

K.A. and A.A. Respondent appeals, challenging both the court's finding of unfitness and the best-interest determination. The State filed separate cases for each child and respondent has appealed in both. We have consolidated the appeals and, after a careful review of the record before us, we affirm the court's judgments.

¶ 4

I. BACKGROUND

¶ 5

On January 19, 2010, the State filed a petition for adjudication of neglect as to A.A. (born September 24, 2007) and K.A. (born June 6, 2009) in the Macon County circuit court. In support of the petition, the State claimed respondent had been living with the children at a shelter since December 30, 2009, as a result of a domestic-violence incident between her and Alexander. During her stay, respondent tested positive twice for drugs. On January 11, 2010, she left the shelter with her children and went to a friend's house, where she reportedly used cocaine. Upon her return, she was given a drug test and tested positive. The staff at the shelter asked her to leave on or before January 15, 2010. The Department of Children and Family Services (DCFS) was notified and took protective custody of the children on January 14, 2010. At the shelter-care hearing, respondent stipulated to a finding of neglect based on her drug use.

¶ 6

On February 10, 2010, the trial court in Macon County conducted an adjudicatory hearing at which respondent failed to appear. The court entered an adjudicatory order and immediately proceeded to a dispositional hearing. After determining that respondent had unresolved issues related to domestic violence, substance abuse, and mental health, the court entered a dispositional order, finding respondent unfit, unable, and unwilling to care for, protect, train, or supervise the children and making them wards of the court. (In July 2010, at a permanency-review hearing, for reasons unknown, the State requested the case be transferred to Sangamon County.

With no objection, the court granted the State's request and directed the clerk to send a certified copy of entire record to Sangamon County. The record before us includes the Macon County record.)

¶ 7 On January 13, 2011, the State filed a petition to terminate respondent's and Alexander's parental rights to both children in the Sangamon County circuit court. Though the petitions were identical, the State filed a separate petition for each child: K.A., case No. 10-JA-126, and A.A., case No. 10-JA-127. The State alleged respondent was unfit for (1) failing to maintain a reasonable degree of interest, concern, or responsibility as to the children's welfare (750 ILCS 50/1(D)(b) (West 2010)); (2) failing to make reasonable efforts to correct the conditions that led to the removal of the children (750 ILCS 50/1(D)(m)(i) (West 2010)); and (3) failing to make reasonable progress toward the return of the children within nine months immediately following adjudication, namely February 10, 2010, through November 10, 2010 (750 ILCS 50/1(D)(m)(ii) (West 2010)).

¶ 8 On May 12, 2011, the trial court conducted a fitness hearing. Respondent failed to appear in person but appeared through counsel. Counsel requested a continuance, but the court denied the same. Counsel advised the court that respondent was arrested on April 28, 2011, but had been released on April 30, 2011. He did not know why she was absent, as she was aware of the scheduled hearing. The State called Laura Hacker, the family's caseworker from Lutheran Children and Family Services (LCFS), as its only witness. Hacker testified that she became involved with the case in May 2010. According to respondent's case plan, she was to (1) visit with the children for two hours two days per week in a supervised setting, (2) complete an alcohol and drug assessment and follow any recommendation for treatment, (3) participate in random drug tests, (4) complete a parenting course, (5) participate in individual counseling and comply with all

recommendations, (6) participate in domestic-violence counseling, and (7) obtain employment and maintain appropriate housing.

¶ 9 First, as to visits, Hacker testified that, because respondent had failed to make progress toward completion of her other tasks and often ended visits early, in the fall of 2010, her visits were reduced to one hour per week. In January 2011, after the petition to terminate was filed, respondent's visits were reduced to one hour per month. Hacker stated that respondent was offered a total of 80 visits. She attended 67. Hacker described the quality of the visits as "fair," as respondent often complained of being tired and would leave the visit early. She would also engage the case aide in conversation rather than spending time with her children.

¶ 10 Second, Hacker testified that respondent completed her drug and alcohol assessment in June 2010 and was recommended for treatment. In July 2010, she began the random drug tests. Shortly after treatment began, respondent tested positive in one of the random tests and was discharged unsuccessfully from treatment in October 2010 after further positive tests. LCFS had requested a total of 10 random drops between July and October 2010. Of those, respondent tested positive four times and negative three times. She failed to appear for three requested tests. After being unsuccessfully discharged, she did not attempt any further treatment.

