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2011 IL App (4th) 110500-U

Filed 11/7/11

NO. 4-11-0500

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: Z.B., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Vermilion County
v.)	No. 10JA20
PHILLIP GIONTI,)	
Respondent-Appellant.)	Honorable
)	Craig H. DeArmond,
)	Judge Presiding.

JUSTICE COOK delivered the judgment of the court.
Justices Turner and Pope concurred in the judgment.

ORDER

¶ 1 *Held:* (1) Respondent forfeited any argument challenging the trial court's determination of unfitness under section 1(D)(b) of the Adoption Act (750 ILCS 50/1(D)(b) (West 2008)). Thus, we need not address whether the court's determination of unfitness under section 1(D)(m)(ii) of the Adoption Act (750 ILCS 50/1(D)(m)(ii) (West 2008)) was against the manifest weight of the evidence.

(2) Where the evidence showed it was in the minor's best interest that respondent's parental rights be terminated, the trial court's ultimate decision on termination was not against the manifest weight of the evidence.

¶ 2 In February 2010, the State filed a petition for adjudication of wardship with respect to Z.B., the minor child of respondent, Phillip Gionti. Shortly thereafter in February 2010, the trial court entered a temporary custody order adjudicating the minor a ward of the court and placing custody and guardianship with the Illinois Department of Children and Family Services (DCFS). In January 2011, the State filed a petition to terminate respondent's parental

rights. In May 2011, the court found respondent an unfit parent. Thereafter in May 2011, the court terminated respondent's parental rights.

¶ 3 On appeal, respondent argues the trial court erred in finding him unfit and in terminating his parental rights. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In February 2010, the State filed a petition for adjudication of wardship, alleging Z.B., born in February 2010 to respondent and Tina M. Forthenberry, 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 2010)) because his environment was injurious to his welfare based on (1) Tina's history of drug and alcohol use (count I), (2) Tina's untreated mental health issues (count II), and (3) Tina engaging in relationships with domestic violence (count III). The trial court found probable cause to believe Z.B. was neglected and an immediate and urgent necessity existed to place him with DCFS.

¶ 6 In March 2010, an adjudication on the petition was held. Respondent was absent from the adjudication proceeding because the State was unable to determine his location for service of the petition for adjudication. During the proceeding, it was determined that respondent resided with Tina, and the court ordered the State to serve him and set the case for adjudication as to him. Tina admitted count I of the petition, *i.e.*, Z.B.'s environment was injurious to his welfare based on Tina's history of drug and alcohol use. In exchange for Tina's admission, the State withdrew counts II and III. The court heard the factual basis, admonished Tina, and accepted her admission. Thereafter, the court found that Z.B. was neglected in that his environment was injurious to his welfare based on Tina's prior involvement with DCFS and her history

of substance abuse.

¶ 7 In its June 2010 dispositional order, the trial court found it in Z.B.'s best interest that he be made a ward of the court and placed custody and guardianship with DCFS. In August 2010, the court entered a permanency order, finding the following: (1) the appropriate permanency goal was for Z.B. to return home within 12 months; (2) Tina has made (a) reasonable and substantial progress and (b) reasonable efforts toward returning Z.B. to his home; (3) respondent has made (a) reasonable and substantial progress and (b) reasonable efforts toward returning Z.B. to his home; and (4) DCFS had continued custody and guardianship of Z.B.

¶ 8 In January 2011, the trial court entered another permanency order, finding the following: (1) the appropriate permanency goal was for substitute care pending determination of termination of parental rights; (2) Tina has *not* made (a) reasonable and substantial progress and (b) reasonable efforts toward returning Z.B. to his home; (3) respondent has *not* made (a) reasonable and substantial progress and (b) reasonable efforts toward returning Z.B. to his home; and (4) DCFS had continued custody and guardianship of Z.B.

