

alleging S.M. and L.A. were abused or neglected minors. It asserted the children's environment was injurious to their welfare due to risk of harm because of domestic violence between respondent and her boyfriend. On December 5, 2008, respondent admitted the allegations in the State's petitions and the trial court set the matter for a dispositional hearing.

On December 12, 2008, the State filed a motion for shelter care, requesting the Illinois Department of Children and Family Services (DCFS) be granted temporary custody and guardianship of respondent's children. It alleged there was an emergency need to take protective custody of the children due to a further incident of domestic violence that occurred on December 3, 2008, in front of the children. Following a hearing, the trial court placed the children in the temporary custody and guardianship of DCFS. On January 22, 2009, the court entered its dispositional order. It adjudicated the children neglected, made them wards of the court, and placed the children in the custody of DCFS.

On March 17, 2010, the State filed a petition to terminate respondent's parental rights to S.M. and L.A. Relevant to this appeal, it alleged she was unfit because she failed to make reasonable progress toward her children's return within nine months of the neglect adjudication (750 ILCS 50/1(D)(m)(ii) (West 2008)). The State also alleged termination was in the children's best interests.

On November 17, 2010, the trial court conducted a hearing on the fitness portion of termination proceedings. Brooke Lanter, S.M. and L.A.'s foster-care caseworker, testified the children came into the care of DCFS due to domestic violence. She noted respondent allegedly attacked her boyfriend. Service plans were implemented, requiring respondent to maintain stable housing and financial stability, and to participate in individual counseling, mental-health

services, anger management services, family life skills services, and parenting education services. Lanter stated respondent was required to have mental-health services because she disclosed a diagnosis of bipolar disorder.

Lanter testified respondent's service plan, covering December 2008, through June 12, 2009, was rated unsatisfactory. She noted respondent did not engage in mental-health services. Respondent failed to attend three appointments with her physician and missed six weeks of appointments with her therapist. In May 2009, respondent's mental-health services were discontinued. In June 2009, Lanter made a referral to Aunt Martha's to get respondent back into treatment for her mental-health issues. Lanter testified respondent did not follow up with the referral by June 12, the end date of the service plan. During that time frame, respondent also received an unsatisfactory rating for failing to attend her parenting classes. However, her attendance of family life skills services was satisfactory.

Lanter testified, from July to September 2009, respondent's participation in services was, again, rated unsatisfactory. Although, in August 2009, respondent completed family life skills services and, in July 2009, began attending her parenting classes, she failed to engage in mental-health treatment. Respondent did not start going to Aunt Martha's for treatment until October 2009. Additionally, respondent never obtained suitable housing for herself and the children.

The trial court found the State proved respondent unfit for failing to make reasonable progress toward the return of her children within nine months after the neglect adjudication. It stated respondent's mental-health issues were a big concern and noted she failed to do little, if anything, regarding those issues during the initial nine-month time frame. The

court further pointed to respondent's failure to obtain suitable housing for her children.

On December 17, 2010, the trial court conducted the best-interest hearing. Respondent's counsel requested a continuance and made an oral motion to reopen proofs. He asserted he had recently received a document that would "tend to disprove" a lack of reasonable progress by respondent during the initial nine-month time frame. Specifically, he alleged the document showed respondent's lack of mental-health services during the nine months following the neglect adjudication was due to "how the calender fills up" with appointments rather than respondent's lack of trying. Counsel stated the document showed a June 30, 2009, referral for respondent for a psychiatry appointment and an appointment date of October 3, 2009. The court denied the motion, finding respondent had access to the document at issue as early as June 2009, and waited too long to have it presented.

At the hearing, evidence showed the children had been placed together in relative foster care at the home of a godparent. They had been in the home since the case opened in December 2008. The children were reportedly doing well and liked living in the home. The foster parent was willing to provide the children with permanency.

Megan Cambron, the children's foster-care supervisor, testified that, although respondent's visits with the children were sporadic at times, depending upon where respondent was living, they had become better. During recent visits, Cambron observed that respondent and the children had a good time. However, she stated both children had "a hard time emotionally" after visits. Five-year-old S.M. would sometimes wet the bed the night after a visit with respondent. Additionally, S.M. had expressed that she loved respondent but wanted to remain in her foster home. Discussions with four-year-old L.A., led Cambron to believe L.A. felt the same

as S.M.