¶ 11 Third, as to respondent's tasks relating to individual counseling, parenting, and domestic-violence counseling, Hacker testified that in June 2010, respondent spent a weekend at Sojourn domestic-violence shelter. Thereafter, she never engaged in domestic-violence counseling. In October 2010, respondent began individual counseling, but was unsuccessfully discharged in January 2011 for poor attendance. However, in November 2010, she successfully completed her parenting course.

¶ 12 Finally, with regard to respondent's income and housing tasks, Hacker testified that respondent was rated overall unsatisfactory. Between August and October 2010, respondent had her own housing, though it was considered unsatisfactory. Otherwise, she was either homeless or residing with Alexander at a time when contact with him was prohibited.

¶ 13 The State rested and respondent presented no evidence. After considering the evidence and arguments of counsel, the trial court found the State had sufficiently proved all allegations set forth in the petition.

¶ 14 The trial court proceeded immediately to the best-interest hearing. Again counsel requested a continuance, which was again denied. Hacker testified that (1) both children were placed in a traditional foster home with Andrea Williams over one year ago, (2) they were thriving in their home, (3) they were "well bonded" to Williams and to Williams' 12-year old biological child, (4) they had last seen respondent in February 2011, and (4) though Williams had not decided whether she would be willing to adopt the children, she was considering the option. Hacker testified that, should Williams decide against adoption, there were adoptive homes currently available for both children.

¶ 15 After considering this evidence and recommendations of counsel, the trial court found as follows:

"it is in the best interest of [K.A.] and [A.A.] that the parental rights of [respondent] and [Alexander] and all unknown fathers be terminated. These children deserve some semblance of permanency and some resting home where they can be cared for and provided for and loved. They are currently receiving that, and while it is true, that

this decision is not yet made by Ms. Williams as to whether she wishes to adopt [K.A.] and [A.A.], and I hope she does because the children have been there for a year and there is clearly a bond, and while it is somewhat true that Mr.–what Mr. Pryor [respondent's counsel] refers to as a removal of the two mommies. The truth of the matter is that only one person has acted as the mother for these children and that's Ms. Williams. [Respondent] has not, so she's not able to provide any degree of permanency to her own children, whereas, Ms. Williams or another foster mother who may–or father–who may be willing to provide permanency for these children, and I suspect that permanency will come faster than any interest that their own mother would show. So, I think for the sake of permanency, for the sake of helping these children achieve a long and loving and cared for life in the future, I am going to terminate parental rights as to all parents."

On June 1, 2011, the court entered a written judgment terminating respondent's parental rights. These consolidated appeals followed.

¶ 16

II. ANALYSIS

¶ 17

First, respondent challenges the trial court's finding of unfitness. In particular, she claims the testimony of the State's only witness, Hacker, was limited to the time frame between May 2010 and January 2011. According to respondent, the "quantum of evidence offered to the Court by the State's case did not satisfy the goal of clear and convincing evidence required for proof of

parental unfitness." She contends the evidence pertaining to (1) her successful completion of a parenting course, (2) the fact that she "had entered into and been discharged" from substance-abuse treatment, (3) the fact that "she sought but not followed through with domestic[-]violence counseling," and (4) her attendance at 67 out of 80 possible visits, indicates the State failed to sufficiently prove her unfit.

¶ 18 When considering the State's petition to terminate parental rights, the trial court must first determine whether any of the statutory grounds of unfitness alleged in the petition have been proved by clear and convincing evidence. *In re D.C.*, 209 Ill. 2d 287, 296 (2004). "A parent's rights may be terminated if a single alleged ground for unfitness is supported by clear and convincing evidence." *D.C.*, 209 Ill. 2d at 296. A reviewing court will not overturn a trial court's finding of unfitness unless it is against the manifest weight of the evidence presented. *In re D.F.*, 201 Ill. 2d 476, 495 (2002).

