

No. 1-11-1539

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IN THE APPELLATE COURT
OF ILLINOIS
FIRST JUDICIAL DISTRICT

In the Interest of James B.-W, a Minor,)	Appeal from the
)	Circuit Court of
Respondent-Appellee,)	Cook County, Illinois
)	Juvenile Justice and Child
(The People of the State of Illinois,)	Protection Department,
)	Child Protection Division.
Petitioner-Appellee,)	
)	
v.)	05 JA 00220
)	
James W.,)	
)	Honorable John Huff,
Respondent-Appellant).)	Judge Presiding.

JUSTICE McBRIDE delivered the judgment of the court.
Presiding Justice Epstein and Justice Howse concurred in the judgment.

ORDER

HELD: The circuit court’s finding that respondent was an unfit parent was not against the manifest weight of the evidence where the evidence established that respondent did not maintain a reasonable degree of interest, concern or responsibility as to the child’s welfare. The trial court’s finding that it was in the best interests of the minor to terminate respondent’s parental rights was also not against the manifest weight of the evidence.

1-11-1539

Respondent, James W., is the biological father of the minor, James B.-W..¹ Following a hearing in April 2011, the trial court found that respondent was an unfit parent. Following a May 2011 hearing, the court found that it was in the minor's best interests to terminate respondent's parental rights. Respondent appeals from both of the trial court's findings. For the reasons that follow, we affirm.

The undisputed facts establish that the minor was born ten weeks premature on July 7, 2004, to respondent and the mother, Michelle B. At the time of the minor's birth, the biological mother had a number of other children who were or had been in the custody of the Department of Child and Family Services (DCFS) based upon findings of abuse, neglect and/or unfitness. The minor tested positive for cocaine at birth and the mother admitted to having used illegal substances while pregnant with the minor and to the ongoing use of illegal substances after the minor was born. The minor was born with numerous ailments, including cerebral palsy, meningitis, sepsis, seizure disorders, exposure to a serious life-threatening illness, and hydrocephaly (water on the brain), which necessitated a shunt. The minor had been hospitalized since birth with these ailments and medical personnel diagnosed him as a medically complex child who had multiple special needs. In February of 2005, the minor was ready for discharge from the hospital but required ongoing medical care.

On February 17, 2005, the State filed a petition for adjudication of wardship and a motion for temporary custody of the minor. On that same date, the trial court held a temporary custody hearing and appointed the Cook County Public Guardian as attorney and guardian *ad litem* for

¹The minor's biological mother is deceased and is not a party to this appeal.

1-11-1539

the minor. Respondent's whereabouts were unknown at that time. At the temporary custody hearing, the parties stipulated to the undisputed facts set forth above. It was also stipulated that the mother and respondent had not completed the medical training necessary to properly care for the minor, that they had not demonstrated the ability to care for the minor, and that reasonable efforts at that time could not eliminate the need to remove the minor from the home. Based upon these stipulated facts, the trial court entered a temporary custody order without respondent's presence giving temporary custody of the minor to a DCFS Guardianship Administrator with the right to place the minor. The court found that probable cause existed that the minor was abused and neglected, that there was an urgent and immediate necessity to remove the minor from the home, and that reasonable efforts at the time could not prevent or eliminate the need to remove the child from the home. On February 28, 2005, the temporary custody order was entered against respondent with prejudice.

The minor's case was assigned to the DCFS on March 5, 2005, and an integrated assessment report was prepared by DCFS on April 1, 2005. According to that report, respondent was interviewed on March 21, 2005, when he made an "impromptu" visit to DCFS offices. The DCFS worker explained to respondent the services that would be asked and required of him in order for the minor to be returned to his care. Respondent stated that he would accept the services but remained "very secretive" about his housing, employment, and day-to-day activities. He also stated that the minor's conception was a "big mistake" because he and the mother had a "life threatening illness."

A client service plan was initiated on April 5, 2005. At that time, DCFS had been

1-11-1539

providing intact family services to the family since July of 2004 in order to prevent the minor from being removed from his father's care. The service plan included a task sheet dated February 28, 2005, in which respondent was given an unsatisfactory rating on his tasks from the intact case. These tasks included keeping his whereabouts known at all times, keeping all scheduled appointments with DCFS, attending all appointments with professionals providing services to the minor's case, signing consent forms to release information when necessary, and notifying DCFS if any appointments needed to be cancelled. Further, respondent was uncooperative and did not comply with the tasks set out for him. Respondent's whereabouts became unknown to the intact case worker.

