

NOTICE
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2011 IL App (4th) 110400-U

Filed 9/7/11

NOS. 4-11-0400, 4-11-0401 cons.

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: J.C., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Sangamon County
v. (No. 4-11-0400))	No. 05JA51
SASCHA HULLINGER,)	
Respondent-Appellant.)	
-----)	
In re: C.H., a Minor,)	No. 05JA52
THE PEOPLE OF THE STATE OF ILLINOIS,)	
Petitioner-Appellee,)	
v. (No. 4-11-0401))	Honorable
SASCHA HULLINGER,)	Esteban F. Sanchez,
Respondent-Appellant.)	Judge Presiding.

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

ORDER

- ¶ 1 *Held:* Because the evidence presented showed that (1) the respondent had not complied with her client-service plan such that her children could have been placed in her care in the near future and (2) termination of the respondent's parental rights was in her children's best interest, the trial court's fitness and best-interest findings—which resulted in termination of the respondent's parental rights—were not against the manifest weight of the evidence.
- ¶ 2 In March 2011, the State filed separate second supplemental motions to terminate the parental rights of respondent, Sascha Hullinger, as to her children J.C. (born March 16, 2003) and C.H. (born May 16, 2001). Following an April 2011 fitness hearing, the trial court entered a written order, finding respondent unfit. Following a May 2011 best-interest hearing, the court

terminated respondent's parental rights.

¶ 3 Respondent appeals, arguing that the trial court's fitness and best-interest findings were against the manifest weight of the evidence. We disagree and affirm.

¶ 4 I. BACKGROUND

¶ 5 A. The Circumstances Surrounding the State's Motions
To Terminate Respondent's Parental Rights

¶ 6 On March 29, 2005, the State filed separate petitions for adjudication of wardship, alleging that J.C. and C.H. were neglected minors under section 2-3(1) of the Juvenile Court Act of 1987 (705 ILCS 405/2-3(1) (West 2004)). Specifically, the State alleged that respondent failed to provide J.C. and C.H. the proper care necessary for their well-being in that she failed to pick them up from a crisis nursery when scheduled because of her drug and alcohol use. Following a shelter-care hearing conducted that same day, the trial court entered an order, granting the Department of Children and Family Services (DCFS) temporary custody and guardianship of J.C. and C.H. Following a July 7, 2005, hearing on the State's wardship petitions, the court entered an order, adjudicating J.C. and C.H. neglected minors for the reasons alleged by the State. At a dispositional hearing conducted immediately thereafter, the court adjudicated J.C. and C.H. wards of the court and maintained DCFS as their guardians. (Although the timing is not clear from the record, DCFS initially placed J.C. and C.H. in a foster home, but in 2006, placed them with their maternal grandmother and step-grandfather (hereinafter grandparents).)

¶ 7 In March 2011, the State filed separate second supplemental motions to terminate respondent's parental rights as to J.C. and C.H. pursuant to the Adoption Act (750 ILCS 50/1

through 24 (West 2010)). In particular, the State alleged that respondent was an unfit parent in that she failed to (1) maintain a reasonable degree of interest, concern, or responsibility as to her children's welfare (750 ILCS 50/1(D)(b) (West 2010)); (2) make reasonable efforts to correct the conditions that were the basis for the removal of her children (750 ILCS 50/1(D)(m)(i) (West 2010)); (3) make reasonable progress toward the return of her children within nine months after the adjudication of neglect (July 7, 2005, through April 7, 2006) (750 ILCS 50/1(D)(m)(ii) (West 2010)); and (4) make reasonable progress toward the return of her children during any nine-month period after the end of the initial nine-month period following the adjudication of neglect (750 ILCS 50/1(D)(m)(iii) (West 2010)).

¶ 8 B. The Evidence Presented at the Fitness Hearing

¶ 9 Initially, we note that prior to respondent's April 2011 fitness hearing, respondent's counsel moved for a continuance because respondent was not present at the hearing. The trial court based its denial of respondent's motion on (1) its admonishments to the parties at a March 2011 hearing that it would not grant any further continuances, (2) respondent's written acknowledgment of the scheduled fitness hearing during the March 2011 proceeding, and (3) its refusal to continue a case that had been pending since March 2005 to attempt a resolution between the parties. Thereafter, the State presented the following evidence.