¶ 9 Further in January 2011, the State filed a petition to terminate respondent's and Tina's parental rights. The State alleged respondent was unfit because he (1) failed to maintain a reasonable degree of interest, concern, or responsibility as to Z.B.'s welfare (750 ILCS 50/1(D)(b) (West 2010)); (2) failed to make reasonable efforts to correct the conditions that were the basis for Z.B.'s removal from his parents within nine months after an adjudication of neglect, abuse, or dependency (750 ILCS 50/1(D)(m)(i) (West 2010)); and (3) failed to make reasonable progress toward Z.B.'s return to his parents within nine months after an adjudication of neglect, abuse, or dependency (750 ILCS 50/1(D)(m)(ii) (West 2010)). The State made the same

allegations against Tina. She signed a final and irrevocable surrender and consent to adoption in April 2011.

¶ 10 In April 2011, the trial court conducted a hearing on the motion to terminate parental rights. Ann Roth, a foster care site supervisor at Catholic Charities, testified she was the supervisor at Catholic Charities throughout the length of this case. Shortly after Z.B.'s birth, DCFS received a hotline call alerting DCFS to his birth. Z.B. was taken into care on February 17, 2010, following his birth because Tina had a history with unresolved substance-abuse and mental-health issues, which resulted in her parental rights being terminated or surrendered with regard to five of her children. Roth stated respondent's initial service plan (dated March 31, 2010) required him to complete an integrated assessment and cooperate with the services recommended following the integrated assessment. Roth explained respondent had not completed the integrated assessment at the time the original service plan was developed because he was not in Illinois when the case was filed.

¶ 11 A second service plan was developed by Brooke Lanter on August 18, 2010. Lanter was Z.B.'s caseworker from September 2010 until November 2010, when she was removed from the case. This service plan set forth the following tasks for respondent: (1) cooperate with all services recommended by the integrated assessment; (2) attend and complete parenting education classes; (3) successfully complete substance-abuse treatment and comply with all required drug screening; (4) attend and participate in family life skills to address his violent history; (5) secure and maintain employment to provide financial support for himself and Z.B.; (6) maintain appropriate housing for himself and Z.B.; and (7) attend visitation and demonstrate appropriate parenting skills during visits.

¶ 12 Respondent was evaluated as satisfactory in all seven categories for March 2010 through August 2010. According to the evaluation, respondent completed the integrated assessment and was "fully engaged in all recommended services." Roth stated respondent was required to complete substance-abuse treatment because he indicated a history of alcohol abuse, and his criminal record revealed several substance-abuse charges. Respondent successfully completed his education classes through Catholic Charities on June 29, 2010, and demonstrated appropriate parenting skills during his visits with Z.B. According to the evaluation, respondent provided adequate care and supervision during his visitations, and he was a "very nurturing and loving father." The permanency goal was for Z.B. to return home within 12 months and was rated as satisfactory progress. Respondent successfully completed 75 hours of intensive outpatient substance-abuse treatment and 18 hours of after-care services at New Directions. Roth stated the service plan required respondent to complete weekly "drug drops," but his caseworker did not request he complete any "drug drops" during September or October 2010. Further, she believed respondent was asked to submit to drug testing the latter part of November. Respondent successfully completed his family life skills classes in August 2010 and was reported to have "made significant progress." Respondent obtained gainful employment working as an administrative assistant at New Directions and lived in an apartment with Tina that was "clean and appropriate." The service plan also required respondent to undergo a psychological evaluation, which he successfully completed. However, Roth did not believe the psychologist's recommendations were incorporated into the case service plan.

¶ 13 Initially, respondent was allowed visitation for two hours, three times per week at his home. Visitation was increased to three hours, five days a week after respondent success-

fully completed his family life skills classes. Respondent attended the majority of his visits with Z.B. From September through November 2010, respondent attended visitation without being asked to submit to drug testing. Some of the visitation was rescheduled to accommodate respondent's work schedule.

¶ 14 Chiquita Oglesby, a foster care supervisor at Catholic Charities, testified she was currently Z.B.'s caseworker and had been since November 2010. Oglesby stated she reviewed respondent's progress from August 2010 through January 2011, in the case service plan dated January 20, 2011. The third case service plan set forth the following tasks for respondent: (1) comply with all requested drug screening, with a refusal being considered as a positive result; (2) attend visitation and demonstrate appropriate parenting skills during this visitation; (3) provide proof of financial income and inform Catholic Charities within 24 hours of any employment change; and (4) maintain adequate housing for himself and Z.B. Respondent was also required to participate in weekly individual and couples counseling sessions.