In the April 2005 service plan, the DCFS caseworker also listed the services respondent needed to complete to be reunited with the minor. Respondent was to make his whereabouts known at all times and contact DCFS in the event that his location changed or if employment or illness kept him from completing services. Respondent was also required to attend parenting classes and training for medically complex children so that he could learn to care for his child. He was required to attend a self-help group to learn how to cope with caring for a child with complex medical needs and to submit bi-monthly urine drops. Respondent was required to take care of his personal medical needs due to his own life-threatening illness and to sign consent forms allowing the release of information. Finally, respondent was required to allow DCFS to administer assessments for necessary drug treatment, parenting and counseling services.

On April 20, 2005, the trial court appointed a private bar attorney to represent respondent and also ordered parentage testing. On October 4, 2005, the parentage testing results were

1-11-1539

received and the trial court found respondent to be the minor's father.

Respondent's Juvenile Court Assessment Program (JCAP) Abuse Screening /Assessment Summary report was filed with the court on November 22, 2005. According to that report, respondent was a 42-year-old male who presented a 32-year history of chemical dependency. Cocaine was his primary drug of choice and he began using the drug at the age of 20. His pattern of use was to smoke cocaine three or more times per week. Respondent's secondary drug of choice was heroin, which he had used for the previous two years. His pattern of usage was to inhale one \$10 bag of heroin twice a week. His third drug of choice was alcohol, which he had consumed since he was ten years old. His pattern of usage was to drink half a pint of whiskey and one .220 ounce bottle of beer three or more times per week. During the screening, respondent represented that he last used cocaine, heroin and alcohol in April of 2005. Respondent's fourth drug of choice was cannabis, which he had used for 26 years until he stopped in 2004. The report further states that respondent minimized his chemical use and history and that he had placed himself in physically hazardous situations and encountered legal problems due to his chemical and alcohol use. The report notes that respondent was currently on probation for drug conspiracy until 2007 and that he was unemployed. Respondent met the criteria for residential treatment and had been unable achieve a substance-free lifestyle. The report recommended that respondent participate in Cornell-Interventions Outpatient Program.

A client service plan was initiated on December 7, 2005. Respondent's overall progress was rated as satisfactory and his progress in all of the recommended services recommended was also rated as satisfactory. The plan states that since respondent was released from jail in

1-11-1539

September of 2005, he had participated in the JCAP assessment and enrolled in the recommended outpatient program and parenting classes. The service plan recommended that respondent continue to attend all of the previously recommended services and that he attend Narcotics Anonymous and Alcoholics Anonymous meetings to help him lead a drug-free life.

On January 10, 2006, the trial court held an adjudicatory hearing where the parties proceeded by stipulating to the same facts that had been stipulated to at the temporary custody hearing. Based upon those facts, the trial court found that the minor was neglected because he was subject to an injurious environment and because he was born a drug-exposed infant. The court also found that the minor was abused because he faced a substantial risk of physical injury.

A dispositional hearing was held on February 10, 2006. Following that hearing, the court found that respondent and the minor's mother were unable for reasons other than financial circumstances alone to care for, protect, train, or discipline the minor. The court also found that reasonable efforts had been made to prevent the need to remove the child from the home but that those efforts had been unsuccessful. Finally, the court found that it was in the best interests of the minor to be removed from the parents' custody and to be placed in the guardianship of the DCFS guardianship administrator. The minor's mother subsequently passed away on September 28, 2006.

A client service plan was initiated on June 8, 2006. Respondent's overall progress as well as his progress as to each recommended service plan intervention except keeping DCFS informed of his whereabouts was rated as unsatisfactory. In a summary of the developments since the last service plan, the assigned caseworker noted that respondent was not currently in

1-11-1539

any services and that he was terminated from parenting classes, where he had been doing well, when he "disappeared for four weeks." A permanency goal of a return home within 12 months was entered in order to give respondent "ample time to complete the recommended services" in order to regain custody of the minor. In order to achieve this goal, DCFS recommended the same services that had previously been recommended.

On November 6, 2006, the court held a permanency hearing and entered a goal of return home within 12 months. The court found that respondent had made substantial progress towards the return home of the minor but that he needed additional services in order to effectuate the permanency goal. This included the need for a psychiatric evaluation and the need to follow any recommendations from that evaluation.