The best-interest report showed respondent was residing at Your Family Resource Center and was unemployed. Respondent was attending her individual counseling appointments and medication management appointments. She had also completed parenting classes. Although respondent completed Family Life Skills classes in August 2009, she was re-referred to those services after being arrested following an incident of domestic violence. She had not re-engaged in those classes. Respondent had visits with her children every other week. The report stated she had shown some improvement in her parenting capabilities since the case opened.

At the conclusion of the hearing, the trial court found termination of respondent's parental rights was in the children's best interests. On January 13, 2011, respondent filed a motion to reconsider dispositional finding. She noted her oral motion to reopen proofs and alleged any delay in engaging in mental-health services was not her fault. Respondent also alleged termination of her parental rights was not in the children's best interests. On January 26, 2011, the court denied respondent's motion.

This appeal followed.

On appeal, respondent first argues the trial court erred by finding she was an unfit parent. She contends the court's decision was against the manifest weight of the evidence.

The trial court may involuntarily terminate parental rights where it finds (1) a parent unfit, by clear and convincing evidence, as defined in section 1 of the Adoption Act (750 ILCS 50/1(D) (West 2008) and (2) termination is in the child's best interests. *In re J.L.*, 236 Ill. 2d 329, 337-38, 924 N.E.2d 961, 966 (2010). "A trial court's determination that a parent's unfitness has been established by clear and convincing evidence will not be disturbed on review

unless it is contrary to the manifest weight of the evidence." *In re Gwynne P.*, 215 Ill. 2d 340, 354, 830 N.E.2d 508, 516-17 (2005). A court's decision is against the manifest weight of the evidence only where the opposite conclusion is clearly apparent. *Gwynne P.*, 215 Ill. 2d at 354, 830 N.E.2d at 517.

Pursuant to the Adoption Act, a parent may be found unfit for failing to make reasonable progress toward the return of a child within nine months after a neglect adjudication 750 ILCS 50/1(D)(m)(ii) (West 2008).

"[T]he benchmark for measuring a parent's 'progress toward the return of the child' under section 1(D)(m) of the Adoption Act encompasses the parent's compliance with the service plans and the court's directives, in light of the condition which gave rise to the removal of the child, and in light of other conditions which later become known and which would prevent the court from returning custody of the child to the parent." *In re C.N.*, 196 Ill. 2d 181, 216-17, 752 N.E.2d 1030 (2001).

Reasonable progress by a parent "may be found when the trial court can conclude the parent's progress is sufficiently demonstrable and of such quality that the child can be returned to the parent in the near future." *In re Janine M.A.*, 342 Ill. App .3d 1041, 1051, 796 N.E.2d 1175, 1183 (2003). Further, in determining whether a parent made reasonable progress, a court must "consider evidence occurring only during the relevant nine-month period mandated in section 1(D)(m)." *J.L.*, 236 Ill. 2d at 341, 924 N.E.2d at 968.

Here, evidence showed S.M. and L.A. were removed from respondent due to

issues of domestic violence between respondent and her boyfriend. Respondent was described by Lanter as having attacked her boyfriend. Respondent also reported that she had been diagnosed with bipolar disorder. During the nine months following her children's neglect adjudications, respondent received unsatisfactory ratings on her service plans. Evidence showed she did not engage in necessary mental-health services and never obtained suitable housing during the relevant time period. She also initially failed to attend parenting classes.

Respondent argues the trial court erred by finding she failed to make reasonable progress toward her children's return. She maintains she complied with her recommended services and made satisfactory progress. The record does not support respondent's claims. The relevant time period for purposes of the State's unfitness allegation was the nine months following S.M. and L.A.'s neglect adjudications in December 2008. As stated, during that nine-month time period, respondent received unsatisfactory ratings on her service plans, failed to engage in mental-health services, failed to maintain stable housing, and failed to attend parenting classes until well after the nine-month period began to run. Respondent's participation in services outside of the initial nine-month period was not relevant to the court's decision as to whether respondent was unfit pursuant to section 1(D)(m)(ii).

Respondent also contends the trial court erred by finding her unfit because her delay in engaging in mental-health services was due to scheduling issues and not her lack of cooperation with services. The record also does not support this conclusion. Evidence presented at the fitness hearing showed, in the months after the neglect adjudication, respondent failed to attend several appointments related to her mental-health services. In May 2009, those services were discontinued because of her lack of participation. In June 2009, Lanter re-referred

respondent for mental-health services. Any delays thereafter are attributable to respondent's initial failure to engage in services from December 2008 to June 2009.

