

2012 IL App (2d) 120404-U
No. 2-12-0404
Order filed August 31, 2012

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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

In re Syarra G.T. and Devion B., Minors) Appeal from the Circuit Court
) of Winnebago County.
)
) No. 09-JA-408
)
) Honorable
(The People of the State of Illinois, Petitioner-) Mary Linn Green,
Appellee v. Shavon G., Respondent-Appellant.) Judge, Presiding.

In re Syarra G.T. and Devion B., Minors) Appeal from the Circuit Court
) of Winnebago County.
)
) No. 09-JA-409
)
) Honorable
(The People of the State of Illinois, Petitioner-) Mary Linn Green,
Appellee v. Shavon G., Respondent-Appellant.) Judge, Presiding.

JUSTICE ZENOFF delivered the judgment of the court.
Justices Hutchinson and Schostok concurred in the judgment.

ORDER

Held: Because the State proved that respondent was unfit and that it was in the minors' best interests to terminate her parental rights, the trial court's decision was affirmed.

¶ 1 Respondent, Shavon G., appeals the orders of the trial court finding her unfit and terminating her parental rights as to minors Devion B. and Syarra G. T. The minors' fathers are not parties on appeal. We affirm the trial court's decision finding respondent unfit and terminating her parental rights.

¶ 2 I. BACKGROUND

¶ 3 A. Neglect Petitions

¶ 4 Devion was born on April 7, 2006, and Syarra was born on April 30, 2009. The State filed neglect petitions as to both minors on October 30, 2009, and a shelter care hearing occurred on that date.

¶ 5 Regarding Syarra, the State alleged that she was neglected based on respondent's substance abuse problem, which prevented her from parenting properly. Amanda Moren, a child protection investigator for the Department of Children and Family Services (DCFS), reported the following to the court. On October 25, 2009, respondent brought Syarra, a nearly six-month-old infant, to Swedish American Hospital because she had a high fever and congestion. Respondent's visitation of the child in the hospital was sporadic. On October 27, 2009, respondent came to the hospital intoxicated and tried to remove the infant against medical advice. In addition, respondent was told not to prop up a feeding bottle in Syarra's mouth because it could cause her to choke or asphyxiate. However, when a nurse went to check on Syarra, she found the bottle propped up in her mouth with fluid running all over her, and respondent had left without notifying staff. Moren further reported that respondent admitted that she was not feeding formula to Syarra, but was feeding her milk or any other liquid that she had. Also, respondent had just been evicted from her home and was unsure where she would be living.

¶ 6 Regarding Devion, who was 3½ years old, the State alleged that he was neglected based on respondent's substance abuse problem and based on an injurious environment. Two months earlier, respondent had left Devion in the care of her mother, Delores, whom respondent knew to use crack cocaine. Since that time, respondent had not checked on the child or provided any supplies.

¶ 7 The court found probable cause that the minors were neglected and granted temporary custody to DCFS. The minors were placed with Krystal, a godmother and friend of respondent's. On November 25, 2009, respondent was charged with aggravated battery with a deadly weapon after an altercation with Krystal and her boyfriend. The court ordered respondent to stay away from the home, and the minors were then placed in a traditional foster home in Capron on January 8, 2010.

¶ 8 On February 10, 2010, the State amended its neglect petition regarding Syarra. The State added a count alleging that Syarra was neglected due to an injurious environment created by respondent placing Devion in the care of Delores, his crack-addicted grandmother. Also on February 10, 2010, an adjudication hearing was held. At that hearing, respondent admitted that she left Devion with her mother, Delores, for two months, although she denied that this was a permanent arrangement. Respondent also admitted consuming two, 40-ounce beers before visiting Syarra in the hospital. She denied leaving a bottle propped up in Syarra's mouth before leaving but admitted that she was intoxicated and wanted Syarra discharged.

¶ 9 On April 14, 2010, the trial court determined that the State met its burden that Syarra was neglected on the basis of an injurious environment, which was respondent's act of leaving Devion in the care of her mother, whom she knew had a "drug problem." Though the court did not make a neglect finding as to Devion as this time, it proceeded with a dispositional hearing, after which the court stated that orders were being entered reflecting that *both* minors were neglected.