A client service plan was initiated on December 5, 2006. Respondent's overall progress toward the permanency goal of a return home within 12 months was rated as unsatisfactory. In a summary of developments in the case, the caseworker noted that DCFS had no documentation of completed services. However, respondent had completed an inpatient program and had been transferred to a "next step program" as part of his recovery process. Respondent also began working on October 31, 2006, for three days a week at a restaurant. Respondent had a random drug test on October 4, 2006, and tested negative for illegal substances. Nevertheless, respondent's progress in each recommended service plan intervention was rated as unsatisfactory except for visitation of the minor. DCFS recommended a permanency goal of a return home within 12 months and recommended the same services that had previously been recommended.

A progress hearing was held on January 16, 2007, at which a report from respondent's

1-11-1539

therapist was admitted into evidence. The report states that respondent had been participating in weekly therapy for anger management since February of 2006. The report also states that respondent's commitment to therapy had been good but that he had missed several appointments due to lack of carfare. Further, respondent was unemployed as of the date of the report (1/11/07), having been fired from his last job, but that he continued to seek employment. Respondent's anxiety and depression had lessened since he began therapy and it was recommended that he continue counseling.

A permanency hearing was held on April 16, 2007, after which the court entered a goal of return home within 12 months. The court found that respondent had not made substantial progress toward the return home of the minor because, while he was participating in services for his drug addiction, he had failed to participate in services designed to help him care for the minor's medically complex needs. The court also found that respondent continued to need a psychiatric evaluation and that he also needed a parenting capacity assessment.

A client service plan was initiated on June 6, 2007. Respondent's overall progress toward the goal of a return home was rated as unsatisfactory. Respondent was given this rating because he had not provided proof that he participated in services in the last 45 days, he did not submit to requested urine drops, he refused to submit to a psychological evaluation, and he had not provided the DCFS worker with information on his own life-threatening illness. Respondent also did not attend the minor's medical appointments and failed to attend classes to help him care for a medically complex child. The permanency goal remained a return home and, in addition to the previously recommended services, respondent was required to attend CPR

1-11-1539

training sessions and to provide information regarding his criminal past and the conditions of his probation. In a summary of developments since the last service plan, the caseworker states that respondent was involved in services to address issues of depression and anger management and that he was also receiving substance abuse counseling. Respondent had been participating in random urine drops and testing negative until April of 2007, when refused to submit urine drops. Respondent again refused to submit a urine drop in May of 2007. Respondent had not been attending training sessions for dealing with a medically complex child and he did not attend a scheduled CRP training session. The caseworker visited respondent to provide him transportation to one of these training sessions but respondent did not go to the session. On May 11, 2007, respondent scheduled a visit with the minor but did not attend or call during the scheduled visit to inform DCFS that he would not be attending. The minor, a nurse and the caseworker waited over an hour for respondent to arrive.

A permanency hearing was held on October 16, 2007, after which the court entered a permanency goal of substitute care pending court determination on termination of parental rights. The reasons for selecting that goal and ruling out the prior goal were that the minor was "profoundly mentally retarded" and suffered from severe medical conditions, and that respondent had not began or completed services that were necessary to reunite him with the minor.

A client service plan was initiated on December 5, 2007, and respondent's overall progress was rated as unsatisfactory. In a summary of developments, the assigned caseworker stated that respondent had not attended training sessions for dealing with a medically complex child. Moreover, respondent's whereabouts from May to September of 2007 were unknown.

1-11-1539

The caseworker noted that respondent told the court that he was in jail for a violation of probation but refused to provide any further details. During that period he did not have any contact with the minor. After the court changed the permanency goal on October 16, 2007, respondent told the caseworker that he would attend the training sessions for dealing with complex children. However, the location where respondent was to have attended those sessions no longer offered that program. Respondent was employed at a local restaurant but did not have an apartment. The service plan also reflects that respondent did not provide DCFS with information regarding his life-threatening illness or his criminal background and he had not completed the required psychological assessment. The caseworker stated that respondent did what he felt was needed but "not what [was] required by the service plan." Respondent had been attending some group therapy sessions. The caseworker also stated that respondent followed up "with some of the drug treatments and services at a minimum" but that he had not demonstrated the ability to care for the minor and had not completed many of the services necessary to care for the minor, including CPR training. Respondent had completed the initial portion of the parenting assessment.

Following a permanency hearing on May 6, 2008, the court entered a goal of substitute care pending court determination on termination of respondent's parental rights. The reasons for this goal were that the minor had several special needs, was in a stable placement, and respondent was not visiting the minor and had not completed the services necessary to reunite him with the child. The same goal was entered following a November 6, 2008 permanency hearing. The reasons for this goal were that the minor had extreme special needs which were

1-11-1539

being fully addressed by his foster parent.

