

2012 IL App (2d) 120648-U
No. 2-12-0648
Order filed September 28, 2012

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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

<i>In re</i> CORTRELL J. and CORNICA J.,)	Appeal from the Circuit Court
Minors)	of Lake County.
)	
)	Nos. 11-JA-108
)	11-JA-109
)	
)	Honorable
(The People of the State of Illinois, Petitioner-)	Valerie Boettle-Ceckowski,
Appellee, v. Tonya L., Respondent-Appellant).)	Judge, Presiding.

JUSTICE ZENOFF delivered the judgment of the court.
Justices McLaren and Birkett concurred in the judgment.

ORDER

¶ 1 *Held:* The State proved by clear and convincing evidence that respondent failed to make reasonable progress toward the return of her children within various nine month periods and that it was in the children's best interests to terminate respondent's parental rights. Therefore, we affirmed the trial court's judgment.

¶ 2 Respondent, Tonya L., appeals from the trial court's order terminating her parental rights to Cortrell J. and Cornica J. We affirm.

¶ 3 I. BACKGROUND

¶ 4 Cornica was born on January 31, 1999, and Cortrell was born on March 22, 2000. On June 26, 2000, they were adjudicated neglected and made wards of the court as a result of being left home

alone. In September 2002, the State filed a petition to terminate the parental rights of both parents based on their alleged inability to discharge parental duties due to mental impairment, mental illness, mental retardation, or developmental disability, and a sufficient justification to believe that the inability would extend beyond a reasonable time period. 750 ILCS 50/1(D)(p) (West 2002). The trial court subsequently found that the State proved by clear and convincing evidence that the parents were unfit on this basis, and it further found that it was in the children's best interests to terminate parental rights. On appeal, this court reversed, finding that the State's case was essentially based on the opinion of one clinical psychologist who had only three interactions with the parents, and some of the psychologist's broad conclusions were contradicted by four witnesses. *In re Cornica J.*, 351 Ill. App. 3d 557, 570 (2004). We stated, "While relying exclusively on one expert may be appropriate in some circumstances, the State failed to meet its burden here." *Id.*

¶ 5 Thereafter, the children continued in the care of the Department of Children and Family Services (DCFS). Years later, on June 24, 2011, the State filed new petitions to terminate parental rights.¹ As relevant here, the petitions alleged that respondent was unfit in that she: (a) failed to make reasonable efforts to correct the conditions that were the basis of removal (750 ILCS 50/1(D)(m)(i) (West 2010)); (b) failed to make reasonable progress toward the return of the children within nine months after the children were adjudicated neglected (750 ILCS 50/1(D)(m)(ii) (West 2010)); (c) failed to make reasonable progress toward the return of the children during any nine month period after the nine month period following the adjudication of neglect (750 ILCS 50/1(D)(m)(iii) (West 2010)); and, as in the previous petition, (d) was unable to discharge parental responsibilities due to mental impairment, mental illness, mental retardation, or developmental

¹The common law record in this case begins with the June 2011 petitions. The trial court offered a summary of the case's history in its ruling, which we recite later in the disposition.

disability, and there was a sufficient justification to believe that the inability would extend beyond a reasonable time period (750 ILCS 50/1(D)(p) (West 2010)).

¶ 6 A. Fitness Hearing

¶ 7 The children's father voluntarily surrendered his parental rights on January 23, 2012. A hearing on the petition to terminate respondent's parental rights was held two days later, on January 25. As testimony regarding respondent's lack of compliance with service plans during numerous nine-month periods ultimately formed some of the grounds for granting the petition to terminate, we summarize it in some detail.

¶ 8 Margaret Verganini testified that she was supervisor for One Hope United, which was contracted by DCFS. Verganini testified as to the foundation of service plans from 2000 to 2007.

¶ 9 Terri Cummings, a case manager with One Hope United, provided the following testimony. She had worked at the agency for 23 years and was assigned to respondent's case in January 2008. For about two to three years prior to that time, she was a case worker for the minors and had observed some visits between respondent and Cornica. The children had originally come into care when Cornica was 14 months old and Cortrell was two weeks old. When Cummings became a case worker for the family in 2008, she was responsible for developing service plans covering tasks, services, and visitation between the minors and respondent. At the time Cummings received the case, the goal was already substitute care pending court determination of parental rights.

¶ 10 Cortrell was in specialized foster care, in a different home than Cornica. In 2005, the court suspended visitation between Cortrell and respondent based on the recommendation of Cortrell's therapist, so Cummings did not schedule visitation between them. Also, Cummings had multiple conversations with Cortrell, and he did not ask to have visits with respondent. Nothing had occurred

that would warrant Cummings recommending that the court order be changed in regard to no contact between Cortrell and respondent, and visitation with him was still suspended as of the hearing date.

¶ 11 Tasks and services in the plans were created based on the reasons the case opened, service needs, outstanding issues, and court and dispositional orders. Cummings reviewed and rated the tasks and services every six months. Parents were invited to attend the administrative case reviews, but the last time respondent appeared for one was in March 2007. Since respondent did not attend the case reviews, Cummings mailed her copies of the service plans. She would then discuss the plans with respondent and go over the services that she needed to do. If respondent asked for assistance in providing services, Cummings helped her.