¶ 10 At the dispositional hearing, Stephen Tuite, the foster care case manager, testified that respondent would not perform the drug testing drops in a timely manner. He also suspected that she was still drinking. And though a substance abuse assessment from Rosecrance resulted in “no services needed,” Tuite did not believe that respondent was completely honest during the assessment. For example, respondent was intoxicated the first day he met her, which followed the court order not to drink. On another court date, Tuite smelled alcohol on respondent’s breath, and her speech was slurred. Tuite thought that respondent was intoxicated when she called him “at certain times.” In addition, respondent failed to attend parenting classes on Saturdays. Tuite tried to accommodate respondent’s schedule but felt like she used it as an excuse not to participate. As a result, respondent had not engaged in any services to address the issue of leaving Devion with her mother, an inappropriate care provider. As for visitation, respondent missed the majority of visits, which were available one or two times per week. Respondent showed up for the first two visits and then started showing up late. The rule was that there was a 15-minute window for being late, otherwise respondent would need to call and confirm. Respondent either failed to call and confirm, or would confirm but not appear or show up late. In his report, Tuite indicated that respondent missed visits on February 26, March 5 and 12, and April 2 and 9; she had attended one visit since March. Also, Tuite did not think respondent had permanent housing; he thought she was living with her brother, his wife, and their two children. Tuite recommended that guardianship and custody be placed with DCFS.

¶ 11 Regarding the minors and the foster care placement, Tuite indicated that Devion was delayed in speech, had a very limited vocabulary, had poor muscle coordination, and appeared anxious and hyper vigilant. At the time, Devion was enrolled in a specialized preschool program and becoming

more verbal. Because the foster home in Capron had its own daycare, he interacted with more children, which improved his vocabulary. Devion had a bond with the foster parent, and he exhibited severe reactive behavior to respondent missing visits. Syarra was adjusting well to the placement, and her eating and sleeping patterns were normal.

¶ 12 Respondent testified that the parenting classes were only offered on Saturdays, which conflicted with her schedule of traveling to Chicago every weekend to see a lawyer. When asked, respondent could not recall the lawyer's name. Respondent testified that she visited the minors every day when they were placed with Krystal, but that it was harder to coordinate visits when the minors were moved to Capron. She would visit but arrive late due to the bus schedule and the agency's failure to adjust the timing of her visits. She also testified that she completed several drug drops.

¶ 13 The court noted that respondent was assessed for substance abuse and no recommendations were made. However, Tuite reported that respondent's drug drop tests were not performed timely, and he suspected that she was still drinking. Late drug drops were considered positive. In addition, respondent's decision to leave Devion in the care of a "crack addict" left questions regarding her parenting skills and judgment, and nothing had been done to resolve those issues. Respondent had not even reported where she was living. Last, the court found it "awfully unusual" that respondent went to Chicago every weekend to meet with a lawyer and yet could not recall the name. The court made the minors wards of the State and gave guardianship and custody to DCFS.

¶ 14 Respondent appealed the neglect findings as to both minors and this court affirmed. *In re Syarra G.T. & Devion B.*, No. 2-10-0467 (2010) (unpublished order under Supreme Court Rule 23).

¶ 15 B. Permanency Hearings

¶ 16 A permanency review hearing occurred on October 4, 2010. At that hearing, Tuite advised the court that Syarra and Devion had been moved to a two-parent foster home in Roscoe the previous month. The foster mother was a former caseworker for Catholic Charities, and both parents were willing to take care of Devion's special needs. Devion had severe delays, such as impeded speech ability, very poor impulse control, and possibly fetal alcohol syndrome. His enrollment in special education was helping. In addition, the doctor had some concerns regarding Syarra's developmental delays, and testing had been ordered.

¶ 17 Respondent was participating in visits "very inconsistently." She attended no visits in May; one visit in June; and two out of three visits in September. Tuite relayed that respondent would confirm the visit but then fail to appear, which was traumatic for the children. In addition, respondent was intoxicated at one of the September visits. Due to the assault charge, respondent was on probation and ordered to take a substance abuse assessment, which she did. As part of her probation, respondent was ordered to attend class twice a week. According to Tuite, respondent was noncompliant with anything she was ordered to do, and he feared she was doing something illegal to earn her money. As for parenting class, respondent did not show up for the first two classes and was therefore dropped from the entire class. The second parenting class was required by probation, and respondent showed up intoxicated and was also dropped from that class. A third parenting class was ordered, but respondent missed the first two classes and was dropped from that class as well.

¶ 18 Consistent with the parties' recommendations, the court entered a permanency goal of return home within 12 months and found that respondent had not made reasonable efforts.

¶ 19 At another permanency review hearing on April 4, 2011, Lorinda Bachelor testified that she became the new caseworker in December 2010. Currently, Devion was close to five years old and

Syarra was almost two years old. The children were doing well in their foster placement. Devion, in particular, was receiving appropriate services for his developmental delays. He did not react well when respondent missed visits or was late, however, and it would take “a couple of days to get him back on schedule.”