A client service plan was entered on June 9, 2008. The caseworker stated that respondent had relapsed and started to use drugs again and that he had refused a request to provide a urine drop. He told the caseworker that he was entering another treatment facility. The caseworker also stated that respondent had not been heard from "in about a month" and that respondent "often gets lost this time of year." Respondent did not complete the parenting assessment and refused to meet with the assessment team. His attendance at services was "sporadic" and his commitment was "low." He cancelled several visits with the minor and did not request visits several other times.

The trial court entered a permanency order on November 6, 2008, with a goal of substitute care pending court determination on termination of parental rights. The court noted that the minor had "extreme special needs" that were being met by the foster parent.

A client service plan was entered on November 24, 2008. The service plan states that respondent had not visited the minor in the past six months and had not contacted the caseworker in over five months. The caseworker contacted respondent by phone on November 7, 2008, and respondent told the caseworker that he was working in Wisconsin and that he did not plan to return to Chicago "anytime soon." Respondent provided the caseworker with an address where he could be reached and was told by the caseworker of the pending termination proceedings. The service plan further states that respondent had not participated in any services since June of 2008. Finally, respondent had not visited the minor in the last six months and had not had any other contact with the minor.

1-11-1539

On December 16, 2008, the State filed a supplemental petition seeking to terminate respondent's parental rights and the appointment of a guardian with power to consent to the minor's adoption. The State alleged that respondent was unfit under the following grounds: (1) he failed to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare (750 ILCS 50/1(D)(b) (West 2008)); (2) he had deserted the minor for more than three months preceding the commencement of the termination proceedings (750 ILCS 50/1(D)(c) (West 2008)); (3) he had been a habitual drunkard and/or addicted to drugs other than those prescribed by a physician for at least one year immediately prior to the commencement of the unfitness proceeding (750 ILCS 50/1(D)(k) (West 2008)); and (4) he failed to make reasonable efforts to correct the conditions that were the basis for the removal of the minor from him and/or had failed to make reasonable progress toward the return of the minor to him within nine months after the adjudication of neglect or abuse, or after an adjudication of dependency, and/or within any nine months period after said finding (750 ILCS 50/1(D)(m) (West 2008). The State specified four nine-month time periods: (1) the initial nine-month time period of January 10, 2006 through October 9, 2006; (2) October 10, 2006 through July 9, 2007; (3) July 10, 2007 through April 9, 2008; and (4) April 10, 2008 through January 9, 2009. The petition also alleged that it was in the best interests of the minor that a guardian be appointed with the right to consent to adoption because the minor had resided in a foster home since July 5, 2005, the foster parent wanted to adopt the minor, and adoption by the foster parent was in the minor's best interests.

A client service plan was initiated on June 1, 2009. The report states that respondent had not visited the minor in the last 18 months and had not requested any visits. Respondent had not

1-11-1539

contacted the caseworker for over five months and the last contact with respondent was at a court date on April 14, 2009. Respondent had not made himself available for services and he continued to reside in Wisconsin.

A service plan was initiated on December 11, 2009. The report states that respondent had not been involved in services in the last 18 months and that he had not contacted the caseworker in the last year. Respondent had not visited the minor in over two years but he had tried to call "several times."

The State amended its termination petition on August 18, 2010, adding the allegation that respondent was unfit because he was "depraved" based on his prior criminal convictions (750 ILCS 50/1(D)(i) (West 2008)). The State subsequently withdrew its allegation that respondent was unfit under ground k (750 ILCS 50/1(D)(k) (West 2008)).

The unfitness hearing was held on April 26, 2011. Respondent was represented by counsel at the hearing but was not present because he was incarcerated in Wisconsin. At the start of the hearing, the State introduced certified copies of respondent's convictions for two felony retail thefts in 2001 and 2002, and for criminal drug conspiracy and possession of a controlled substance in 2005.

The State called James Wages as a witness. Wages testified that he was a child welfare specialist employed by Seguin Services and that he was assigned to the minor's case in January of 2007. Respondent had already been assessed for services at the time Wages was assigned to the case. He was assessed for individual and group therapy, drug treatment and counseling, and a psychological evaluation. Respondent had also been asked to provide all information

1-11-1539

regarding his various illnesses.

Wages testified that for the period of January to June of 2007, respondent was "sporadically" compliant with these services. His rating was "satisfactory" for individual therapy and drug treatment and counseling. He also participated in weekly, supervised visits with the minor. However, respondent failed to complete the psychological examination or provide DCFS with the information regarding his illnesses. Respondent's compliance with the recommended services was the same for the period of July to December of 2007. Wages explained that the psychological assessment was considered important in order to assess respondent's stability, psychological aptitude and parenting skills.

