2023 IL App (4th) 220868-U

NO. 4-22-0868

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
February 27, 2023
Carla Bender
4th District Appellate
Court, IL

In re A.M., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Winnebago County
Petitioner-Appellee,	)	No. 19JA302
v.	)	
Charles P.,	)	Honorable
Defendant-Appellant).	)	Francis Martinez,
	)	Judge Presiding.

PRESIDING JUSTICE DeARMOND delivered the judgment of the court.
Justices Cavanagh and Harris concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, holding the circuit court did not err in terminating Father's parental rights.

¶ 2 In July 2019, the State filed a petition for adjudication of neglect regarding A.M., the minor child of respondent father, Charles P. (Father). The circuit court granted the petition, adjudging A.M. neglected and making him a ward of the court. In April 2022, the State filed a motion to terminate Father's parental rights. After a hearing, the court found Father to be an unfit parent pursuant to section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2020)). The court subsequently found it was in A.M.'s best interest to terminate Father's parental rights.

¶ 3 Father appeals, arguing the circuit court's unfitness finding was against the manifest weight of the evidence. We affirm.

¶ 4 I. BACKGROUND

¶ 5 On July 11, 2019, the State filed a petition for adjudication of neglect regarding A.M. (born July 8, 2019). After giving birth, A.M.'s mother (Mother) refused to allow Father to visit her in the hospital or sign A.M.'s birth certificate, accusing him of physically abusing her and claiming he hit her while she was pregnant. On July 10, 2019, Mother was involuntarily psychiatrically hospitalized, and A.M. was taken into protective custody. The circuit court granted the petition, adjudging A.M. neglected and a ward of the court.

¶ 6 On April 19, 2022, the State filed a motion to terminate Father's parental rights, alleging he was unfit because he failed to maintain a reasonable degree of interest, concern, or responsibility regarding A.M.'s welfare (750 ILCS 50/1(D)(b) (West 2020)), he failed to make reasonable efforts to correct the conditions leading to A.M.'s removal from his custody from June 11, 2021, to March 11, 2022 (750 ILCS 50/1(D)(m)(i) (West 2020)), and he failed to make reasonable progress toward A.M.'s return to his custody during the periods from April 26, 2020, to January 26, 2021, and from June 11, 2021, to March 11, 2022 (750 ILCS 50/1(D)(m)(ii) (West 2020)).

¶ 7 On May 16, 2022, the circuit court conducted a fitness hearing, where Evanya Perry-Burks, the assigned caseworker, testified both Father and Mother reported domestic violence incidents occurred between them. During one such incident, on June 3, 2021, Father shoved Mother out of his truck. According to Father, Mother had a "mental health episode," and she grabbed the steering wheel to move the vehicle into oncoming traffic. Father shoved Mother away, causing her to hit her head so badly she had to be hospitalized. Following this altercation, Father was arrested and charged with aggravated battery, and a no contact order was entered. However, Father continued his relationship with Mother, and she moved in with him in March

2022. Perry-Burks informed Father his ongoing relationship with Mother violated the no contact order, which could prevent him from reunifying with A.M.

¶ 8 Perry-Burks testified regarding five different service plans, created on January 11, 2020, July 16, 2020, January 15, 2021, July 8, 2021, and January 18, 2022, respectively. Father successfully completed only the third service plan, which was dated January 15, 2021. In the final service plan, Perry-Burks observed Father "continued to be arrested" for violating the no contact order and asserted "this will continue to be an issue if [A.M.] were returned home." According to Perry-Burks, there was "no length of time throughout the case with stability or an absence of [domestic violence] reports or arrests."

¶ 9 Darius Strong, a therapist with the Children's Home and Aid partner abuse intervention program (PAIP), testified Father completed an assessment on December 1, 2021. Based on the assessment, Strong did not recommend Father complete any services. However, Strong testified the PAIP assessment gauges whether one partner exercises power or control over the other, with little or no retaliation—it does not apply to relationships where both partners use the same or similar controlling tactics on each other. At the time of the assessment, Strong did not know Father was charged with violating the no contact order twice in November 2021, and Strong testified the assessment's result may have been different if he had known of those charges.

¶ 10 Father testified he was required to take parenting classes, participate in counseling, complete a parenting capacity assessment, and complete a domestic violence assessment. Father successfully finished parenting classes in 2020. Father testified he was discharged from individual counseling after approximately a month because he "already had the coping skills [the counselor] was going to teach [him]." He reengaged with individual counseling

a year later because he "was having a little bit of trouble with [his] son not being with [him]." Father and Mother initially participated in couple's counseling, but they stopped due to the no contact order.

¶ 11 On July 26, 2022, the circuit court found the State proved Father unfit by clear and convincing evidence, observing Father repeatedly violated the no contact order and failed to make significant progress in any attempted domestic violence counseling. The matter then proceeded to a best-interest hearing, where the circuit court found it was in A.M.'s best interest to terminate Father's parental rights.

¶ 12 This appeal followed.

¶ 13 II. ANALYSIS

¶ 14 On appeal, Father argues the circuit court's fitness determination was against the manifest weight of the evidence, insisting he maintained a reasonable degree of interest in A.M.'s welfare, he made reasonable efforts to correct the conditions resulting in A.M.'s removal from his custody, and he made reasonable progress toward reunification. We disagree.