¶ 20 Because respondent had been “extremely sporadic” in her visitation over the last six months, respondent had been removed from the visit schedule in October 2010, and she remained off the schedule until December 21, 2010. The report to the court indicated that respondent was late for the December 28, 2010, visit, and she canceled the January 11, 2011, visit. Her last visit was January 18, 2011. She missed the January 25 visit because she was in jail for a domestic violence incident in which she possessed cannabis; she cancelled the February 1 visit; and she did not show up one hour early for the February 8 visit. Bachelor explained that because the children were disappointed when respondent missed her scheduled visits, a policy was put into place requiring her to arrive one hour early so that the caseworker could go get the children when she arrived. Respondent’s failure to come one hour early on February 8 meant that it was considered a missed visit. The February 8 visit was counted as the third missed visit, and after three missed visits, respondent needed to meet with DCFS to be put back on the schedule. Bachelor hoped that supervised, weekly, one-hour visitation would resume the following week. Bachelor also admitted that respondent only had about a six-week window over the past six months in which visits were allowed.

¶ 21 In terms of the service plan, respondent did not provide verification of AA meeting attendance, as required; she missed four drug drops for DCFS and completed two for probation, which were negative; and she did not engage in domestic violence counseling. Bachelor hoped that respondent would participate in parenting classes, which would begin in a couple of months.

Respondent was on probation for the prior assault incident and the January 2011 domestic battery/possession incident. Through probation, respondent had been involved with substance abuse classes since December 2010. Though Bachelor provided respondent with bus tokens, respondent said that the bus was too far away from where she lived.

¶ 22 The court maintained the service goal of return home in 12 months. Regarding the issue of whether respondent had made reasonable efforts, the court found this a close call, so it made no findings for that particular review period.

¶ 23 The next permanency review hearing was conducted on October 4, 2011. Bachelor advised the court that the minors were doing well in their foster home and that their needs were being met. Regarding visitation, the schedule was one weekly, supervised visit. Respondent was not consistent with visitation. Though Bachelor left a message for respondent accommodating her request that the visitation time be changed, respondent never contacted Bachelor. Respondent was appropriate during the visits she did attend, although she was not bonded with the children. Regarding services, respondent completed substance abuse treatment and completed a parenting class in August. Respondent refused to participate in domestic violence counseling, however, because she claimed to be attending classes at Working Against Violent Environment (WAVE), which was for the victims of abuse. There was no documentation that respondent attended WAVE, and the service plan required respondent to participate in domestic violence counseling for abusers, not victims. Respondent also refused the two drug drops requested and did not attend AA meetings.

¶ 24 Bachelor recommended a goal change of substitute care pending court determination of parental rights. Currently, the pending charges against respondent included three charges for possession of cannabis, aggravated battery in a public place, and domestic violence. The State

agreed with changing the goal. In the State's view, respondent's compliance with parenting classes and substance abuse treatment was the result of the criminal charges and an attempt to stay out of jail, not a result of the instant proceedings. Also, she had not completed a drug drop in over one year, and visitation was sporadic. The court noted that the case had been open for two years, and it did not see the progress expected in that time frame. The court found that respondent had not made reasonable efforts, and it changed the goal to substitute care pending termination of parental rights.

¶ 25 C. Petitions to Terminate Parental Rights

¶ 26 On November 9, 2011, the State filed petitions to terminate respondent's parental rights as to both minors. The petitions alleged five counts of unfitness against respondent for: (1) failure to maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare; (2) failure to protect the minors from conditions within her environment injurious to their welfare; (3) failure to make reasonable efforts to correct the conditions that were the basis for the removal of the minors within nine months after the neglect adjudication; (4) failure to make reasonable progress toward the return of the minors within nine months after the neglect adjudication; and (5) failure to make reasonable progress toward the return of the minors during any nine-month period after the initial nine-month period following the neglect adjudication.

¶ 27 A fitness hearing occurred on January 11, 2012. Bachelor testified as follows, beginning with a brief history of the case. The case initially came into care after Syarra was admitted into the hospital. Respondent was not visiting very frequently, and when she was, there were concerns that she was intoxicated. The minors were placed with Krystal, a godmother/friend of respondent's. An incident in November 2009 with Krystal and her boyfriend resulted in respondent's criminal conviction for aggravated battery. In regard to the January 2011 domestic violence/possession

incident, Bachelor obtained the police reports and spoke to respondent's probation officer, all of which indicated that respondent was the aggressor. Respondent claimed to be the victim in that incident and never completed domestic violence counseling. She also admitted attending only one or two WAVE classes.