¶ 10 Luann Gab testified that she was respondent's DCFS caseworker from April 2006 through December 2007, whereupon she became the supervisor of respondent's case. Her supervisory duties included meeting with assigned caseworkers to discuss respondent's case and approve respondent's client-service plans. From March 2005 through March 2010, DCFS implemented 10 successive, 6-month client-service plans. Each service plan required respondent

to complete the following pertinent goals: (1) complete a drug and alcohol assessment and comply with treatment recommendations, (2) submit to random drug tests, (3) complete parenting classes, (4) obtain and maintain stable housing and employment, (5) appropriately participate in weekly supervised visits with her children, and (6) cooperate with DCFS. The initial plan's goal was to return J.C. and C.H. to respondent's custody and care.

¶ 11 Respondent's overall progress in completing her first client-service plan (March 2005 through September 2005) was rated as unsatisfactory in that, aside from completing a drug assessment and beginning her parenting classes, respondent did not successfully complete any of her assigned goals. Gab explained that despite respondent's completion of a drug and alcohol assessment, she refused to participate in drug testing or attend follow-up drug and alcohol assessments, which necessitated an unsatisfactory rating. Similarly, respondent received an overall unsatisfactory rating on her second client-service plan (September 2005 through March 2006) because although she (1) had completed parenting classes in November 2005, (2) was temporarily employed for 30 days, and (3) was complying with her weekly visitation goal, respondent was discharged unsuccessfully from an outpatient drug treatment program and continued to reside in a shelter.

¶ 12 Thereafter, respondent's remaining client-service plans included the additional goal to participate in mental-health counseling. From March 2006 through March 2008, Gab rated respondent's overall progress on completing her goals on her third through sixth, six-month client-service plans as unsatisfactory. Specifically, Gab noted that the common theme underlying her unsatisfactory evaluations concerned respondent's unwillingness to (1) comply with drug-treatment recommendations as evidenced by her positive drug tests for cannabis, (2) consistently

attend mental-health counseling, and (3) obtain and maintain housing and employment. Gab recounted that (1) in August 2006, respondent was involved in a train accident that resulted in the amputation of her leg, which respondent admitted was precipitated by her intoxicated state at that time; (2) in March 2007, respondent's overall plan goal was changed to "substitute care pending court determination" because respondent did not make any progress toward her goals; and (3) in September 2007, respondent's overall plan goal was changed to "guardianship" because the State believed that the bond J.C. and C.H. had with respondent militated against parental termination.

¶ 13 Gab rated respondent's overall progress in completing her seventh client-service plan (March 2008 through September 2008) as satisfactory. Specifically, Gab's evaluation documented that respondent was complying with her goals in that she (1) participated in drug testing, which produced negative results; (2) attended mental-health counseling; (3) had housing; and (4) was employed and visiting with her children on a weekly basis. In September 2008, respondent's overall goal was changed to "return home."

¶ 14 Thereafter, Gab rated respondent's progress in completing her eighth client-service plan (September 2008 through March 2009) as unsatisfactory because respondent had several positive drug tests for cannabis use and refused to participate in a drug and alcohol assessment. Gab stated that (1) DCFS increased respondent's visitation with her children to seven hours per week and (2) the results of respondent's psychological testing revealed that respondent could "minimally parent her children" if she refrained from using illicit drugs.

¶ 15 With regard to respondent's ninth client-service plan (March 2009 through September 2009), Gab rated respondent's progress in completing her drug and alcohol assessment goal as unsatisfactory because respondent continued to refuse to comply with a drug assessment.

However, Gab rated respondent's overall progress as satisfactory because (1) respondent was complying with her other service-plan goals and (2) her continued drug use steadily declined during the reporting period. In addition, Gab noted that respondent's visitation schedule with her children was changed from weekly supervised visits to unsupervised overnight visits. Thereafter, DCFS implemented a tenth client-service plan (September 2009 through March 2010). On December 28, 2009, J.C. and C.H. were returned to respondent's custody and care.