¶ 12 In a September 2005 visitation review, Cummings rated respondent unsatisfactory because she did not appear to be acknowledging Cornica's emotional needs during visitation; she was whispering when asked not to; and she canceled one of her visits. In a plan covering September 18, 2006, to March 31, 2007, Cummings rated respondent's visitation unsatisfactory because respondent allowed Cornica to have a conversation with Cornica's father despite the fact that he was a registered sex offender and was court-ordered not have to contact with anyone under age 18.

¶ 13 In a service plan evaluation dated February 2008, one of the tasks was to obtain a psychological evaluation to demonstrate that respondent could provide for her children's needs if reunification were to occur. Respondent was to meet with Dr. Susan Schmidt for a psychological evaluation and follow-up with Dr. Schmidt's recommendations. Respondent was rated unsatisfactory because she was not cooperative with the evaluator. Another task was to contact the case worker and attend all meeting and court hearings. She was rated unsatisfactory because she was reporting changes in housing and employment during parent-child visits. On the task of maintaining

a legal source of income, to show that she could meet her children's basic needs, respondent was to provide documentation of her income, expenditures, and budget. Respondent was rated unsatisfactory because she did not provide documentation on a monthly basis. On the task of safe and appropriate housing, respondent was to provide rent receipts and utilities on a monthly basis. She was rated unsatisfactory because she did not provide documentation on a monthly basis. Respondent was rated unsatisfactory overall because she was not complying with the specific outlined services.

¶ 14 Cummings agreed that respondent was rated satisfactory for meeting with Dr. Schmidt. Respondent had frequent contact with Cummings, calling two to three times per week in reference to the children. Cummings agreed that she knew that respondent was low functioning and that she did not give her a form budget to follow. However, respondent did not ask for assistance and at times had provided budgets to her; respondent provided two or three budgets during the entire time Cummings was the case manager. The case was taken to "legal screening" three times since Cummings had been involved, but she was not sure if it was done in 2008. Respondent would have needed to achieve consistent compliance with all service tasks on the case plan in order to obtain an overall satisfactory rating.

¶ 15 In a service plan evaluation dated September 8, 2008, respondent was rated unsatisfactory on the task of a psychological evaluation because she was not "compliant" with the evaluation. On the task of safe and appropriate housing, respondent was rated unsatisfactory because although she had provided rent receipts and some utility bills, it was not done on a consistent or monthly basis. On the task of maintaining a legal source of income, respondent was rated unsatisfactory because she did not provide documentation of her income or budget. Regarding the task of visitation,

respondent was to bring a game or activity to demonstrate her ability to interact with Cornica in an age-appropriate manner, not talk on her cell phone during the visit, and not allow Cornica to talk on her cell phone during the visit. The visits occurred once per month for one hour. During this review period, respondent did not bring games or activities and did not refrain from using her cell phone. Also, on the August 27, 2008, visit, respondent arrived 45 minutes late. During the reporting period, the interaction between respondent and Cornica was good, but at times Cornica interacted more with the person supervising the visit than her mother. Respondent was given an overall unsatisfactory rating for not complying with the service plan as a whole.

¶ 16 A service plan evaluation dated March 11, 2009, covered September 2008 to March 2009. Respondent was rated unsatisfactory for not providing her monthly income and expenses and for not providing verification of her rent receipts and paid utilities on a monthly basis. During her visits with Cornica, she interacted in more of a peer and friendship type of relationship than a parent-child relationship. Respondent was rated unsatisfactory overall because she did not provide the required documentation on a consistent basis. At that time, Cummings recommended continuing the goal of substitute care pending the termination of parental rights because the kids had been in foster care for nine years and respondent was not compliant with the service plans.

¶ 17 In a service plan evaluation dated September 7, 2009, respondent was rated unsatisfactory for not providing documentation of income. The visits again showed a peer relationship with Cornica rather than a parental relationship, and respondent did not bring games or activities with her. Respondent was also rated unsatisfactory overall for not consistently complying with the service plan. Cummings again recommended the goal of substitute care pending court determination of parental rights because of the length of time the children had been in foster care and because the

agency had not received any documentation showing that respondent could provide a safe home environment for her children if reunification were to occur.

¶ 18 Cummings agreed that during this period, respondent was rated satisfactory for providing sufficient documentation of rent and utilities and for keeping in contact with her. The only other listed task was proof of income, so respondent was satisfactory on two out of three tasks. She was also unemployed much of the time, but Cummings did not offer respondent any employment assistance because respondent did not ask for help and was living in Wisconsin, which was outside of Cummings' service area. Respondent gave her an unemployment voucher as proof of income. Respondent continued to call on a weekly basis, informed Cummings when she was moving, and attended visitation. She brought Cornica appropriate presents, and Cornica enjoyed the visits.

¶ 19 A service plan evaluation dated March 17, 2010, covered the period of September 2009 to March 2010. Respondent was rated unsatisfactory for not providing documentation of her income, expenses, budget, rent, and utilities, and for not engaging in appropriate attachment behaviors with her children. She continued to act with Cornica as purely a friend rather than a parent and did not bring any games with her. Respondent was rated unsatisfactory overall for not providing consistent documentation as outlined in the service plan. Cummings again recommended the goal of substitute care pending court determination of parental rights for the same reasons as before. A new task of participating in a "Marschak assessment" was added to ensure that respondent could meet her children's needs should reunification occur.

