstasy.

¶ 21 Young testified that Mother showed "an inability to protect her children in that family unit." Father's lack of progress affected having the children returned to Mother because of the relationship between Mother and Father. Young additionally testified that the children were brought into care because of substance use and Father had recently tested positive test for ecstasy. The conditions that brought the children into care had not improved.

¶ 22 Mother testified that she completed the parenting class twice. Mother admitted to being pulled over and having drugs in her vehicle in 2018. Addelyn A. was taken back into protective custody after that incident. Mother never had unsupervised, extended, or overnight visitation with her children. Mother additionally testified that Father was born and raised in Yemen, and she

believed that the Arabic people she has interacted with are "very passionate" and "come off aggressive." Mother denied drug use and denied any incidents of domestic violence with Father.

¶ 23 The evidence demonstrated that Mother and Father had not made reasonable progress where they had not made demonstrable movement toward the reunification goal during either nine-month period. Because the circuit court's finding may be affirmed where the evidence supports a finding of unfitness as to any one of the alleged grounds, we need not consider whether Father failed to maintain a reasonable degree of interest, concern, or responsibility as to their children's welfare as defined in section 1(D)(b) of the Adoption Act. See *In re C.W.*, 199 Ill. 2d 198, 217 (2002).

¶ 24 Lynley Young testified at the best-interest hearing that Addelyn A. and Laith A. were placed together while Odai A. was placed in a separate home due to his complex medical needs. Odai A. had visits with his siblings twice a month. According to Young, there were no concerns with their foster placements. Addelyn A. and Laith A. were both doing well in school. Odai A.'s foster parents were "very attentive" and "medically, he's doing better than expected." Certain foods affect Odai A.'s kidney functions and Mother and Father fed Odai A. inappropriate food during visitation.

¶ 25 Young additionally testified that there have been safety issues with Mother and Father throughout the case that still exist. The children have been in foster placement for a long period of time, and all of the children had formed bonds with their foster families. The foster placements were committed to providing permanency.

¶ 26 As explained above, on review, this court will not reweigh the evidence or reassess the credibility of the witnesses. The circuit court was in the best position to make a credibility assessment of the witnesses. We have thoroughly reviewed the record on appeal and conclude that

it does not demonstrate that the circuit court's fitness and best interest decisions were against the manifest weight of the evidence.

¶ 27 We affirm the circuit court's findings made on the record during the July 12, 2023, and August 17, 2023, fitness hearing, the September 15, 2023, best-interest hearing, and the September 28, 2023, written judgment as to parental fitness and permanent termination.

¶ 28 Affirmed.

¶ 29 JUSTICE WELCH, specially concurring:

¶ 30 While I concur with the majority, I respectfully submit that the proper term, as used by the United States Supreme Court in *Arizona v. United States*, 567 U.S. 387, 392-93 (2012)), is "illegal alien."