¶ 16 Miranda Morris, a DCFS caseworker, testified that in February 2010, she assumed responsibility of respondent's case. Morris explained that although J.C. and C.H. were in respondent's custody at the time she inherited the case, they were removed from respondent's care on May 28, 2010. DCFS later placed J.C. and C.H. with their grandparents because of respondent's (1) failure to supervise them, (2) refusal to honor an agreement to fix her home furnace in exchange for DCFS' financial assistance with her rent, and (3) unwillingness to comply with a drug and alcohol reassessment or drug testing. In July 2010, Morris rated respondent's overall progress on completing her tenth client-service plan as unsatisfactory because respondent failed to (1) address her drug problems, (2) maintain housing as evidence by a May 2010 eviction notice, (3) cooperate with home visits, and (4) attend a mental-health counseling reassessment.

¶ 17 Morris also rated respondent's overall progress in completing her eleventh client-service plan (September 2010 through March 2011) as unsatisfactory. Morris explained that respondent (1) refused to attend a drug and alcohol intake assessment because she was preparing for a Labor Day picnic, (2) began temporarily residing with various friends, (3) lost her employment in October 2010, (4) refused to attend a mental-health assessment, (5) stopped cooperating with DCFS, and (6) was charged with driving under the influence of alcohol in September 2010.

Morris opined that after J.C. and C.H. were removed from respondent's care in May 2010, respondent was not close to having her children returned to her care. (Respondent's counsel did not present any evidence at the hearing.)

¶ 18 C. The Trial Court's Fitness Finding

¶ 19 Thereafter, the trial court found respondent unfit in that she failed to (1) maintain a reasonable degree of interest, concern, or responsibility as to her children's welfare; (2) make reasonable progress toward the return of her children within nine months after the adjudication of neglect (July 7, 2005, through April 7, 2006); and (3) make reasonable progress toward the return of her children during any nine-month period after the end of the initial nine-month period following the adjudication of neglect, which the court identified as May 7, 2006, through February 7, 2007; January 7, 2007, through October 7, 2007; October 7, 2007, through July 7, 2008; July 7, 2008, through April 7, 2009; April 7, 2009, through January 7, 2010; January 7, 2010, to October 7, 2010; and May 10, 2010, through February 25, 2011. The court also found that the State had not proved by clear and convincing evidence that respondent failed to make reasonable efforts to correct the conditions that were the basis for the removal of her children.

¶ 20 D. The Evidence Presented at the Best-Interest Hearing

¶ 21 At the May 2011 best-interest hearing, at which respondent failed to appear but was represented by counsel, Morris testified that DCFS had placed J.C. and C.H. with their grandparent from 2006 through 2009. Thereafter, J.C. and C.H. were reunited with respondent, but in May 2010, were returned to their grandparents' care. Morris described that J.C. and C.H. (1) were adjusting well with their grandparents and (2) did not have any behavioral problems. Morris explained that the grandparents implemented a routine in which the children would come

home from school, complete their homework, and then engage in activities, which included a weekly ritual of watching "American Idol" as a family. Morris observed that J.C. relies on his grandfather for nurturing and emotional support, while C.H. primarily seeks that support from her grandmother. Morris noted that although the children's step-grandfather had initial doubts about being able to provide the necessary emotional and financial support to their grandchildren in the future, both grandparents had agreed to adopt J.C. and C.H. after they become licensed foster parents, which Morris estimated could take up to six months.

¶ 22 Morris testified further that when J.C. and C.H. were returned to respondent in December 2009, C.H. assumed the role of mother to respondent by providing respondent emotional support, which Morris believed was not a "healthy" relationship. Morris conveyed that in her conversations with C.H., C.H. identified areas that respondent needed to improve, which she stated were "work and [to] have housing like grandma and grandpa." C.H. also told Morris that although being reunited with her mother was "fun" initially, she was glad to be back with her grandparents.