¶ 28 Respondent completed less than 50% of her visitation. Because respondent had missed so many visits, Bachelor required respondent to arrive one hour early so that Bachelor could go get the children. Missing three visits in a row caused respondent to be taken off the visitation schedule in the fall of 2010. DCFS policy was such that if it was shown documentation of a valid excuse, the parent would not be removed from the schedule. Respondent claimed to have valid excuses but never "showed documentation like she said she would." Respondent was put back on the schedule at the end of 2010 and removed several times in 2011. In March 2011, respondent was required to meet with Bachelor to discuss services and visitation, which she did. Prior to discussing visitation, however, respondent left the meeting, saying she "had things to do." Bachelor advised respondent that unless a visitation schedule that worked for both parties could be agreed upon, there would not be any visits. Respondent still decided to leave the meeting. One visit in February 2011 was cancelled because respondent was 5 to 15 minutes late. If respondent had been more consistent with visitation in the past, Bachelor would have made an exception and allowed the visit. Respondent's last visit was in July 2011.¹

¶ 29 Four, six-month service plans were admitted into evidence, all of which rated respondent's overall progress as unsatisfactory. With respect to visitation, the first service plan indicated that respondent missed a large majority of the visits, even after the visitation schedule was adjusted to

¹The service plan indicates that respondent's last visit was actually in August 2011, and Bachelor testified that the last visit was in August at the best interests hearing.

accommodate her. The second service plan stated that on average, respondent attended one visit per month and thus missed several visits in a row. Also, she frequently requested that the day of visitation be changed according to her other activities. The third service plan reported that respondent continued to be sporadic in terms of her visitation. She was removed from the visitation schedule and frequently out of contact with the caseworker over the span of a few months. The fourth and final service plan showed that respondent was a “no call/no show” for visits in 2011 on May 13, 20, 27; July 8, 15; and August 8, 19, and 26. Respondent’s reasons for missing other visits included an interview, sickness, issues with the roof of her residence, and the death of her brother. Respondent had not scheduled a visit since August 26, 2011.

¶ 30 Bachelor went on to testify that she was familiar with where respondent lived in 2011, which was about one-half mile from the bus stop. Bachelor was aware that respondent had difficulty obtaining transportation, so Bachelor offered her transportation to visits on several occasions and also offered her bus passes. Respondent declined, saying she would find her own transportation, but she continued to miss visits or show up late. According to Bachelor, respondent often used transportation as an excuse for not attending visits. The policy requiring respondent to be on time was the result of her continuously failing to appear for visits and not calling. It was also put in place due to the minors’ reactions when respondent missed visits. During the visits that Bachelor observed, respondent was “very impatient” and annoyed with Devion and called him “hardheaded” when he would attempt to impress her. Although respondent was supposed to bring nutritious snacks to the visits, she brought sugary drinks, chips, and cookies.

¶ 31 As for parenting classes, Bachelor testified that respondent failed her first two attempts and was successful the third time, which was in August 2011. Because respondent never participated

in visitation after completing the parenting class, it was impossible to assess whether she could apply the skills that she had learned.

¶ 32 Part of respondent's service plan included random drug drops. Bachelor did not think that respondent had completed a drug drop since 2010. Despite being ordered not to drink, respondent admitted in late 2010 that she drank occasionally but did not get drunk. Bachelor still had concerns about respondent's substance abuse due to her arrest for possession of cannabis, her failure to complete drug drops, and her intoxication during a phone call in November 2011.

¶ 33 Appropriate housing was also part of the service plan. Bachelor asked respondent about assessing her residence so that visits could occur there, but respondent never let Bachelor into her residence. Respondent's reason for declining was that the children would not live at that residence if returned to her. Respondent never indicated to Bachelor that she had applied for any other appropriate housing.

¶ 34 Respondent testified as follows. She lived a little over 4½ miles from the bus stop, and Bachelor offered her bus tokens as recently as August 2011. Respondent declined the bus tokens because she had a friend who provided her transportation. On November 18, 2011, respondent called Bachelor to say that the alternator in her car had gone bad, but that she was on her way on the bus, which would make her about five minutes late. Bachelor told her that the visit would not happen, so respondent came back home. During visits, respondent brought Lunchables as snacks, about 10 to 15% of the time. The former caseworker, Tuite, provided respondent a grace period in which she could arrive 15 minutes late for a visit. Bachelor did not continue this policy. Respondent admitted missing visits but blamed it on transportation difficulties.

¶ 35 Respondent did not see any reason for Bachelor to assess her current residence, which was safe, because she would not live there with the children. If the children were returned to her, they would have lived in her brother's three-bedroom house since her brother had recently died. Respondent admitted that she never communicated this option to Bachelor.