¶ 15 After reviewing the file, Oglesby noticed respondent had not been asked to submit to any drug-alcohol tests since August 27, 2010, which was the date of his last "drop." On November 30, 2010, Oglesby requested respondent submit to a drug test at the probation department on that day. However, instead of going to probation, respondent faxed a negative drug test to Oglesby, which was completed at New Directions (New Directions was a drug treatment facility). On December 6, 2010, Oglesby again requested respondent submit to a drug test at probation on that day. However, respondent faxed her another negative test result from New Directions the following day. Oglesby explained to respondent that it was a conflict for him to complete his drug tests at his employment, and respondent reluctantly agreed to undergo

further testing at the probation department. Oglesby stated she did not contact respondent's employment to verify the reliability of the negative test results. Thereafter, on December 23, 2010, Oglesby requested respondent submit to a drug test at probation, but respondent failed to show up at the probation department and claimed "he forgot." On December 30, 2010, Oglesby asked respondent to submit a "drop," and respondent failed to complete the "drop." On January 3, 2011, Oglesby again requested respondent submit a "drop" at probation by 2 p.m. However, respondent stated he was unable to leave work until 4 p.m. Oglesby told respondent that he was allowed to submit the "drop" at the Prairie Center, which was open until 7 p.m. Respondent failed to complete the drug screen and later claimed he did not complete the drug screen because he could not find his identification. During the January 2011 hearing, the trial court ordered respondent to complete a drug screen 24 hours before any scheduled visitation with Z.B. The court also changed the permanency goal to substitute care. Oglesby notified respondent about the court's changes to the service plan because respondent did not attend the January hearing.

¶ 16 On March 18, 2011, respondent informed Oglesby that he submitted a "drop" at probation on that day at 8:30 a.m. However, the probation staff told Oglesby that respondent had not been to the probation department that day, and the department did not perform drug screens until after 9 a.m. Oglesby stated respondent finally submitted to a drug test on March 24, 2011, and she transported him to the probation department. According to Oglesby, respondent never contacted her to perform a drug screen on his own initiative to have visitation with Z.B. Visitation was offered every Friday, but respondent did not attend visitation until March 25, 2011. Oglesby repeatedly explained to respondent that he was required to submit to a drug test as a condition of attending visitation. Oglesby evaluated respondent's progress on

substance-abuse treatment as unsatisfactory.

¶ 17 Oglesby stated respondent was referred to individual and couples counseling pursuant to the psychologist's August 2010 recommendation. The psychologist diagnosed respondent with possible antisocial disorder, possible personality disorder, and possible intermittent explosive disorder. The psychologist recommended respondent might benefit from counseling that would focus on his tendency toward explosive anger and his past criminal behavior. Respondent did not attend his first individual counseling session until January 3, 2011. (Respondent had three couples counseling appointments before January 3, but he failed to attend.) According to Oglesby, respondent had a total of 23 scheduled counseling appointments for individual and couples counseling. He attended 10 sessions, cancelled 4, and failed to show for 9 appointments. Oglesby explained the couples counseling was for respondent and Tina, but respondent was informed of his responsibility to attend these counseling sessions regardless of whether Tina attended.

¶ 18 From November 2010 to January 19, 2011, respondent was offered supervised visitation with Z.B. for two hours, five days a week at his home. On January 19, 2011, the trial court reduced visitation to two hours per week, which was contingent on respondent complying with the service plan. Oglesby evaluated respondent's progress on parenting skills and visitation as unsatisfactory because respondent did not attend any visitation from January 19, 2011, until March 25, 2011. Respondent's failure to attend visitation was due to his failure to comply with drug testing and failure to attend his counseling sessions. Oglesby evaluated respondent as satisfactory on maintaining appropriate housing and employment. He was rated unsatisfactory on the previous permanency goal of returning Z.B. home within 12 months.