¶ 23 Morris acknowledged that the children's step-grandfather had just recently expressed his desire to adopt J.C. and C.H. within the last 45 days. Morris opined that respondent's (1) ability to regain custody of her children would not be certain and would take a substantial amount of time and (2) continued relationship with J.C. and C.H. would not be in the children's best interest based on the emotional harm already inflicted upon them based on the duration of the instant case and respondent's unwillingness to regain custody of her children by accomplishing her service-plan goals. (Respondent did not present any evidence.)

¶ 24 The Trial Court's Best-Interest Finding

¶ 25 After considering the evidence and counsel's arguments, the trial court terminated respondent's parental rights as to J.C. and C.H. (The court's order also terminated the parental rights of the children's respective fathers; however, they are not parties to this appeal.)

¶ 26 This appeal followed.

¶ 27 II. TERMINATION OF RESPONDENT'S PARENTAL RIGHTS

¶ 28 A. The Trial Court's Fitness Finding

¶ 29 1. *The Applicable Statute, Reasonable Progress, and the Standard of Review*

¶ 30 Section 1(D)(m)(iii) of the Adoption Act provides, in pertinent part, as follows:

"The grounds of unfitness are any *** of the following:

* * *

(m) Failure by a parent *** (iii) to make reasonable progress toward the return of the child to the parent during any [nine]-month period after the end of the initial [nine]-month period following the adjudication of neglected or abused minor *** or dependent minor[.]" 750 ILCS 50/1(D)(m)(iii) (West 2010).

¶ 31 In *In re C.N.*, 196 Ill. 2d 181, 216-17, 752 N.E.2d 1030, 1050 (2001), the supreme court discussed the following benchmark for measuring "reasonable progress" under section 1(D)(m) of the Adoption Act:

"[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."

¶ 32 In *In re L.L.S.*, 218 Ill. App. 3d 444, 461, 577 N.E.2d 1375, 1387 (1991), this court discussed reasonable progress under section 1(D)(m) of the Adoption Act and held as follows:

" 'Reasonable progress' *** exists when the [trial] court *** can conclude that *** the court, in the *near future*, will be able to order the child returned to parental custody. The court will be able to order the child returned to parental custody in the near future because, at that point, the parent *will have fully complied* with the directives previously given to the parent." (Emphases in original.)

The supreme court's discussion in *C.N.* regarding the benchmark for measuring a respondent parent's progress did not alter or call into question this court's holding in *L.L.S.* For cases citing the *L.L.S.* holding approvingly, see *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1067, 859 N.E.2d 123, 137 (2006); *In re Jordan V.*, 347 Ill. App. 3d 1057, 1068, 808 N.E.2d 596, 605 (2004); *In re B.W.*, 309 Ill. App. 3d 493, 499, 721 N.E.2d 1202, 1207 (1999); and *In re K.P.*, 305 Ill. App. 3d 175, 180, 711 N.E.2d 478, 482 (1999).

¶ 33 "The State must prove parental unfitness by clear and convincing evidence, and the trial court's findings must be given great deference because of its superior opportunity to observe the witnesses and evaluate their credibility." *Jordan V.*, 347 Ill. App. 3d at 1067, 808 N.E.2d at 604. A reviewing court will not reverse a trial court's fitness finding unless it is contrary to the manifest weight of the evidence, meaning that the opposite conclusion is clearly evident from a review of the record. *Id.*

¶ 34 *2. Respondent's Claim That the Trial Court's Fitness Finding Was Against the Manifest Weight of the Evidence*

¶ 35 Respondent argues that the trial court's fitness finding was against the manifest weight of the evidence. In particular, respondent contends that because she had made sufficient progress such that J.C. and C.H. were returned to her custody in December 2009, the State failed to prove, by clear and convincing evidence, that she was an unfit parent. We disagree.