¶ 20 Cummings agreed that during this time, respondent was rated satisfactory for informing her of changes in housing and employment. Also, Cummings did not give her any guidance or teach

respondent how to engage in appropriate attachment behaviors. Further, the delay for the psychological assessment was due to DCFS rather than respondent during this period.

¶ 21 A service plan evaluation dated September 27, 2010, covered the period of March 2010 to September 2010. Respondent was rated unsatisfactory for not providing consistent documentation of her income, expenses, or budget. She was also supposed to obtain a Marschak assessment and a psychological evaluation and follow-up with the recommendations. A Marschak assessment was a tool to document strengths and weaknesses in a parent-child relationship. Respondent was rated unsatisfactory on this task because although she obtained the assessment, she did not comply with all of the requirements of the assessment. Respondent was also required to attend a parenting program and follow all recommendations, but she was rated unsatisfactory because she did not demonstrate the ability to meet her child's needs in an age-appropriate developmental fashion. On the task of mental health services, respondent was required to become involved in therapeutic services. She was rated unsatisfactory because she did not follow-up in obtaining mental health services during this time period. Respondent told Cummings that she needed One Hope United to make a referral, but when Cummings called to do so, she was told that respondent needed to self-refer, which respondent failed to do. During this six-month period, respondent was visiting with Cornica twice per month. Respondent did not bring any games and continued a peer relationship with Cornica. Respondent was rated unsatisfactory overall for not following the service plan as directed, and Cummings' recommended goal remained substitute care pending court determination of termination of parental rights.

¶ 22 Cummings agreed that respondent was still unemployed during this time and that she did not provide her assistance with employment. Respondent did not request assistance with employment

and had sought and obtained different types of employment in the past. She was still contacting Cummings weekly about her children and complied with the follow-up recommendations of the Marschak assessment. Cummings agreed that respondent was rated unsatisfactory regarding parenting classes even though the agency had determined that a parenting coach would be more appropriate for her. Cummings followed up with respondent about mental health services. Respondent said that she had an appointment scheduled but did not provide documentation that it occurred.

¶ 23 A service plan evaluation dated March 15, 2011, covered the period of September 2010 to March 2011. Respondent was rated unsatisfactory on the task of providing documentation of income, expenses, and a budget. Regarding housing, there was a referral made for a Wisconsin representative to evaluate respondent's home for its appropriateness; Cummings could not visit the home because she was not licensed in Wisconsin, where respondent lived. Respondent was rated unsatisfactory because: she did not provide consistent documentation of rent receipts and paid utilities; she did not provide documentation that she had received mental health services, as had been recommended in the psychological evaluation; and she did not attend therapy sessions. During this evaluation period, respondent had one visit per month with Cornica at the One Hope United office with a parenting coach, and one visit in the community. Respondent continued to have a peer relationship with Cornica. During one visit, Cornica brought a gift for respondent. Respondent said that she did not want her to bring homemade gifts and would rather have a Victoria's Secret gift card. Respondent was rated unsatisfactory overall because she did not provide consistent documentation for the required tasks. Cummings' recommended goal remained substitute care pending court determination of termination of parental rights.

¶ 24 Respondent continued to call on a weekly basis during this time. She was rated satisfactory for understanding Cornica's developmental needs and being emotionally attuned to her daughter.

¶ 25 A September 17, 2011, service plan evaluation covered the period of March 2011 to September 2011. Respondent was rated unsatisfactory for not providing financial documentation, for not providing monthly rent and utility receipts, and for not attending counseling or therapy sessions. One Hope United had arranged therapy sessions, but the therapist sent a note saying that respondent did not show up for the scheduled appointments. Respondent's visits during this time took place twice per month in the community, and she still interacted as a peer with Cornica and did not bring any games.

¶ 26 During this evaluation period, respondent obtained employment in a nursing home. She reported to Cummings that she moved, and she continued to contact her weekly.

¶ 27 At the time of the hearing, the children had been in foster care for 11 years. Since Cummings had become the family's caseworker in 2008, visits had always been supervised because she had never received documentation that indicated that respondent would be able to provide a safe and nurturing environment for unsupervised visitation. Cummings also never recommended the goal of reunification because there was no documentation that respondent would have the ability to provide for her children's needs if reunification were to occur. Cummings had observed 140 to 200 visits between Cornica and respondent, and respondent always interacted with Cornica on a friendship-level rather than in a parental role. They did have fun together and enjoyed their time together. However, Cummings was looking to see respondent's ability to interact with Cornica in an appropriate manner, which did not occur when respondent allowed Cornica to talk to her father on the phone despite a no-contact order and in the conversation about wanting a Victoria's Secret gift

card. Also, Cummings did not observe respondent making progress in demonstrating parenting skills. For example, she did not present any discipline and did not talk about or engage in Cornica's homework when Cornica was doing it during visits. Cummings had written tasks and services including the Marschak assessment and follow-up services which could have enhanced the structure of respondent's relationship with Cornica, but they were not done in a manner that showed any change in respondent's ability to provide for her children. Similarly, the parent coaching during visitation did not improve respondent's ability to parent Cornica.