¶ 36 Respondent completed a parenting class, but admitted being discharged from the first two rounds of classes for failure to appear and intoxication. She completed a Remedies substance abuse class in August 2011. Respondent denied being required to attend AA meetings until the middle of 2011, which she did regularly. However, she acknowledged that she was required to attend AA meetings as early as her first service plan in 2010. Respondent admitted that she never read the service plans but relied on the caseworkers to tell her what was required.

¶ 37 When the minors were adjudicated neglected, the court advised her that she needed to remain drug and alcohol free. Yet, respondent conceded going to at least one parenting class intoxicated. In terms of drug drops, her probation required her to complete such drops, and all of her tests were negative. Respondent denied communicating with Bachelor while intoxicated. She admitted drinking even now after being ordered by the current court as well as probation not to drink. Respondent was not currently employed and had not been employed since the case came into care.

¶ 38 Respondent was arrested for domestic violence in February 2011. She was at the Quick-Mart when her ex-boyfriend came in and knocked her into the freezer, and they started fighting. She was also arrested for possession of cannabis. Respondent did not know that the cannabis was in her pocket; she was wearing her sister's coat. These cases were pending. Respondent and her current boyfriend had each filed orders of protection against one another. Respondent denied any physical

altercation but the order of protection stated that her boyfriend had choked her. When asked if her residence was safe, respondent said that it was safe for her but not the children.

¶ 39 The State dismissed count two as to both minors, and the court continued the case to March 30, 2012, for its ruling. Respondent failed to appear on that date, and the court found respondent unfit as to counts one and three through five.

¶ 40 The case proceeded to a best interests hearing, with Bachelor testifying first as follows. Bachelor had had the opportunity of viewing the minors with respondent and in their foster home. After the January 11, 2011, fitness hearing, respondent called Bachelor to ask when her next visit would be. Bachelor said she would find out and call her back, but respondent said she was going out of town for a few days. Bachelor suggested that respondent could call her back but respondent never did.

¶ 41 Regarding Devion, who was nearly six years old, there was concern he had developmental delays when the case first came into care. He was very repetitive and his speech and motor skills were delayed. The first placement with Krystal did not work out due to Devion's difficulties and problems with respondent.

¶ 42 The children were eventually placed in a foster home with parents Katie Picchi and Will Redwine² in September 2010. Devion began to improve to the point where he was "intellectually right on target" and in a regular classroom. The improvement was due to Katie and Will working him so much; the two provided a very loving family in which Devion received the attention and love he needed. To keep him on target, they helped with his homework by doing flash cards and other activities every night. In addition, Devion was very bonded with Katie and Will and wanted to live

²The foster parents have different last names because Katie's divorce was not finalized until recently.

with them “forever.” He would go to Katie for support when he was excited and when he was sad. Similarly, he played well and worked together well with Will. Both Katie and Will attended parent-teacher conferences and met his medical needs.

¶ 43 Syarra, who was nearly three years old, was removed from respondent when she was about six months old. Syarra was very bonded with Katie and Will. When one of them came home, she would run to them and give them hugs and kisses. She was very affectionate with them and would often sit on one of their laps. Will and Syarra definitely shared the “normal daddy’s-little-girl relationship.” Syarra was currently in daycare. Because she was so advanced in speaking, Syarra participated in a phonics educational program at the daycare.

¶ 44 Katie and Will wished to adopt Syarra and Devion. Will had already completed the licensing classes and planned to take the adoption classes online. Bachelor opined that the it was “definitely” in the children’s best interests to be freed for adoption by Katie and Will.

¶ 45 During cross-examination, Bachelor testified that respondent’s last visit with the children occurred in August 2011. Respondent was always sporadic with her visitation; overall, she attended approximately 25% of the visits. In addition, Katie and Will and the daycare provider reported to Bachelor that the children exhibited behavioral issues after visits with respondent. Devion would become defiant and wet the bed, and Syarra would become emotional and have difficulty sleeping. Since visits with respondent had ceased in August 2011, these behaviors were no longer occurring. Devion told Bachelor he wanted to stay with Katie and Will forever. Though Syarra was too young to actually express an opinion, her behavior with Katie and Will showed that she viewed them as “mommy” and “daddy.”

¶ 46 Though respondent was appropriate during visits with Devion and Syarra the majority of the time, the children were not bonded to her. Syarra, especially, did not seem to really care about respondent. Her attitude was that she was going to go into this room to play, and there was “this woman there.” Early in the case, Devion seemed to want to bond with respondent by seeking her attention. Because he did not always get respondent’s attention, however, and there were times respondent would “just plain ignore him,” the bond was never fully formed. Bachelor did not feel that respondent valued her children or the time she spent with them. She based on her opinion on the number of times respondent was a “no call/no show” to visits. In addition, respondent never seemed excited to see them and did not shower them with hugs and kisses.