¶ 15 The Juvenile Court Act (705 ILCS 405/1-1 *et seq.* (West 2020)) and the Adoption Act (750 ILCS 50/1 *et seq.* (West 2020)) govern how the State may terminate parental rights. *In re D.F.*, 201 Ill. 2d 476, 494, 777 N.E.2d 930, 940 (2002). To terminate a person's parental rights, the State must first show the parent is an "unfit person," and then the State must show terminating parental rights serves the child's best interest. *D.F.*, 201 Ill. 2d at 494-95 (citing the Adoption Act (750 ILCS 50/1(D) (West 1998)) and the Juvenile Court Act (705 ILCS 405/2-29(2) (West 1998))).

¶ 16 Here, Father challenges the circuit court's fitness determination, but not its best-interest determination. "The State must prove parental unfitness by clear and convincing

evidence, and the trial court's findings must be given great deference because of its superior opportunity to observe the witnesses and evaluate their credibility." *In re T.A.*, 359 Ill. App. 3d 953, 960, 835 N.E.2d 908, 913 (2005). "We will not reverse a trial court's finding of parental unfitness unless it was contrary to the manifest weight of the evidence, meaning that the correctness of the opposite conclusion is clearly evident from a review of the evidence." *T.A.*, 359 Ill. App. 3d at 960.

¶ 17 The Adoption Act provides several grounds on which a circuit court may find a parent unfit, including: the parent's failure to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare (750 ILCS 50/1(D)(b) (West 2020)); the parent's failure to make reasonable efforts to correct the conditions that were the basis for the removal of the minor from the parent during any nine-month period following the adjudication of neglect or abuse or dependency under the Juvenile Court Act (750 ILCS 50/1(D)(m)(i) (West 2020)); and the parent's failure to make reasonable progress toward the return of the child to the parent during any nine-month period following the adjudication of neglect or abuse (750 ILCS 50/1(D)(m)(ii) (West 2020)). If a service plan has been established to correct the issues that served as the basis for removing the child from the parent, " 'failure to make reasonable progress toward the return of the child to the parent' includes the parent's failure to substantially fulfill his or her obligations under the service plan." 750 ILCS 50/1(D)(m)(ii) (West 2020).

¶ 18 "[S]ufficient evidence of one statutory ground *** [is] enough to support a [court's] finding that someone [is] an unfit person." (Internal quotation marks omitted.) *In re F.P.*, 2014 IL App (4th) 140360, ¶ 83, 19 N.E.3d 227; see also *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1064, 859 N.E.2d 123, 135 (2006) ("A finding of unfitness will stand if supported by any one of the statutory grounds set forth in section 1(D) of the Adoption Act.").

¶ 19 Father argues the circuit court's unfitness finding was against the manifest weight of the evidence because he "completed every task asked of him," he engaged in counseling after committing an act of domestic violence that caused Mother to be hospitalized on June 3, 2021, he "put significant effort into correcting the conditions of removal," and he "demonstrated measurable movement toward reunification." However, the circuit court, which is best positioned to determine the witnesses' credibility, found Father failed to make reasonable efforts and progress toward reunification, as indicated by his repeated no contact order violations and his failure to make significant progress in any attempted domestic violence counseling. "It is not the function of the reviewing court to reweigh evidence or reassess the credibility of the witnesses." *In re C.P.*, 191 Ill. App. 3d 237, 244, 547 N.E.2d 604, 608 (1989). The circuit court's finding was not against the manifest weight of the evidence, as the opposite conclusion was not clearly evident. *T.A.*, 359 Ill. App. 3d at 960.

¶ 20 The record shows Father successfully completed just one of five service plans, specifically the third service plan, which was dated January 15, 2021. These plans were established to correct the issues that served as the basis for removing A.M. from Father and Mother's custody. Thus, under section 1(D)(m)(ii) of the Adoption Act, Father failed to make reasonable progress toward A.M.'s return to his custody, as he did not successfully complete any service plan during the nine-month period from June 11, 2021, to March 11, 2022. See 750 ILCS 50/1(D)(m)(ii) (West 2020). Father did not pursue services to address his history of domestic violence, which included striking Mother while she was pregnant and shoving her so hard that she required hospitalization. Per the final service plan, there was "no length of time throughout the case with *** an absence of [domestic violence] reports or arrests." Further, Father blatantly ignored the no contact order and continued his relationship with Mother. Perry-Burks advised

Father that his ongoing relationship with Mother could prevent him from reunifying with A.M., but Father disregarded her warning.

¶ 21 While Strong testified Father completed a PAIP assessment and no additional services were recommended, Father did not inform Strong of two no contact order violations with which he was charged in November 2021. Strong admitted the assessment's result might have been different if Father divulged this information. Strong also testified the PAIP assessment applies to relationships where one partner exercises control over the other without retaliation, while the record suggests Father and Mother both tried to exercise control over each other.

¶ 22 Father failed to make reasonable progress toward reunification during the nine-month period from June 11, 2021, to March 11, 2022, because he did not successfully complete any of the established service plans during that time. See 750 ILCS 50/1(D)(m)(ii) (West 2020) (" '[F]ailure to make reasonable progress toward the return of the child to the parent' includes the parent's failure to substantially fulfill his or her obligations under the service plan."). The circuit court's unfitness finding was not against the manifest weight of the evidence, as Father declined to pursue or complete any services addressing his history of domestic violence, he continuously refused to obey the no contact order, and he did not complete a service plan satisfactorily after January 15, 2021. Because we affirm on reasonable progress grounds, we need not address Father's reasonable degree of interest and reasonable efforts arguments. See *F.P.*, 2014 IL App (4th) 140360, ¶ 83; *In re M.I.*, 2016 IL 120232, ¶ 43, 77 N.E.3d 69.

¶ 23 III. CONCLUSION

¶ 24 For the foregoing reasons, we affirm the circuit court's judgment.

¶ 25 Affirmed.