Respondent was assessed for additional services for the period of January to December of 2008. He was assessed for housing assistance and was provided with bus passes for transportation to services. Respondent was overall compliant with services during 2008 and his rating for drug treatment and counseling remained satisfactory. However, respondent had some absences from individual therapy during this period. Respondent again failed to participate in a psychological evaluation or provide information to the agency regarding his illnesses. Respondent also did not participate in housing assistance.

James testified that for the period of January to December of 2009, respondent's rating was unsatisfactory for all recommended services. Respondent was allowed unsupervised visitation during this time but he did not visit the minor once during 2009. Respondent also stopped attending individual therapy and failed to complete the required random urine drops. He also failed to attend drug treatment and counseling and had not submitted to a psychological

1-11-1539

assessment or signed a release for medical information regarding his various illnesses.

James testified that respondent was rated unsatisfactory for all services outlined in the service plan from June to November of 2008. From December 2009 to June of 2010, he was rated unsatisfactory for all services set forth in the service plan. This included individual and group therapy, drug treatment services, and a psychological evaluation. Respondent did complete a parenting class during this period.

On cross-examination by respondent's attorney, James testified that respondent visited the minor in 2006 and 2007 but that these visits became "very sporadic" in 2008. He last visited the minor in December of 2008. Respondent then moved to Wisconsin and told James that he was employed and had an apartment. Respondent also told James that he wanted custody of the minor and that he loved him.

As pointed out above, respondent was not present at the hearing and therefore did not testify on his behalf. Respondent also did not call any witnesses to testify, but submitted a number of documents into evidence. Those documents consisted of a record of his attendance at 20 hours of a 60 hour parenting curriculum between December 3, 2005, and January 31, 2006, and of his attendance at five out of eight parenting classes. The documents also included a certificate attesting to his completion of an outpatient drug treatment program and letters confirming that he tested negative for illegal substances after submitting urine drops in 2006. Respondent also submitted letters from his therapist stating that respondent completed anger management counseling in 2006, that he attended individual and group therapy sessions, and that he attended parenting classes, including one class for parents of severely disabled children, until

1-11-1539

he became homeless. Respondent submitted a 2009 letter from the general manager at an Olive Garden restaurant stating that respondent was a reliable employee, and a 2009 letter from respondent's Alcoholics Anonymous sponsor stating that respondent was active in the church and the community and that respondent "demonstrated a relentless attitude on changing his life."

The trial court found that respondent was unfit under three statutory grounds. First, the court found respondent unfit under ground (b) due to his failure to "maintain a reasonable degree of interest, concern or responsibility as to the child's welfare. 750 ILCS 50/1(D)(b) (West 2008). The court found that respondent maintained a reasonable degree of interest in the minor until 2007, when he "appeared to distance himself from the case without explanation." The court stated that there was no evidence indicating that respondent attempted to contact the minor after that date and that there was no apparent personal circumstance justifying respondent's failure to do so. The court noted that respondent moved to Wisconsin and thereafter did not visit the minor or send him cards, gifts or letters or call DCFS regarding the minor's case. Respondent also did not offer any explanation for moving out of state and away from his child.

The court next found respondent unfit under ground (c) because he "deserted [the minor] for more than three months next preceding commencement of the termination proceedings." The court noted that the State filed its petition to terminate respondent's parental rights on December 16, 2008, and that the three-month time period was at least September 14, 2008, through December 15, 2008. The court then noted that respondent's whereabouts became unknown as of June 9, 2008, and that by November of 2008 it was discovered that respondent had moved to Wisconsin and had no plan to return to Chicago. As of December 1, 2008, respondent had not

1-11-1539

visited or had any other contact with the minor and he offered no explanation for his actions.

The court next considered whether respondent was unfit under ground (m)(i), which provides that a parent is unfit if he fails to make reasonable efforts to correct the conditions that were the basis for removal of the child from him within nine months after adjudication of neglect or abuse. 750 ILCS 50/1(D)(m)(i) (West 2008). The court found that the State had not proven by clear and convincing evidence that respondent was unfit under this statutory ground. The court also found that there was not clear and convincing evidence that respondent was unfit under ground m(ii) (750 ILCS 50/1(D)(m)(ii) (West 2008)).