¶ 47 The court terminated respondent’s parental rights and found that it was in the children’s best interests that the goal be changed to adoption. Respondent timely appealed.

¶ 48 II. ANALYSIS

¶ 49 Termination of parental rights is a two-step process. *In re Julian K.*, 2012 IL App (1st) 112841, ¶ 1. First, the trial court must find, by clear and convincing evidence, that the parent is unfit. *Id.* ¶ 63. Second, the court must determine, by a preponderance of the evidence, whether termination of parental rights is in the minors’ best interests. *Id.*

¶ 50 A. Unfitness

¶ 51 Because the termination of parental rights constitutes a complete severance of the relationship between the parent and child, proof of parental unfitness must be clear and convincing. *In re Shauntae P.*, 2012 IL App (1st) 112280, ¶ 88. The trial court is in the best position to assess the credibility of witnesses, and a reviewing court may reverse a trial court’s finding of unfitness only where it is against the manifest weight of the evidence. *Id.* ¶ 89. A decision regarding parental

unfitness is against the manifest weight of the evidence where the opposite conclusion is clearly the proper result. *In re C.E.*, 406 Ill. App. 3d 97, 108 (2010). Each case concerning parental unfitness is *sui generis*, meaning that factual comparisons to other cases by reviewing courts are of little value. *Id.*

¶ 52 In this case, the trial court found respondent unfit on three grounds. Although section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2010)) sets forth several grounds under which a parent may be deemed unfit, any one ground, properly proven, is sufficient to enter a finding of unfitness. *In re Shauntae P.*, 2012 IL App (1st) 112280, ¶ 89.

¶ 53 We first consider the trial court's finding of unfitness under section 1(D)(b) of the Adoption Act, which defines an unfit person as any person who fails to "maintain a reasonable degree of interest or concern or responsibility as to the child's welfare." 750 ILCS 50/1(D)(b) (West 2010). "Because the language of 1(D)(b) is in the disjunctive, any of the three elements may be considered on its own basis for unfitness: the failure to maintain a reasonable degree of interest or concern or responsibility as to the child's welfare." *In re C.E.*, 406 Ill. App. 3d at 108. When a parent is alleged unfit on that particular ground, the trial court is to examine the parent's efforts to communicate with or show interest in the child, not the success of those efforts. *In re Adoption of L.T.M.*, 214 Ill. 2d 60, 68 (2005). Factors to be applied toward an analysis of these elements include consideration of a parent's efforts to visit and maintain contact with the child, as well as other indicia of interest, such as inquiries into the child's welfare. *In re C.E.*, 406 Ill. App. 3d at 108. Evidence of noncompliance with an imposed service plan, a continued addiction to drugs, or infrequent or irregular visitation with the child all have been held sufficient to support a finding of unfitness under section 1(D)(b). *In re Shauntae P.*, 2012 IL App (1st) 112280, ¶ 90. A court must also examine the parent's conduct

in the context of the parent's circumstances, such as difficulty in obtaining transportation, the parent's poverty, statements made by others to discourage visitation, and whether the parent's lack of contact with the children can be attributed to a need to cope with personal problems rather than indifference towards them. *In re C.E.*, 406 Ill. App. 3d at 108-09.

¶ 54 Respondent argues that the trial court's finding was against the manifest weight of the evidence. According to respondent, her attendance at about half of the visits with her children was reasonable in light of her circumstances, which included difficulty obtaining transportation, unemployment, and the adjustment to a change in caseworkers. Respondent relies on her testimony that the nearest bus stop was 4½ miles away and that she was denied a visit in November 2011 because she would have been about five minutes late. She also points out that Bachelor admitted that she never made an exception for respondent regarding visitation if she was 5 to 15 minutes late.

¶ 55 Our review of the record shows that respondent's contentions are without merit. The children were adjudicated neglected on April 14, 2010. The four, six-month service plans following that date all rated respondent unsatisfactory in terms of visitation. At the first permanency hearing on October 4, 2010, caseworker Tuite advised the court that respondent participated in visitation "very inconsistently," attending no visits in May, one visit in June, and two out of three visits in September. Respondent was also intoxicated at one of the September visits.

¶ 56 Bachelor then inherited the case in December 2010. At another permanency hearing on April 4, 2011, Bachelor informed the court that respondent had been "extremely sporadic" in her visitation in the last six-month period. Because respondent missed three visits in a row, she was removed from the visitation schedule twice during that period. Respondent cancelled a January 11, 2011 visit, missed a January 25 visit because she was in jail for the domestic violence/possession incident,

cancelled a February 1 visit, and failed to show up one hour early for the February 8 visit, which counted as a missed visit. In March 2011, when respondent met with Bachelor to discuss services and a visitation schedule, respondent left the meeting before the topic of visitation was even addressed. Despite Bachelor's admonishment that there could be no visits if they did not work out a visitation plan, respondent left the meeting, saying she had "things to do." Then, the fourth service plan showed that respondent was a no call/no show for 2011 visits on May 13, 20, 27; July 8, 15; and August 8, 19, and 26. Overall, respondent attended less than 50% of the visits.