¶ 28 Cummings agreed that at the time of the hearing, respondent was employed as a housekeeper in a nursing home. She also agreed that she never knew of respondent being kicked out of housing for lack of payment of rent, of any utilities being shut off, or of any deficiencies in her housing. Cummings agreed that respondent was rated unsatisfactory for not bringing games or activities to visits and that were in the community, such as at McDonald's or at a video arcade; Cummings testified that a lot of visits were at McDonald's but only some were at the arcade, and she also testified that respondent was not marked down for not bringing games to community visits. Cummings agreed that respondent had housing-related tasks even though the goal was not reunification. She testified that since parental rights were not terminated yet, respondent could still "do what she would need to do" to provide a safe home environment and that if there was improvement, a goal change could have been recommended.

¶ 29 Clinical psychologist Mary Gardner testified as follows. She specialized in forensic assessments regarding child visitation and had been appointed about 160 times as a child custody evaluator. She had also done over 1,000 psychological evaluations for DCFS and was contracted to do one on respondent. For her evaluation, Gardner reviewed integrative assessments on the case

from 2005 and 2010; three previous psychological evaluations from 2005, 2006, and 2008; and one parenting capacity assessment from 2005. The current evaluation took place in June 2010 at the One Hope United office in Waukegan and lasted about 3½ hours. Gardner obtained most of respondent's history from previous reports because when she tried to get the information from respondent, respondent became extremely upset and bolted from the room. She could not be found for 20 to 25 minutes, and she was ultimately located in a locked bathroom. Respondent was escorted back to the interview room but wanted to remain on her cell phone speaking to someone, which Gardner allowed in order to complete the evaluation. During most of the evaluation, respondent remained on her cell phone, periodically speaking to someone. Respondent stated that the children came into DCFS care because their father had sexually molested them. When asked if she received therapy or counseling, respondent said she had not received counseling or medication, but at a later point she acknowledged that she had counseling through DCFS for about a year. Respondent appeared extremely concerned about the impression she was making from the evaluation, and she was afraid that she would be misjudged if she did something but was also afraid that she would be misjudged if she did not do something.

¶ 30 In an IQ test, respondent scored 68, which was below 99% of people her age and was in the mentally deficient range. She also scored 68 in the verbal area, and her nonverbal task assessment was a little higher at 73. In the academic assessment, respondent received a reading score of 51, which was at second grade level and also below 99% of same-age peers. Her math score was quite a bit higher, at seventh grade level, but Gardner did not consider it valid because respondent was using a cell phone and whispering, and Gardner did not know if she had a calculator on the phone or was asking someone else to do calculations. Gardner was not able to score the child abuse

potential inventory because respondent left too many items blank. The thematic perception tests consisted of a series of cards with pictures for which respondent was asked to make up a short story. The test was designed to assess an individual's style of thought and determine how they perceive things and cognitively reason. Respondent identified the characters that she saw on the cards but did not describe much action or plot resolution. For the final card, which showed a person standing by a window, respondent told a story about an individual jumping out of the window to commit suicide. This story, along with other "measures," indicated that respondent was quite depressed with possibly some suicidal thoughts. On the "Rotter incomplete sentences" test, a projective task, respondent said that her greatest worry was that her children would forget her. This response plus many other factors, such as discussions with respondent and information from the records, indicated that respondent's concerns were more often about herself than what her children might need.

¶ 31 Gardner believed that respondent had a clinical diagnosis of "major depression severe"; borderline intellectual functioning and borderline personality; no relevant medical concerns; and significant deficits in "global assessment functioning." Gardner recommended that respondent be referred to a psychiatrist who could determine whether she could benefit from antidepressant or psychotropic medications to manage her tearfulness, sadness, and depression. She also thought that controlled contact with the children, such as holiday cards or telephone calls, could benefit her because respondent communicated that "she really could not bear to be parted from them," to the extent that it seemed to be compromising her functioning. Aside from her depression, respondent's other deficits were not the types of things that could be fixed. Gardner opined that it would be extremely unlikely that she would be able to overcome her problems with delayed gratification; modulation of her feelings; frustration; cognitive deficits; and impairments in her reasoning, concept

formation, and abstract thoughts, all of which would result in major problems in parenting. Her findings were consistent with those from respondent's prior evaluations, with the exception that one evaluator diagnosed respondent as schizophrenic, which Gardner did not see any basis for.

¶ 32 Liza Simon-Roper was the State's last witness and testified to the following. She was a licensed clinical social worker and was a supervisor and therapist at One Hope United. Simon-Roper had been trained to do Marschak assessments and had administered 50 to 100 of them. The assessment was designed to look at the parent-child relationship at a moment in time so that services could be recommended that might allow a parent to improve his or her parenting skills. Simon-Roper performed a Marschak assessment on respondent and Cornica in June 2010. She explained to respondent that she would be looking at the relationship between Cornica and her daughter through a variety of fun activities. Cornica was 11 at the time. Respondent was to read the activity from a card, and any materials she would need for it would be in the box next to her. Respondent could read the directions, and Cornica was very compliant in following the directions. However, it appeared difficult for respondent to provide explanation and clarification. Also, respondent and Cornica were willing to play together, but respondent had trouble making eye contact with Cornica, which was part of the assessment on emotional connection. She also did not challenge her daughter on easy tasks, which relates to teaching children to move through developmental stages and grow and learn. There were also times that respondent answered her phone, and she left the room to talk at one point. Simon-Roper recommended that respondent receive information about how children of different ages have different needs, because Simon-Roper had the impression that respondent related to her daughter as a very young child and had a child-to-child relationship with her. In a parent-child relationship it is important that a parent be able to assume a role of authority and take

charge of matters of decision-making and safety. Her second recommendation was to have a parenting coach work with respondent to improve her interactions with Cornica and understand how her daughter was reacting to her.