¶ 19 Respondent testified when Tina was pregnant with Z.B., she lived in Florida with respondent. Prior to giving birth, she returned to Danville to be near her family. Respondent learned Z.B. was in protective custody when he moved to Danville on February 23, 2010. He and Tina lived together from February 23, 2010, until March 2011, "for the interest of the child." Respondent stated he had a criminal history involving convictions for battery, domestic violence, and possession of drugs. The battery and domestic-violence conviction did not involve Tina. He denied that he was convicted in 2009 of domestic battery to a pregnant woman, possession of drug paraphernalia, and resisting a police officer. He was charged with those offenses, but he could not remember the nature of the offense to which he pleaded guilty. He believed he was only charged with domestic battery twice in Florida, not three times. He also was charged with battery to a police officer, aggravated battery, and domestic battery in Florida. He stated he was not found guilty on "all the charges" but was "not sure" on what charges he was found guilty. He also denied any convictions for larceny.

¶ 20 Respondent stated he attended approximately eight or nine counseling sessions. He offered the following opinion regarding the counseling sessions: "Neither beneficial nor detrimental as far as I'm concerned. It's just a part of what I have to do to get my son." He stated he worked Monday through Friday from 10:15 a.m. to approximately 3 or 4 p.m. He was also attending college classes, and his employer worked around his class schedule.

¶ 21 Respondent stated he had been employed at New Directions Treatment Center since June 2010. He decided to obtain his substance-abuse treatment at New Directions because he went to the same church as the director of the program. His caseworker at the time knew he went to the same church as the director at New Directions. He decided to undergo drug testing

at New Directions because the "time constraints" from work and school made it difficult for him to submit to drug testing at the probation department. He believed that since he worked at a drug treatment center, "it would be easier for [him] to just drop there." He also lost his identification, which made it difficult to submit to drug testing. Oglesby did not tell him until mid-January 2011 that it was a conflict for him to be drug tested at his employment. His "scheduling constrictions during the week" also made it difficult for him to attend counseling sessions. He cancelled couples counseling because he and Tina were no longer a "couple." He denied that he was told to attend couples counseling regardless of whether Tina attended. He failed to attend because he disagreed with the service plan. After Tina was incarcerated, visitation was decreased because Tina was in jail. When Tina was released, she lived with him until March 2011 because her name was on the lease.

¶ 22 Respondent did not attend the last administrative case review because the date changed, and he first learned the date had been changed when he appeared on the date the case review was initially scheduled. He wanted to appeal his service plan but did not mention it to his caseworker because he believed it was supposed to be addressed at the case review.

¶ 23 After hearing the evidence, the trial court stated the following regarding its decision on the issue of respondent's fitness as a parent:

"[Respondent] cooperated and completed the integrated assessment, he had stable housing, had a job so he was satisfactory in that regard as late as [August 18, 2010]. He participated in the family life skills and successfully completed it in August. Substance abuse treatment he completed through New Directions.

Parenting classes, had satisfactorily completed those. It's not till sometime after August of 2010 that the 'wheels falls off the bus.' Contrary to the argument of counsel this was not an ever-changing plan. There were only two things suggested beyond those previously ordered as a result of psychological—a psychological evaluation which was completed. He was ordered to get further counseling and he was required to comply with drug drops. And the requirement of the drug drops is very simple, he gets his drug drops at probation. That's when the problems begin. [Respondent] decided in his own mind that the conditions of his client service plan after August were conditions he didn't agree with, and therein began the problem with drug—with regard to control. The whole issue in this case is control. [Respondent] is in the distinct opinion that he can control the circumstances. Unfortunately he can't.

I don't doubt that he completed all these other programs because he did exactly as he was ordered to do and as he told us himself he's capable of going through the motions. 'It's just another motion. It's a motion I have to do. It's neither beneficial nor detrimental. It's just another motion.' He can do that. Now, it's a little—it's little things like that that give you insight into what's behind the behavior, and that's one of the downfalls of our system. As long as you go through the motions in many circumstances that