¶ 57 Bachelor testified that respondent often used transportation as a reason for missing visits. For this reason, Bachelor took steps to alleviate any difficulty with transportation by offering respondent bus passes and rides. Respondent declined all of these offers, so the issue of transportation does not weigh in respondent's favor. Similarly, respondent's testimony that the bus stop was 4½ miles from her residence is contradicted by Bachelor's testimony that she was familiar with where respondent lived, and that the bus stop was only ½ mile away.

¶ 58 In regard to respondent's claim that she had difficulty adjusting to the new caseworker (Bachelor), it was respondent, not Bachelor, who caused the visitation policy to change. The policy was changed to require respondent to arrive one hour early to visitation for two reasons. First, it was because respondent missed so many visits. Second, it was because the children were traumatized by waiting for respondent, who would then be a no call/no show. Both Tuite and Bachelor stated that respondent was always trying to adjust the visitation schedule, but that she still missed visits even after the caseworkers accommodated her requests. There was only one visit cancelled by Bachelor in February 2011 due to respondent being 5 to 15 minutes late. Bachelor explained that she would have made an exception and allowed that visit had respondent been more consistent with

visitation. Though respondent claimed to have valid excuses for missing some of the visits, she provided no documentation to this effect. As a result, she was removed from the visitation schedule more than once because DCFS had no basis to alter its policy. On the visits respondent did attend, Bachelor did not believe that respondent was bonded with her children.

¶ 59 While all of respondent's challenges to the unfitness finding pertain to visitation, we note that the service plans required respondent to do more than visit her children. For example, respondent failed to comply with the majority of services outlined in the service plans by: (1) failing to complete random drug drops since 2010; (2) being discharged from her first two parenting classes due to lack of attendance and intoxication; (3) continuing to drink; (4) failing to provide evidence that she attended AA meetings; (5) failing to take domestic abuse counseling as a victim or abuser, and (6) failing to obtain appropriate housing. Respondent went as far as admitting that she did not read the service plans but relied on her caseworker to communicate what was required.

¶ 60 Regarding the services respondent did complete, such as parenting class and substance abuse treatment, the State argued that respondent's true motive for doing so was to stay out of jail after the January 2011 domestic battery/possession incident with her ex-boyfriend. Bachelor testified that respondent's claim that she was the victim and not the abuser was defied by the police reports of that incident. Moreover, this was not respondent's first incident in which she was the aggressor. When the case first came into care, and the children were placed with her friend Krystal, respondent pled guilty to aggravated battery for cutting Krystal's boyfriend with a steak knife. We also note that at the time of the unfitness hearing, respondent and her boyfriend had each filed orders of protection against each other. Though respondent denied any physical altercation, the order of protection stated

that her boyfriend had choked her. Respondent admitted that the residence she lived in was safe for her, but not her children.

¶ 61 Given respondent's lack of visitation and lack of compliance with the other requirements of the service plans over a span of more than two years, we cannot say that the trial court's finding of unfitness was against the manifest weight of the evidence. Having found that respondent failed to maintain a reasonable degree of interest or concern or responsibility as to her children's welfare, we need not address respondent's challenges to other grounds in which the trial court found her unfit.

¶ 62 B. Best Interests Hearing

¶ 63 Respondent's second and final argument is that the trial court's decision terminating her parental rights was against the manifest weight of the evidence. A reviewing court will not disturb the trial court's decision at a termination hearing unless it is against the manifest weight of the evidence. *In re Julian K.*, 2012 IL App (1st) 112841, ¶ 65. The reason for this deferential standard is that the trial court is in a superior position to assess the witnesses' credibility and weigh the evidence than we are. *Id.* ¶ 66. A trial court's decision is against the manifest weight of the evidence only when the opposite conclusion is clearly apparent. *In re William H.*, 407 Ill. App. 3d at 866.

¶ 64 Under the Juvenile Court Act of 1987, the best interests of the minors is the paramount consideration to which no other takes precedence. *In re I.H.*, 238 Ill. 2d 430, 445 (2010). In other words, a child's best interest is not to be balanced against any other interest; it must remain inviolate and impregnable from all other factors. *In re Austin W.*, 214 Ill. 2d 31, 49 (2005). Even the superior right of a natural parent must yield unless it is in accord with the best interests of the child involved. *Id.* at 50.