¶ 33 Olivia Jones testified as a witness for respondent. She lived with respondent from 2007 to 2010. Jones had seen respondent interact with two of her other children, and respondent cooked for them and went places with them. Respondent had talked to her son Terrence about getting a job and being responsible. Respondent had also babysat for Jones' seven-year-old daughter while Jones was at work.

¶ 34 Patricia L., respondent's mother, testified that she had observed respondent with her four other children who lived with Larry, and they had a good relationship. Patricia L. had not seen Cornica and Cortrell for about 10 years. Respondent had told her that Cortrell had special needs and was home schooled.

¶ 35 Respondent provided the following testimony. She made appointments with Cummings but had only met with her twice because Cummings canceled the other appointments. Respondent provided Cummings with copies of "two check stubs," her cell phone bill, her rent receipt, and her electric bill. Cummings never explained that she was to document all of the items on a budget. Respondent agreed that she would see Cummings in court every six months but did not provide her copies of financial documents at those times. Between 2008 and the time of the hearing, respondent had been living on her own, with a roommate, and had never been kicked out of her apartment for failure to pay or had her utilities shut off. Respondent went to counseling in Wisconsin in 2007 for a couple of months, but it ended because the counselors needed to talk to Cummings about "the process" and length of counseling, but Cummings never returned the calls. Respondent obtained

counseling in 2010, but it ended because she did not have insurance. She agreed that she did not obtain any forms showing that she had completed counseling sessions. Also, she agreed that Cummings offered her services in Illinois for all of the services in her plan. Any time that Cummings asked her to do a task, respondent completed it, and she also gave Cummings any paperwork she asked for. Respondent felt that she had to do things over and over again, like see a psychiatrist. Respondent felt like she needed help for tasks, such as obtaining and paying for therapy, but Cummings did not supply such help. Respondent also asked that visits take place in different locations, but that did not occur. Respondent brought checkers and Uno cards to visits, but eventually she let Cornica take them home with her. She brought games to every visit except those at McDonalds. Respondent testified that, since 2008, she understood what she had to do to get her children back, and that she believed that she completed all of her tasks and services. Respondent agreed that the children were briefly in her care in 2001 but had not been in her care since then. She was aware of Cortrell's special needs and medication.

¶ 36 Cummings testified in rebuttal that she scheduled some appointments with respondent, and respondent initiated others. Respondent never complained that Cummings was unavailable to meet with her. In 2011, respondent said that Franciscan Health Care in Wisconsin wanted a referral for her, but when Cummings called, she was told respondent needed to self-refer. Respondent said that she made an appointment there, and Cummings asked for documentation but never received it. Respondent never said that she needed financial or other assistance for the counseling. Cummings had also referred her to counseling through One Hope United, but the therapy was discontinued because respondent did not show up. As of at least 2008, respondent had not completed any mental health counseling.

¶ 37 Respondent never told Cummings that she needed help making a budget or help with other tasks. Respondent had requested visits in relatives' homes, but that was not approved because Cummings did not think it was an appropriate visitation environment. Respondent also suggested Six Flags, but One Hope United did not have a supervisor available for the time required.

¶ 38 B. Trial Court's Ruling

¶ 39 The trial court issued its ruling on May 31, 2012, stating as follows. The children came into care on April 11, 2000. The dispositional order was entered on August 19, 2000, and it required respondent to complete parenting classes and all treatment recommended by mental health providers, cooperate with DCFS recommendations, attend court hearings and administrative case reviews, sign releases, and maintain a safe living environment for the children. The case plans had remained substantially the same the entire time. The permanency goal was first changed to substitute care pending court determination on termination of parental rights in April 2002. In December 2003, the goal was changed to adoption after the trial court granted the State's petition to terminate parental rights. The goal was changed to return home in October 2004 after the appellate court's reversal. The goal remained return home until March 2006, when it changed to substitute care pending court determination on termination of parental rights based on reports submitted to the court, and the goal had not changed since that date. Respondent's case plans from January 2008 on included similar, if not exactly the same tasks relating to visitation, mental health, housing, budgeting, and income.

¶ 40 The State presented little information about the parental deficits that led to the children's removal, so the trial court found that the State had not met its burden on the allegation that respondent had not made reasonable efforts to correct the conditions which were the basis for removal. Regarding the State's allegation that respondent failed to make reasonable progress toward

the return of the children during the first nine months after the adjudication or in any nine month period after the first nine month period, the trial court found that the State had not met its burden of proof for the time of August 2000 to November 2007, because it presented little evidence regarding those periods.

¶ 41 The trial court was considering respondent's progress starting with Cummings' testimony and her evaluation of the case plan beginning August 2008. The overall assessment from that time through August 2011 was that respondent had not made any reasonable progress towards the return home. She was still unable to understand and identify the reasons she needed mental health treatment and additional parenting skills. While she was able to care for herself, her abilities never rose to the level where she would be able to be reunited with her children. Due to respondent's mental health and mental deficiency issues, she never made objective reasonable progress towards the return home goal from January 2008 through August 2011.