The record contains sufficient evidence to support the trial court's finding that respondent was unfit for failing to make reasonable progress toward her children's return within the nine months following their neglect adjudication. The court's decision was not against the manifest weight of the evidence.

Respondent further argues the trial court erred by denying her motion to reconsider her motion to reopen evidence. She contends she attempted to present a document that showed she tried to re-engage in mental-health services but was delayed due to a waiting period for appointments. Respondent acknowledges that she did not diligently present the document to the trial court but argues that "given the fundamental right of parenting your children, the standard should be relaxed ***." She also argues that since the court's fitness determination was largely based on her failure to engage in mental-health services, "[a] document proving that [her] noncompliance *** was not her fault should have been admitted into evidence" despite its untimeliness.

“The purpose of a motion to reconsider is to bring to the trial court's attention (1) newly discovered evidence not available at the time of the hearing, (2) changes in the law, or (3) errors in the court's previous application of existing law.' [Citation.] When a movant seeks reconsideration based on newly discovered evidence, 'a party must show that the newly discovered evidence existed before the initial hearing but had not yet been discovered or was

otherwise unobtainable.' [Citation.] A trial court's decision to grant or deny a motion to reconsider lies within its sound discretion, and this court will not disturb such a ruling absent an abuse of discretion. [Citation.]" *Simmons v. Reichardt*, 406 Ill. App. 3d 317, 324, 943 N.E.2d 752, 758 (2010).

Following the trial court's unfitness determination, respondent sought to reopen proofs. Her motion was based upon a document showing she was referred for mental-health services on June 30, 2009, but not scheduled for an appointment until October 3, 2009. Respondent alleged the document proved that her lack of progress in services was due to scheduling issues rather than her own lack of participation. The trial court denied the motion, stating respondent would have had access to the document in question as early as June 2009, and waited too long to submit it to the court. Later, the court also denied respondent's motion to reconsider which referenced the court's denial of her motion to reopen proofs.

Respondent admits that she did not diligently present the document at issue and, on appeal, she sets forth no excuse for her delay. Under the circumstances, the trial court acted within its discretion in denying both her motion to reopen proofs and her motion to reconsider. Additionally, the document in question does not support respondent's claims that she was without fault in failing to engage in mental-health services. Respondent's lack services during the nine months following the neglect adjudications is directly attributable to her failure to engage in services rather than conflicts in scheduling or waiting periods for appointments.

Finally, on appeal, respondent challenges the trial court's best-interest determination. She argues the court's decision that termination of her parental rights was in S.M. and

L.A.'s best interests was against the manifest weight of the evidence.

"At the best-interest stage of termination proceedings the State bears the burden of proving by a preponderance of the evidence that termination is in the child's best interest." *In re Jay H.*, 395 Ill. App. 3d 1063, 1071, 918 N.E.2d 284, 290-91 (2009), citing *In re D.T.*, 212 Ill. 2d 347, 366, 818 N.E.2d 1214, 1228 (2004).

"When determining whether termination is in the child's best interest, the court must consider, in the context of a 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 uniqueness of every family and child; (9) the risks related to substitute care; and (10) the preferences of the persons available to care for the child." *Jay H.*, 395 Ill. App. 3d at 1071, 918 N.E.2d at 291, citing 705 ILCS 405/1-3(4.05) (West 2008).

On review, the trial court's best-interest decision will not be reversed unless it is against the manifest weight of the evidence. *Jay H.*, 395 Ill. App. 3d at 1071, 918 N.E.2d at 291.

"A decision is against the manifest weight of the evidence only if the facts clearly demonstrate that the court should have reached the opposite result." *Jay H.*, 395 Ill. App. 3d at 1071, 918 N.E.2d at 291.

Evidence presented at the best-interest hearing showed S.M. and L.A. had been in relative foster care with a godparent since being removed from respondent's care in December 2008. They liked living in the home and were doing well. The foster parent was willing to provide permanency for the children. Although visits between respondent and the children improved over time, both children reportedly had "a hard time emotionally" following visitations with respondent. The evidence also shows respondent was unemployed, had no stable housing, and needed to re-engage in Family Life Skills classes due to a domestic-violence arrest.

The record contained sufficient evidence to support the trial court's finding that termination of respondent's parental rights was in S.M. and L.A.'s best interests. Its decision was not against the manifest weight of the evidence.

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

Affirmed.