would be sufficient and you'll be found satisfactory. The real issue becomes did you take anything from those programs and then apply them to the parenting situation. He didn't believe that the counseling, couples or otherwise[,] was of benefit to him and therefore we then begin to—sporadic involvement in counseling. He wanted to do his drug drops at the place of his employer who is also a very good friend of his who has been extremely helpful and cooperative in allowing him to adjust his schedule to deal with his personal life. It would be difficult to envision someone so beneficial and so—so concerned about making adjustments to his personal life who would tell [respondent], 'oh, you want to modify your schedule and visit your son. Oh, no, absolutely not. You want to take an extra hour in order to go get that drug drop. No. No. Absolutely no.' From all evidence in this case[,] his employer is more than cooperative, more than helpful in allowing him to modify and adjust his schedule in any way he needs for his personal purposes; this, however, is not a personal purpose. This is one that's mandated and one that he doesn't like therefore he doesn't do it. But to sacrifice the relationship with your son because of your personal desire to maintain control is a dramatic indicator of any real intent to parent. Because in reality any parent would tell you they'll sacrifice everything else. See, what you did was you

sacrificed your son for everything else. 'My job, my school, I want to do my drug drops here, I don't want to go to counseling there, I don't think I need that counseling, I don't care that it's in my client service plan, I'm not going to do it, I don't care that you tell me I'm gonna [sic] get my drug drops at probation, I'm gonna [sic] do them here.' You have it backwards. A parent sacrifices everything else for the child. Their convenience, their comfort, their schedule, their behavior, everything, everything else stops in order to deal with the child. You have it 180 degrees backwards. Your child got sacrificed for everything else. You were willing to cooperate and participate up to a point and then when you decided that this was no longer what you needed or that you didn't agree with it you're not gonna [sic] cooperate any more. Okay. Now, if you don't cooperate you risk termination of your parental rights. I seem to recall the admonitions you were ordered to cooperate with [DCFS] and comply with any service plan to correct any conditions that required the minor to be placed into care or you risk termination of your parental rights. You're willing to risk termination of your parental rights because you don't believe you should do what you're supposed to do. You would give up visitation of your son for nine and a half weeks because you don't agree with the service plan. That's difficult to understand. And it's that, it's

those types of things that a court has to look at. Not just going through the motions but what real effort has been made, what real progress has been made, and what reasonable degree of interest, concern or responsibility exists. In general the courts look to see what type of effort a parent has made. This is a subjective standard requiring examination of what efforts were reasonable for this parent to make given his or her circumstances.

There were only two things you had to do was go to the counseling and do the drug drops where you were told. You chose not to do those thereby depriving yourself of visitation with your child.

Of all the things you're ordered to do the one thing that has a direct impact on your child is the visitation.

See, what happens is the agencies because they have to gauge your progress mostly based on your performance in the programs. In reality the most significant aspect of what it is you're required to do is the visitation cause it's the one thing that directly impacts your child. Everything else doesn't. He doesn't know whether you're going to counseling. He doesn't know whether you're doing drug drops. He doesn't know whether you're getting singles or individual or couples counseling. He doesn't know whether you've had a psychological. All he knows is that does he

get to see, does he get to spend time with you. The one thing that impacts your child is the visitation and you sacrificed those to prove a point. Again that's—that's backwards. Frequently a parent's degree of interest, concern, or responsibility is gauged by the frequency of his or her efforts of maintaining an ongoing relationship with the child. If the record reflects that a parent has made a genuine effort to maintain contact through personal visits, telephone calls, letters, or etc., it's unlikely the parent can be found unfit under this section. Conversely, failure to maintain regular contact or have sporadic efforts may result in a finding of unfitness. Completion of the service plan objectives can be considered evidence of a parent's concern, interest and responsibility. And that's where we have it.

I do agree with one point that [respondent's counsel] makes and that is I do not believe the State can establish that he failed to make reasonable efforts because efforts is related to the basis for which the child is brought into the care in the first place and those didn't directly relate to him anyway. But I don't believe that a finding can be made that he failed to make reasonable efforts. I do believe, however, that the State has established by clear and convincing evidence that he's failed to maintain a reasonable degree of interest, concern or responsibility as to the minor's welfare by

failing to continue to participate in both the drug drops and the counseling, both of which were predicates to his obtaining visitation, and rather than obtaining visitation he sacrificed the visitation entirely rather than comply with the conditions that were part of his client service plan. By having failed to do so he has failed to make reasonable progress toward the return of the child to the parent within the nine months after adjudication."