¶ 42 The trial court then summarized then testimony of Simon-Roper and Gardner. It further found that even after a parenting coach was put in place, respondent's parenting skills did not improve. Respondent's roommate, Jones, was unable to present credible testimony regarding respondent's parenting skills or observations of her with her children. Respondent's mother, Patricia L., testified about respondent's interactions with her other children, but these interactions were for short periods of time. Respondent had difficulty responding to questions and had almost an "obsession" with her cell phone, to the extent that there were times the trial court had to ask her to put it away or turn it off. Her thinking appeared to be very concrete, and she seemed able to care for herself but not her children for extended periods of times. The trial court found that the State met its burden of proof on its allegation that respondent was unable to discharge parental responsibilities

due to mental impairment, mental illness, mental retardation, or developmental disability, and there was a sufficient justification to believe that the inability would extend beyond a reasonable time period.

¶ 43

C. Bests Interests

¶ 44 Immediately following its ruling finding respondent unfit, the trial court proceeded with the best interests hearing. Cummings testified as follows. Cortrell was twelve years old and had been in his current foster care home for eight years. He had been diagnosed with reactive attachment disorder for which he saw a therapist, and he was also home schooled as a result of the disorder. Cortrell further had issues with food allergies. The foster parents were meeting Cortrell's special needs as well as his needs for food, shelter, health, and clothing. Cummings visited the foster home twice per month. The home also consisted of the family's 14-year-old adopted daughter. The foster parents were Caucasian and the foster sister was African American. Cortrell had his own room, was involved in extracurricular activities like football and lacrosse, and attended a multicultural church. Cortrell was on target for his age educationally. Cortrell called the foster parents "Mom" and "Dad" and was bonded to them within the "confines" of his disorder. His therapist had said that he did not have the ability to bond without permanency, but there was a strained attachment and he had placement stability due to the length of time in the home. The parents had done all they needed to do to meet Cortrell's emotional needs, and Cortrell told her that he wanted to be adopted by them. Cortrell got along well at times with his foster sister, and though his disorder caused "challenges," the foster parents were willing and able to facilitate a relationship between them. Cornica did not have contact with Cortrell because his therapist did not recommend it based on his disorder. However, the foster parents knew each other.

¶ 45 Cortrell's visits with respondent were suspended because it was creating a lot of anxiety for him and "escalat[ing]" his behavior in the foster home, and respondent was not following recommendations on "how to relieve those issues." The foster parents had indicated that they were committed to providing Cortrell permanency and wanted to adopt him. Cummings opined that permanency would be in Cortrell's best interests because lack of permanency had caused his reactive attachment issues.

¶ 46 Cortrell's foster mother provided testimony consistent with that of Cummings. She further testified that Cortrell was home schooled because when he was going to school, he was having anxiety attacks and crying all night. After they started home schooling, Cortrell was calmer and making progress. He was always worried about having to leave the foster parents, even to go to school, and the foster mother thought that if he was adopted, he would be less angry and less anxious.

¶ 47 Cornica was 13 years old and was in her original foster home placement. There were also seven-year-old and two-year-old boys in the home, with whom Cornica had a good relationship; Cornica said that she would be "very sad" if for some reason they were not all living together. Cornica had always done well in school and was at times in a gifted program. Cummings visited the home once per month. Cornica had her own room and had her food, shelter, health, and clothing needs met. She called her foster mother "Mom" and had a bond with her. Cornica was involved in church and extracurricular activities like basketball. She expressed that she wished to remain in her foster home and be adopted, and the foster mother wished to adopt her. Cornica also enjoyed spending time with respondent, and the foster mother and Cornica were committed to maintaining contact with respondent.

¶ 48 Cornica's foster mother provided testimony consistent with that of Cummings.

¶ 49 The trial court found as follows. The children were both being well cared for in their homes. Their educational needs were being met, and they had a sense of security. Cornica's foster parents had indicated that contact with respondent could be maintained and that there could be visitation between the siblings if that became appropriate for Cortrell. Cortrell's attachment disorder was not being overcome because he did not know what was going to happen to him. It was in the children's best interests to terminate parental rights and be available for adoption.

¶ 50 Respondent timely appealed.

¶ 51 II. ANALYSIS

¶ 52 A. Fitness

¶ 53 The termination of parental rights is a two-step process governed by the Juvenile Court Act of 1987 (705 ILCS 405/1-1 *et seq.* (West 2010)) and the Adoption Act (750 ILCS 50/1 *et seq.* (West 2010)). *In re J.L.*, 236 Ill. 2d 329, 337 (2010). The State must first establish by clear and convincing evidence that the parent is unfit under section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2010)). *Id.* If the trial court determines that the parent is unfit, the trial court's focus shifts from the parent's fitness to the child's best interest in the second stage of the process, the best interest hearing. *In re B.B.*, 386 Ill. App. 3d 686, 697-98 (2008).

¶ 54 On appeal, respondent first challenges the trial court's finding of unfitness. A court may find a parent unfit as long as one of the statutory grounds of unfitness is proven by clear and convincing evidence. *In re P.M.C.*, 387 Ill. App. 3d 1145, 1149 (2009). We will not reverse a trial court's finding of unfitness unless it is against the manifest weight of the evidence. *In re Deandre D.*, 405 Ill. App. 3d 945, 952 (2010). A decision is against the manifest weight of the evidence only if the

opposite conclusion is clearly evident or the ruling is unreasonable, arbitrary, or not based on the evidence. *In re B.B.*, 386 Ill. App. 3d 686 at 697-98.