¶ 65 The Act sets forth the factors to be considered whenever a best interest determination is required, and they are to be considered in the context of the minors' ages and developmental needs:

“(a) the physical safety and welfare of the child, including, food, shelter, health, and clothing;

(b) the development of the child's identity;

(c) the child's background and ties, including familial, cultural, and religious;

(d) the child's sense of attachments, including:

(i) where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);

(ii) the child's sense of security;

(iii) the child's sense of familiarity;

(iv) continuity of affection for the child;

(v) the least disruptive placement alternative for the child;

(e) the child's wishes and long-term goals;

(f) the child's community ties, including church, school, and friends;

(g) the child's need for permanence which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives;

(h) the uniqueness of every family and child;

(i) the risks attendant to entering and being in substitute care;

(j) the preferences of the persons available to care for the child.” 705 ILCS 405/1-3(4.05) (West 2010).

Also relevant in a best interests determination is the nature and length of the minors' relationships with their present caretaker and the effect that a change in placement would have upon their emotion and psychological well-being. *In re William H.*, 407 Ill. App. 3d at 871.

¶ 66 In light of the above factors, respondent argues that there was no evidence that she endangered the children since the case came into care; she remained substance-free at all visits; she expressed a desire to learn how to contribute to her children's welfare by completing parenting classes; and she could contribute strongly to the development of the children's identity and ties with their biological family.

¶ 67 Respondent's argument is unpersuasive in several regards. Once a parent is found unfit, the focus shifts to the child. *In re D.T.*, 212 Ill. 2d 347, 364 (2004). At a best-interests hearing, the parent's interest in maintaining the parent-child relationship must yield to the children's interest in a stable, loving home life. *Id.* Therefore, respondent's focus on her own efforts is inappropriate at this stage. See *In re T.A.*, 359 Ill. App. 3d 953, 959 (2005) (at this stage of the proceedings, the focus is properly placed on the child, not on the conduct of the parents). Moreover, it is inaccurate to say that respondent attended all visits substance-free when Tuite advised the court that she attended a September 2010 visit while intoxicated. We have already discussed that the motive for respondent's completion of the parenting class is questionable, and she never applied what she learned because she did not attend any visits after completing the class. With respect to biological ties, there is no evidence that the children had ties with anyone in respondent's family other than her mother, who had drug abuse issues.

¶ 68 The record supports the trial court's determination that it was in the best interests of the children to be freed for adoption. Devion was initially removed from respondent when he was three

years old, and Syarra was only about six months old. Both Devion and Syarra were placed with Katie and Will in September 2010, and had lived with them for about 18 months. Bachelor's testimony demonstrated that the children were thriving in Katie and Will's care. For the first time ever, Devion was intellectually on target and learning in a regular classroom. During the evenings, Katie and Will worked with Devion doing homework, flash cards, and other activities. Bachelor testified that Devion was very bonded with both Katie and Will and wanted to live there "forever." Katie and Will also attended Devion's parent-teacher conferences and medical appointments. Syarra was similarly bonded to Katie and Will. She ran to them when they came in the house, sat on their laps, and viewed them as "mommy" and "daddy." Bachelor testified that Syarra and Will shared a normal "daddy's-little-girl relationship." Though Syarra was too young to verbalize her wishes, her behavior and affection for Katie and Will demonstrated to Bachelor that she wanted to remain with them. Katie and Will also expressed a desire to adopt both children. Bachelor opined that it was "definitely" in the children's best interests to be freed for adoption by Katie and Will. Katie was a former caseworker for Catholic Charities, and Will had already completed the licensing classes and planned to take the adoption classes online.

¶ 69 Regarding respondent, Bachelor testified that the children were not bonded to her. Syarra was young when removed from respondent's care and did not seem to care about visits. Syarra's attitude, according to Bachelor, was that visitation meant going into a room to play with "this woman there."

Moreover, the children exhibited behavioral issues after visits with respondent. Devion, in particular, would become defiant and wet the bed. Syarra exhibited different issues in that she would

become emotional and have difficulty sleeping. Bachelor explained that after visitation ceased in August 2011, neither child exhibited such behaviors.

¶ 70 In sum, the record shows that Devion and Syarra are very bonded to Katie and Will and are flourishing in their care. For their part, Katie and Will have put forward great efforts and are devoted to providing a stable, loving home for these children. For all of these reasons, the trial court's decision to terminate respondent's parental rights was not against the manifest weight of the evidence.

¶ 71

III. CONCLUSION

¶ 72 For the reasons stated, we affirm the judgment of the circuit court of Winnebago County finding respondent unfit and terminating her parental rights.

¶ 73 Affirmed.