¶ 36 In this case, the trial court based its fitness finding, in part, on respondent's inability to make reasonable progress toward the return of J.C. and C.H. to her custody during any nine-month period after the end of the initial nine-month period following the adjudication of neglect. (750 ILCS 50/1(D)(m)(iii) (West 2010)), which included the nine-month period of respondent's eleventh client-service plan (September 2010 through March 2011). During this period, the evidence presented showed that with the exception of visiting her children monthly, respondent failed to comply with any of her other client-service-plan goals, which had been in effect since March 2005. Thus, at the time Morris rendered her overall unsatisfactory evaluation, which occurred in March 2011, respondent was unwilling to curb her drug use and failed to maintain housing and employment. In other words, for six years, respondent failed to provide J.C. and

C.H. a stable, loving, secure, and permanent family home. More important, the evidence showed that after J.C. and C.H. were again removed from respondent's care in May 2010, respondent was not close to having her children returned due to her refusal to comply with her specific client-service-plan goals. Accordingly, reviewing the evidence pursuant to the applicable standard of review, we conclude that the court's unfitness finding was not against the manifest weight of the evidence.

¶ 37 Because we have concluded that the trial court's finding that respondent failed to make reasonable progress toward the return of her children during any nine-month period after the end of the initial nine-month period following the adjudication of neglect (750 ILCS 50/1(D)(m)(iii) (West 2010)) was not contrary to the manifest weight of the evidence, we need not consider the court's other findings as to parental unfitness. See *In re Katrina R.*, 364 Ill. App. 3d 834, 842, 847 N.E.2d 586, 593 (2006) (on review, if sufficient evidence is shown to satisfy any one statutory ground, we need not consider other findings of parental unfitness).

¶ 38 B. The Trial Court's Best-Interest Finding

¶ 39 1. *The Standard of Review*

¶ 40 At the best-interest stage of parental termination proceedings, the State bears the burden of proving by a preponderance of the evidence that termination of parental rights is in the child's best interest. *In re Jay H.*, 395 Ill. App. 3d 1063, 1071, 918 N.E.2d 284, 290 (2009). Consequently, at the best-interest stage of termination proceedings, " 'the parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life.' [Citation.]" *In re T.A.*, 359 Ill. App. 3d 953, 959, 835 N.E.2d 908, 912 (2005).

¶ 41 "We will not reverse the trial court's best-interest determination unless it was

against the manifest weight of the evidence." *Jay H.*, 395 Ill. App. 3d at 1071, 918 N.E.2d at 291. A best-interest determination 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.

¶ 42 2. *Respondent's Claim That the Trial Court's Best-Interest Finding Was Against the Manifest Weight of the Evidence*

¶ 43 Respondent also argues that the trial court's best-interest findings were against the manifest weight of the evidence. Specifically, respondent contends that the court erred because she maintained a close bond with her children while the children's prospective adoption was questionable. We disagree.

¶ 44 In this case, the trial court based its decision to terminate respondent's parental rights on the following basis:

"[G]randma and grandpa have *** consis-
tently *** provide[d] for these children. It's not an
easy decision ***, but they have made it out of love,
no doubt about it. Not only love for [J.C. and C.H.-
], but [the court] suspect[s] love for [respondent].
It's a leap of faith, but in [the court's] view, it will be
even a bigger leap of faith to suggest that [respon-
dent] will develop the bond and will develop the
skills and will develop the willpower to stay away
from alcohol, drugs and the lifestyle that she has led

all of this time. That, [the court] believe[s], is a bigger leap of faith for these children than the grandparents backing out of their desire to adopt them, and quite frankly, it's not fair to the children. It's not in their best interest, and it's certainly not what [the court] think[s] is the proper result here to take a bigger leap of faith in the hope that some day, some how, after all of these years, [respondent] decides to bond with her children in an appropriate, consistent and permanent basis."

¶ 45 In this case, the record shows that respondent consistently visited her children and that during those visitations, displayed the appropriate loving and affectionate attitude. However, as we have previously stated, at the best-interest hearing, the focus is on the children's best interest in a stable, loving home life, not on a respondent's desire to maintain a parental relationship. In this regard, we agree with the trial court's rationale that after six years of uncertainty, J.C. and C.H. deserve the permanency that respondent has demonstrated she cannot provide.

¶ 46 Accordingly, given the evidence presented, we conclude that the trial court's best-interest finding was not against the manifest weight of the evidence.

¶ 47 III. CONCLUSION

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

¶ 49 Affirmed.