¶ 55 The trial court found respondent unfit on the basis that she failed to make reasonable progress toward the children's return during the nine month periods beginning in 2008, when Cummings became the caseworker. See 750 ILCS 50/1(D)(m)(iii) (West 2010). It also found her unfit on the ground that she was unable to discharge parental responsibilities due to mental impairment, mental illness, mental retardation, or developmental disability, and there was a sufficient justification to believe that the inability would extend beyond a reasonable time period. See 750 ILCS 50/1(D)(p) (West 2010).

¶ 56 Regarding reasonable progress, respondent argues as follows. In order to evaluate whether reasonable progress has been made towards a goal of return home, it is necessary to look at why the children came into care in the first place. Here, the children came into care because their father physically abused Cornica, and respondent left them in their father's care. However, there was no evidence that she did not understand domestic violence, as shown by the lack of domestic violence tasks in the service plan. "Since 2008 it has been noted in multiple service plans that Respondent had completed her services and complied with all services." Any mental deficiency she has should have been known because she had previously been involved with DCFS with her other children, so any concern about how it related to Cornica and Cortrell could have been included in early case plans and is not a new condition in which she has to make progress. Further, if her mental incapacity cannot be remedied, it should not be included as a task that can be used to mark a failure in making progress, and it should only be considered under the subsection of statutory unfitness based on mental deficiencies. The assessment of her progress should be based on the original reason for

removal, being domestic violence, and since there were not tasks relating to this issue, she should be considered to have attained this goal.

¶ 57 Our supreme court has defined reasonable progress as “ ‘demonstrable movement toward the goal of reunification.’ ” *In re C.N.*, 196 Ill. 2d 181, 211 (2001), citing *In re J.A.*, 316 Ill. App. 3d 553, 565 (2000). Contrary to respondent’s argument that DCFS could only assess her progress on services related to the reason the children came into care, progress towards return of the child is measured by the parent’s compliance with the service plans and the court’s directives, in light of both the condition which caused the child’s removal *and* conditions that became known later and which would prevent the court from returning custody of the child to the parent. *In re C.N.*, 196 Ill. 2d at 216-17; see also *In re Jordan V.*, 347 Ill. App. 3d 1057, 1068 (2004) (even if the mother had addressed the circumstances that led to her children’s removal, it would not constitute reasonable progress because the court would also have to consider her compliance with service plans and court directives made in response to conditions that became known after their removal) . As our supreme court has stated:

“the benchmark for measuring a parent's progress under section 1(D)(m) of the Adoption Act must take into account the dynamics of the circumstances involved; the reality that the condition resulting in removal of the child may not be the only, or the most severe, condition which must be addressed before custody of the child can be returned to the parent; the appropriate role of service plans in addressing these conditions; and the overriding concern that a parent’s rights to his or her child will not be terminated lightly.” *In re C.N.*, 196 Ill. 2d at 216.

Also, although respondent maintains that DCFS treated her mental deficiency as a new condition, it was actually noted as early as the September 2000 client service plan. Moreover, respondent was not constantly given new tasks to fulfill; as the trial court noted, the tasks required of respondent remained substantially the same from the time of the dispositional order to the time of the hearing.

¶ 58 Respondent's assertion that she has completed and complied with all of her services since 2008 corresponds with her trial testimony but is otherwise completely contradicted by the record. Cummings' testimony, along with the exhibits entered into evidence, shows that respondent was rated unsatisfactory in one or more areas in every single service plan evaluation. The plans required respondent to provide monthly rent and utility receipts, as well as documentation of income and budgets, to show that respondent could meet her children's needs and provide a safe environment if reunification were to occur. However, the evaluations show that respondent rarely provided such documentation and was consistently rated unsatisfactory on this task. Cummings testified that respondent only provided two or three budgets from 2008 to 2011. Respondent herself testified that she provided Cummings with "two check stubs" and that although she saw Cummings in court every six months, she did not provide her copies of financial documents at those times.

¶ 59 Respondent was also repeatedly given the tasks of obtaining mental health therapy and psychological counseling and rated unsatisfactory on these tasks. Respondent admittedly did not go to counseling in 2008, 2009, or 2011, and although she testified that she went to some sessions in 2010, she agreed that she did not obtain any paperwork showing that she did so. Respondent testified that sessions ended because she did not have insurance or because Cummings failed to call with a referral, but Cummings testified that she did call and was told that respondent needed to self-refer, and that respondent never said that she needed financial or other assistance. Moreover,

respondent agreed that Cummings offered her services in Illinois for every service in her plan, and the 2011 service plan evaluation indicates that One Hope United arranged therapy sessions but respondent did not show up for the scheduled appointments.

¶ 60 Regarding visitation, it is apparent that respondent has strong feelings for her children, as manifested through her regular phone calls to Cummings asking about their well being, her regular visitation with Cornica, and Gardner's report. However, Cummings testified that she rated respondent unsatisfactory on this task because Cummings had supervised 140 to 200 visits between respondent and Cornica and found that respondent could interact with her daughter only on a peer-to-peer basis, rather than on a parent-child basis. Respondent's inability to maintain a parental perspective was manifested during a visit that occurred between September 2010 to March 2011, when Cornica gave her a homemade gift and respondent said that she did not want any more homemade gifts and Cornica should get her a Victoria's Secret gift card. Cummings' September 2011 evaluation states that respondent "has continually discussed with Cornica" that she should be buying her gifts from Victoria's Secret instead of homemade gifts. Respondent's interactions with Cornica did not change even after a parenting coach assisted her for six months, beginning in February 2011. Cummings' overall observations were also consistent with Simon-Roper's findings in the Marschak assessment that respondent had a child-to-child relationship with Cornica; Simon-Roper testified that it is important that a parent be able to assume a role of authority and take charge of decision-making and safety.