The court then considered whether respondent was unfit under ground (m)(iii), which provides that a parent is unfit if he fails to make reasonable progress toward the return on the child during any other nine month period following the end of the initial nine month period. 750 ILCS 50/1(D)(m)(iii) (West 2008). The court found that the State had not proven this allegation by clear and convincing evidence for the time period of October 10, 2006, through July 9, 2007. However, the court found that the State proved this allegation by clear and convincing evidence for the time periods of July 10, 2007, through April 9, 2008, and April 10, 2008, through January 9, 2008. The court acknowledged that respondent attempted to treat his substance abuse during the first of these time periods but found that this was insufficient to overcome the fact that respondent did not engage in the other recommended services or visit his son during this period. As to the other time period, the court again acknowledged respondent's efforts to treat his substance abuse and that he obtained employment and was active in the church and community while he lived in Wisconsin. Nevertheless, respondent did not visit the minor during this period

1-11-1539

or engage in the other services necessary to reunite him with the minor, particularly those aimed at preparing him to care for a medically complex child. Finally, the court found that the State had not proven by clear and convincing evidence that respondent was unfit because he was a depraved parent. See 750 ILCS 50/1(D)(i) (West 2008).

The case then proceeded to a best interests hearing. Wages testified that the minor had special needs relating to his multiple medical diagnoses. The minor had short gut syndrome, cerebral palsy, hydroencephalitis (water on the brain), seizure disorders and a stunt. Because of these medical issues, the minor received in-home nursing care for 14 to 16 hours per day and received occupational, physical and speech therapy. At the time of the hearing, the minor had been living with the foster parent for over six years. The foster parent received specialized training to care for the minor from DCFS and attended training sessions so that she could learn how to care for the minor. She also advocated for the minor at school and attended all of his parent-teacher conference.

Wages further testified that the minor and the foster parent were a “happy unit” and appeared to be “so well-bonded.” Although the minor was non-verbal, he made noises when he was around the foster parent and followed her around the home. The minor responded to the foster parent and looked to her when she entered the room. The minor was integrated into the foster mother’s extended family and the foster mother’s brother had agreed to care for the minor in the event that something happened to the foster mother. The brother had visited and cared for the minor and had babysat him overnight.

Wages last had contact with respondent in 2010, when they spoke on the phone.

1-11-1539

Respondent “didn’t say anything in particular” about the minor or ask to visit him during that conversation and only asked for the foster mother’s phone number. Respondent had never sent any cards, gifts or letters to Wages for the minor. Wages testified that his agency believed it was in the minor’s best interests to terminate respondent’s parental rights. He explained that the minor had been with the foster parent for a long time, that the foster parent had learned to care for the minor, and that the minor and foster parent were well bonded.

The State next called Lilly M., the minor’s foster parent. Lilly testified that she was a junior high school reading teacher. She referred to the minor as her “son” and articulated his medical conditions and the numerous medication that she administered to him. She received training for the minor’s medical conditions, including how to perform CPR, how to care for the minor when he experienced seizures, and how to insert a feeding tube. Lilly also testified that she had integrated the minor into her home. She decorated his room and his bathroom, equipped the bathroom to accommodate the minor’s wheelchair, and installed a ramp and a chair lift in the home. Lilly testified that she loved the minor, that he was a member of her family, and that she wanted to adopt him.

The trial court found that it was in the minor’s best interests to terminate respondent’s parental rights and to provide the DCFS guardianship administrator the authority to consent to his adoption. The court stated that the foster parent’s home was safe and appropriate for the minor and that the minor had a sense of attachment to the home and the foster parent. The minor looked to the foster parent as his mother and that he had been integrated into her home, where he felt loved, valued and wanted. The foster parent had been trained to care for the minor's medical

1-11-1539

needs and she attended his medical appointments and school meetings. This appeal followed.

The Juvenile Court Act of 1987 (705 ILCS 405/1–1 *et seq.* (West 2008)) (the Act) provides a two-step process for the involuntary termination of parental rights. *In re C.W.*, 199 Ill. 2d 198, 210 (2008). First, the State must prove that the parent is unfit as defined in section 1(D) of the Adoption Act. 750 ILCS 50/1(D) (West 2008); *In re C.W.*, 199 Ill. 2d at 210. Because the termination of parental rights constitutes a complete severance of the parent-child relationship, proof of parental unfitness must be clear and convincing. *In re C.N.*, 196 Ill. 2d 181, 208 (2001). Only if the court makes a finding of unfitness will the court go on to consider whether it is in the best interest of the child to terminate parental rights. 705 ILCS 405/2–29(2) (West 2008); *In re C.W.*, 199 Ill. 2d at 210.