¶ 19 The State alleged, *inter alia*, respondent was unfit for failing to make reasonable efforts and reasonable progress toward reunification with the children. Though both elements are included under section 1(D)(m) of the Adoption Act (750 ILCS 50/1(D)(m) (West 2010)), a "lack of reasonable efforts and reasonable progress are separate and distinct bases for a finding of unfitness." (Emphasis omitted.) *D.F.*, 201 Ill. 2d at 505. A finding of only one ground is sufficient to affirm the court's judgment. *In re H.D.*, 343 Ill. App. 3d 483, 493 (2003).

¶ 20 "Reasonable efforts" is based on a subjective standard and is judged on the amount of effort that would be reasonable for that particular respondent. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1066-67 (2006). "Effort" is defined as "[a]n attempt; an endeavor; a struggle directed to the accomplishment of an object. To try." Black's Law Dictionary 515 (6th ed. 1990). Therefore, in

determining a parent's fitness under section 1(D)(m)(i), a trial court must evaluate any attempts or endeavors made by the particular respondent to correct the condition that was the basis for the children's removal. See 750 ILCS 50/1(D)(m)(i) (West 2010).

¶ 21 In this case, the primary "condition" that was the basis for the children's removal was respondent's substance abuse and addiction. Although it was apparent that a second "condition" related to domestic violence needed to be resolved, it was unreasonable to believe that respondent could advance toward the goal of resolving domestic-violence issues until she had conquered her addiction to drugs. Thus, for the purposes of this appeal, the "condition" to be corrected was respondent's addiction.

¶ 22 In making the determination of whether a parent is unfit under section 1(D)(m)(i), the trial court must focus on the parent's efforts during the initial nine-month period following the adjudication of neglect. *In re Veronica J.*, 371 Ill. App. 3d 822, 828 (2007). Here, the relevant time frame was February 10, 2010, through November 10, 2010, and the evidence revealed the following.

¶ 23 In June 2010, respondent completed her drug assessment and began treatment. However, soon thereafter she tested positive after a random drug test. She was unsuccessfully discharged from treatment in October 2010 due to her repeated failure to abstain. She did not attempt to begin treatment anew within the relevant time frame, and as of the date of the fitness hearing, respondent had not made any further attempts.

¶ 24 In addition to her lack of effort related to her substance abuse, respondent also demonstrated a lack of effort related to her individual counseling and successful visits with her children. She was able to begin individual counseling in July 2010 but she failed to do so until October 2010, and then was unsuccessfully discharged a few months later for nonattendance. In the

fall of 2010, respondent's visits were reduced from two hours, twice weekly, to one hour weekly due to her lack of progress on her assigned tasks. Additionally, she often complained of being tired and left visits early or spent her time conversing with the case aide rather than engaging her children in activities.

¶ 25 We find the manifest weight of the evidence supports the trial court's decision that respondent failed to make reasonable efforts to correct the condition that was the basis for the children's removal from her care. Though she successfully completed a parenting course, she failed to put forth reasonable efforts to overcome her drug addiction and to participate in the recommended treatment.

¶ 26 Next, with regard to the trial court's best-interest determination, we note that courts will not lightly terminate parental rights because of the fundamental importance inherent in those rights. *In re M.H.*, 196 Ill. 2d 356, 363 (2001). Once the court finds the parent unfit, the parent's rights are no longer of concern. The parent's rights must yield to the best interest of the child. *In re Tashika F.*, 333 Ill. App. 3d 165, 170 (2002). The court's best-interest finding will not be reversed unless it is against the manifest weight of the evidence. *H.D.*, 343 Ill. App. 3d at 494.

¶ 27 The evidence produced during the best-interest hearing demonstrated that the children were in a home where they were loved, secure, and well cared for. Their foster mother had bonded with them and was considering adoption. They had been in the home for over a year and were doing well, even without contact from respondent for the past three months. We find the evidence clearly demonstrated that it was in the children's best interests to afford them the opportunity to seek permanency in a caring and thriving environment, whether that was in their current placement or in another adoptive home. For these reasons, we find that the trial court's order terminating respondent's

parental rights as to each child was not against the manifest weight of the evidence.

¶ 28

III. CONCLUSION

¶ 29

For the foregoing reasons, we affirm the trial court's judgments.

¶ 30

Affirmed.