¶ 24 By agreement of the parties, the trial court then scheduled a best-interest hearing for May 2011. Respondent was in custody of the Vermilion County sheriff's department on a forgery charge when he appeared at the best-interest hearing. During the best-interest hearing, Oglesby testified Z.B. continued to live in the same foster home where he was initially placed on February 17, 2010. His foster parents had adopted his three-year-old half-brother and were willing to adopt Z.B. Z.B. bonded with his foster parents, and he was "doing really well" in that foster home. Following Oglesby's testimony, the court stated the following regarding the best-interest determination:

"Actually this case is pretty easy to sum up. The mother who wasn't the mother. She was the biological source of the child. And a father who is a father in name only. He talks a good game, creates a good appearance, but there's nothing there. There's no substance.

[Respondent] is very intelligent, articulate, manipulative, controlling. He wanted to dictate how the service plan was going

to be conducted.

This case is also a perfect example of why the mandatory drug drops are so critical. By all appearances, [respondent] was doing everything. But, of course, he told us why. 'A motion I have to do, neither beneficial nor detrimental.'

He's going through the motions. He can do that. He's a smart guy. He's manipulative. Okay. 'If you want me to attend classes, I'll attend classes. It doesn't take long to figure out what I need to say and how I need to act in class to pass. It's not rocket science. All I've got to do is show up, go through the motions, say the right things, pretend like I drank the Kool-Aid, and they'll pass me along. I can do that.'

Drug drops? Oh, I'll do that at my employer's. I'll fax in the results.'

Now, he said there was a time constraint, but he never did testify to the work schedule that made it impossible for him to attend the drug drops.

What we do find interesting is that from the date the drug drops were ordered he never again saw the child until March 25, from January 18. Now, that creates one of two possibilities. One, he's been fooling you all along. He was still doing drugs. Or, two, he's so twisted in his thinking that, rather than be able to continue visiting with his child, he didn't like the idea that he was being told to drop, and he's going to refuse to drop, know-

ing that by doing so he is risking losing his parental rights.

Either one of those is a sufficient reason to terminate his parental rights. If he wasn't doing the drugs, it's even worse. If he was just refusing to comply because he was going to refuse to comply and nobody is going to make him do it, that's even worse. And that tends to show us more of [respondent's] true character than anything else. 'You're not going to make me do anything.'

As I said at the last hearing, I would think that a parent who wanted their child back would walk across broken glass if they had to. 'I don't care what you order me to do. Whatever it takes to get my child back, I will do.' To have the attitude that 'I'm not going to do it because I disagree with the service plan' would indicate that one puts their personal position of authority over their desire to parent. Okay.

The other option—there's only one of two options. Either he was doing drugs, and he didn't want to have to do the mandatory drops because he knew he was going to be dirty, which meant the whole time that he was fooling everybody because he was going to classes, he's gone to parenting, he's gone to his family life skills, he's passed this, he's passed that, he's passed everything, but once he's required to drop, now he's going to have to prove that, well, he's been doing drugs all along.

Or he wasn't, and he's still going to refuse. Either one of those is a sufficient reason.

There's no question that the parental rights of [respondent] and any unknown fathers should be and are terminated, and it is clearly in the best interests of the minor child that those parental rights be terminated.

This child has been with the foster parents since birth. The petition was filed [February 17, 2010]. It's [May 11, 2011].

[Respondent] is presently in the custody of the Vermilion County Sheriff's Department, just one of the long line of other problems he's had. Difficult to envision how anyone would think that it would in the best interests of the child that his rights not be terminated."

The court further determined it was in Z.B.'s best interests for custody and guardianship to remain with DCFS with authority to consent to adoption. This appeal followed.