Although section 1(D) of the Act sets forth numerous grounds under which a parent may be found unfit, any one of the grounds, if proven, is sufficient to enter a finding of unfitness. *In re C.E. and R.E.*, 406 Ill. App. 3d 97, 107 (2010). Because the circuit court is in the best position to assess the credibility of witnesses, a reviewing court may reverse a circuit court's finding of unfitness only where it is against the manifest weight of the evidence. *In re C.N.*, 196 Ill. 2d at 208. A finding is against the manifest weight of the evidence where the opposite conclusion is clearly evident or where the finding is unreasonable, arbitrary, or not based on the evidence. *In re M.J.*, 314 Ill. App. 3d 649, 655 (2000). Each case concerning parental unfitness is *sui generis* and requires a close analysis of its unique facts. *In re C.E. and R.E.*, 406 Ill. App. 3d at 108.

In this case, the trial court found respondent to be unfit on three separate statutory

1-11-1539

grounds. We initially consider the court's finding that respondent was unfit under ground (b). As noted, this section provides that a parent's failure "to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare" is a ground for finding the parent unfit. 750 ILCS 50/1(D)(b) (West 2008). Because this language is stated in the disjunctive, any of these three elements on its own can be the basis for an unfitness finding: the failure to maintain a reasonable degree of interest *or* concern *or* responsibility as to the child's welfare. *In re Jaron Z.*, 348 Ill. App. 3d 239, 259 (2004). When evaluating an allegation of unfitness under this ground, the trial court must focus on the reasonableness of the parent's efforts and not on the success of those efforts. *In re Jaron Z.*, 348 Ill. App. 3d at 259. However, a parent's interest, concern and responsibility must be reasonable and a parent is not fit merely because he has demonstrated some interest in his child. *In re E.O.*, 311 Ill. App. 3d 720, 727 (2000). Illinois courts have determined that evidence of noncompliance with an imposed service plan, a continued addiction to drugs, or infrequent or irregular visitation with the minor is sufficient to support a finding of unfitness under ground (b). *In re Janira T.*, 368 Ill. App. 3d 883, 893 (2006).

Respondent contends that the trial court's finding of unfitness on this ground was against the manifest weight of the evidence. Respondent claims that he participated in "many services," including therapy, anger management, drug drops and counseling, and weekly visits with the minor. He also claims that he completed a parenting class and outpatient drug treatment.

The trial court acknowledged that respondent participated in several services and that he visited the minor early in the history of the case. Nevertheless, as the trial court found, the

1-11-1539

evidence shows that respondent failed to show reasonable interest, concern and responsibility for the minor after 2007. Respondent's whereabouts became unknown to DCFS at some point in 2007 and he stopped contacting the minor. Respondent later related that he had been in prison for a violation of probation. Respondent's visitation with the minor then became "sporadic" and he relapsed on drugs and refused to submit to drug testing. Respondent stopped visiting the minor at some point in 2008 and his whereabouts again became unknown to DCFS. When a caseworker eventually contacted him by phone, respondent stated that he had moved to Wisconsin and that he did not plan to return to Chicago "anytime soon." Respondent did not visit the minor after he moved to Wisconsin and he did not send him cards, letter or gifts. Respondent also stopped participating in services aimed at reuniting him with the minor and did not stay in contact with DCFS. Respondent did not offer any explanation as to why he moved out of the state and away from the minor or why he stopped participating in any of the recommended services. Although respondent attempted to participate in certain services during the initial years of the case, he did not participate in others that were designed to prepare him to be reunited with the minor. Most importantly, respondent did not participate in trainings that were designed to prepare him to care for the child's numerous and complex medical needs. Respondent also did not submit to a psychological assessment that was important to determine his ability to parent the minor and his own psychological aptitude. Respondent did not attend the minor's medical appointments and he did not provide DCFS with information regarding his own, life-threatening illness. Under these circumstances, we conclude that the trial court's finding that respondent was unfit was not against the manifest weight of the evidence.

1-11-1539

The trial court also found respondent unfit on grounds (b) and (m), and respondent claims that both of those findings are against the manifest weight of the evidence. However, we need not consider these claims given that any of the three grounds under which the trial court found respondent to be unfit are sufficient to affirm the trial court's judgment and given our conclusion that the court's unfitness finding under ground (b) was not against the manifest weight of the evidence. See *In re Janira T.*, 368 Ill. App. 3d at 893-94

Respondent next contends that the trial court's finding that it was in the minor's best interest to terminate respondent's parental rights was against the manifest weight of the evidence. Once a trial court finds a parent unfit under one of the grounds of section 1(D) of the Adoption Act, the next step in an involuntary termination proceeding requires the court to consider whether it is in the best interests of the child to terminate parental rights, pursuant to section 1-3(4.05) of the Act (705 ILCS 405/1-3(4.05) (West 2008)). *In re Deandre D.*, 405 Ill. App. 3d 945, 953 (2010). The State has the burden of proving by a preponderance of the evidence that termination is in the child's best interests. *In re Deandre D.*, 405 Ill. App. 3d at 953. The court's determination in this respect lies within its sound discretion, especially when it considers the credibility of testimony presented at the best interests hearing; that determination will not be reversed unless it is against the manifest weight of the evidence or the trial court has abused its discretion. *In re Deandre D.*, 405 Ill. App. 3d at 953.

The Act provides:

“Whenever a “best interest” determination is required, the following factors shall be considered in the context of the child's

1-11-1539

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 and with siblings and other relatives;

1-11-1539

- (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.”

705 ILCS 405/1–3 (4.05) (West 2008).

Respondent initially claims that the trial court erred when it announced its ruling terminating respondent’s parental rights because it did not discuss how each of the factors enumerated in the statute pertained to the case or discuss which factors it considered in arriving at its decision. However, a trial court is not required to explicitly mention each of the statutory factors or to articulate any specific rationale when it issues a decision regarding the termination of parental rights. *In re Deandre D.*, 405 Ill. App. 3d at 954. Moreover, our review of the record establishes that the trial court thoroughly explained the reasons for its ruling. The court initially stated that it considered the physical safety and welfare of the child, including food, health, clothing and shelter. The court noted that the foster mother had undergone special training to care for the minor and that her home had been altered to accommodate the minor’s needs, including the installation of a ramp and a stair lift. The court stated that the minor had developed a sense of attachment to the home and found that it was a safe and appropriate place for him to live. The court also considered that the foster mother loved the minor and that the minor looked to her as his mother and felt loved, wanted and valued in the home. The court further considered that the minor had been integrated into the family and that the foster mother attended his medical appointments and advocated for him at school. The court noted that under the foster mother’s care, the minor was making as much progress at school as could be expected under the

1-11-1539

circumstances. The court also noted that the foster mother had a backup caregiver in the event that something happened to her. Finally, the court considered that respondent had shown “sporadic” interest in the minor over the years and he currently showed no interest in the minor and had “moved on in his life.” The trial court’s comments reflect a careful consideration of the statutory best interest factors and we find no basis to reverse the trial court’s determination.

Respondent next claims that the trial court gave undue weight to the foster mother’s care for the minor and that his right of custody is superior to a third person’s such as the foster mother under the “superior right doctrine.” However, respondent’s reliance upon the doctrine in this case is misplaced. The superior rights doctrine holds that parents have the superior right to care, custody, and control of their children. *In re R.L.S.*, 218 Ill. 2d 428, 434 (2006). The doctrine is most frequently applied to cases that arise under the Probate Act or the Illinois Marriage and Dissolution of Marriage Act when, for example, a nonparent petitions for custody of a minor after one of the parents passes away. See, e.g. *R.L.S.*, 218 Ill. 2d at 434. However, the purpose of the Act is to serve the best interests of the minor and in custody proceedings brought under the Act, the minor’s best interests are superior to all other factors, including the interests of the biological parent. *In re Alicia Z.*, 336 Ill. App. 3d 476, 498 (2002). The Act recognizes that the minor’s best interests take priority over the biological parents’ right to the custody of their child and allows the court to place the minor in the care and custody of someone other than the biological parents when such placement is in the minor’s best interest. See 705 ILCS 405/1-2(3)(c) (West 2008) (“The parents' right to the custody of their child shall not prevail when the court determines that it is contrary to the health, safety, and best interests of the child”). This is

1-11-1539

precisely the determination that the trial court made in this case. After considering the evidence, the court concluded that respondent was an unfit parent and that it was in the minor's best interests to terminate respondent's parental rights and to grant DCFS the authority to consent to the minor's adoption. Respondent does not raise any specific claim that the evidence was insufficient to support the trial court's best interest finding and, after carefully reviewing the record, we find that the trial court's determination was not against the manifest weight of the evidence.

For the reasons stated, the judgment of the circuit court of Cook County is affirmed.

Affirmed.