¶ 25

II. ANALYSIS

¶ 26 "Under the Juvenile Court Act of 1987, the involuntary termination of parental rights involves a two-step process." *In re Donald A.G.*, 221 Ill. 2d 234, 244, 850 N.E.2d 172, 177 (2006). First, a showing must be made that the parent is unfit, as defined in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2008)). *Id.* If the trial court makes a finding of unfitness, the court will then consider whether it is in the best interests of the minor child that parental rights be terminated. *Id.*

¶ 27

A. Unfitness Findings

¶ 28 Respondent argues the trial court's unfitness findings were in error because the court improperly considered evidence from a time period outside the initial nine-month period after

adjudication of wardship. The State conceded the court erred in assessing the nine-month period established by section 1(D)(m)(ii) of the Adoption Act (750 ILCS 50/1(D)(m)(ii) (West 2008)). However, the State argues reversal is not required because the court also found respondent unfit under section 1(D)(b) of the Adoption Act (750 ILCS 50/1(D)(b) (West 2008)), and respondent has forfeited any challenge to that unfitness ground by failing to develop any argument that the court's finding of unfitness on this ground was against the manifest weight of the evidence. We agree with the State.

¶ 29 Illinois Supreme Court Rule 341(h)(7) (eff. July 1, 2006) requires the appellant's brief contain an argument section meeting the following pertinent requirements:

"Argument, which shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on. *** Points not argued are waived and shall not be raised in the reply brief, in oral argument, or on petition for rehearing."

"A reviewing court is entitled to have issues clearly defined with pertinent authority cited and cohesive arguments presented." (Internal quotation marks omitted.) *People v. Jacobs*, 405 Ill. App. 3d 210, 218, 939 N.E.2d 64, 72 (2010). A party's failure to develop a well-reasoned argument, supported by legal authority, results in forfeiture of that issue on appeal. *Id.*; see also *In re Commitment of Doherty*, 403 Ill. App. 3d 615, 623, 934 N.E.2d 590, 596 (2010).

¶ 30 In the case *sub judice*, the trial court found respondent unfit for failing (1) to maintain a reasonable degree of interest, concern, or responsibility as to Z.B.'s welfare (750 ILCS 50/1(D)(b) (West 2008)), and (2) to make reasonable progress toward Z.B.'s return to his

parental rights was in Z.B.'s best interest was against the manifest weight of the evidence. We disagree.

¶ 34 "Once a finding of parental unfitness is made under section 1(D) of the Adoption Act, the court considers the 'best interest' of the child in determining whether parental rights should be terminated." *In re J.L.*, 236 Ill. 2d 329, 337-38, 924 N.E.2d 961, 966 (2010). When determining whether termination of parental rights is in the child's best interest, the court must consider, in light of the child's age and developmental needs, the following factors: (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 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, 918 N.E.2d 284, 291 (2009). The child's likelihood of adoption is also an appropriate factor for the court to consider at a best-interest hearing. *In re Tashika F.*, 333 Ill. App. 3d 165, 170, 775 N.E.2d 304, 308 (2002).

¶ 35 The trial court's finding that termination of parental rights is in a child's best interest will not be reversed on appeal unless it is against the manifest weight of the evidence. *In re Veronica J.*, 371 Ill. App. 3d 822, 831-32, 867 N.E.2d 1134, 1142 (2007). A decision will be found to be against the manifest weight of the evidence in cases "where the opposite conclusion is clearly evident or where the findings are unreasonable, arbitrary, and not based upon any of

the evidence." *In re Tasha L.-I.*, 383 Ill. App 3d 45, 52, 890 N.E.2d 573, 579 (2008).

¶ 36 Here, Z.B. continued to live in the same foster home where he was initially placed on February 17, 2010. He was doing well in his foster placement, and his foster parents indicated a desire to adopt him. His foster parents had already adopted his three-year-old half-brother. The best-interest report indicated the foster parents provided Z.B. "with a safe and nurturing environment." Z.B. has bonded with his foster parents and his half-brother. Respondent's criminal history and his apparent unwillingness to engage in the necessary services indicate he could not provide Z.B. with the care and permanency Z.B. needs. At the time of the best-interest hearing, respondent was in the custody of the Vermillion County sheriff's department on a forgery charge. Respondent's repeated failure to attend visitation because he did not agree to the service plan (which resulted in respondent not having any visitation with Z.B. for 9 1/2 weeks) indicates respondent's inability to provide Z.B. with a stable environment. The trial court's finding that it was in Z.B.'s best interest that respondent's parental rights be terminated was not against the manifest weight of the evidence.

¶ 37

III. CONCLUSION

¶ 38

For the reasons stated, we affirm the trial court's judgment.

¶ 39

Affirmed.