¶ 61 To the extent respondent is arguing that we may not consider any deficiencies in her service plans that could have been caused by her mental impairments, we reject this argument. We recognize that such impairments can form an independent basis to find a parent unfit, as was also

found by the trial court in this case. See 750 ILCS 50/1(D)(p) (West 2010). However, a low IQ does not automatically translate into an inability to discharge parental responsibilities. *Cornica J.*, 351 Ill. App. 3d at 569. Thus, we must necessarily be allowed to examine the effect of such impairments on the ability to fulfill parental responsibilities in other contexts, such as whether the parent has achieved reasonable progress towards returning the child home. This approach is consistent with our review of reasonable progress, which we judge on an *objective* standard relating to making progress toward the goal of returning the child home. *In re R.L.*, 352 Ill. App. 3d 985, 998 (2004). In contrast, reasonable efforts is a subjective standard relating to the goal of correcting the conditions which caused the child's removal (*id.*); reasonable efforts is not at issue here. Further, the appellate court has specifically held that a parent's mental deficiencies do not eliminate the requirement of making measurable progress towards the return home of the child. See *In re J.P.*, 261 Ill. App. 3d 165, 175-176 (1994); *In re Edmonds*, 85 Ill. App. 3d 229, 233-34 (1980); see also *In re Devine*, 81 Ill. App. 3d 314, 320 (1980) (a "child is no less exposed to danger, no less dirty or hungry because his parent is unable rather than unwilling to give him care").

¶ 62 Reasonable progress can be found if the trial court can conclude that it can return the child to the parent in the near future, and at a minimum it requires measurable or demonstrable progress toward the goal of reunification. *In re K.P.*, 305 Ill. App. 3d 175, 180 (1999). Here, there is no indication that the children can be returned to respondent in the near future, as her consistent failure to provide copies of her rent receipts, utility receipts, and income, as well as her repeated failures to obtain and follow-up with psychological and mental health therapy, resulted in respondent not even being able to have unsupervised visits despite the passage of so much time. In the supervised visits that respondent had with Cornica, she could not progress beyond having a peer-to-peer relationship

with her daughter, even after a parenting coach was assigned to her. These deficiencies have remained consistent throughout the many years at issue here, with no showing of measurable progress towards reunification. Accordingly, the trial court's finding that respondent failed to make reasonable progress toward the return of the children during the various nine month periods from 2008 to 2011 is not against the manifest weight of the evidence. *Cf. In re A.L.*, 409 Ill. App. 3d 492, 501 (2011) (affirmed trial court's finding of unfitness based on lack of reasonable progress where the evidence did not show that the mother fully complied with her service plan goals during the relevant nine-month periods such that her child could be placed in her care in the near future).

¶ 63 As a trial court's finding of unfitness can be sustained on a single statutory ground (*In re P.M.C.*, 387 Ill. App. 3d at 1149), we do not address respondent's challenge to the trial court's ruling that she was also unfit on the basis of a mental deficiency. See *In re Shauntae P.*, 2012 IL App. (1st) 112280, ¶ 103.

¶ 64 B. Best Interests

¶ 65 Respondent next argues that the trial court's ruling that it was in the children's best interest to terminate their parental rights is against the manifest weight of the evidence. A trial court's ruling that a parent is unfit does not automatically mean that it is in the child's best interest to terminate parental rights. *In re B.B.*, 386 Ill. App. 3d at 698. Still, during the best interests hearing, "the parent's interest in maintaining the parent-child relationship must yield to the child's interest to live in a stable, permanent, loving home." *In re S.D.*, 2011 IL App (3d) 110184, ¶ 34. In determining a child's best interest, the trial court is required to consider the following statutory factors of the Juvenile Court Act in light of the child's age and developmental needs: (1) the child's physical safety and welfare, including food, shelter, health, and clothing; (2) the development of the child's

identity; (3) the child's familial, cultural, and religious background and ties; (4) the child's sense of attachment, including love, sense of security, sense of familiarity, continuity of affection of the child, and least disruptive placement for the child; (5) the child's wishes and goals; (6) the child's community ties, including church, school, and friends; (7) the child's need for permanence; (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. 705 ILCS 405/1-3(4.05) (West 2010). The court may also consider the nature and length of the relationship that the child has with his or her present caregiver and the effect a change in placement would have on the child's emotional and psychological well-being. *In re Tasha L.-I.*, 383 Ill. App. 3d 45, 52 (2008).

¶ 66 The State must show by a preponderance of the evidence that it is in the child's best interest to terminate the relationship with his or her parent. *In re S.D.*, 2011 IL App (3d) 110184, ¶ 33. We will not disturb a trial court's determination that it is in the child's best interest to terminate parental rights unless the ruling is against the manifest weight of the evidence. *Id.*

¶ 67 Although respondent argues in her heading on this argument that the trial court erred in finding that it was in the children's best interests that her parental rights be terminated, the body of her argument pertains entirely to Cornica, with no mention of Cortrell. Accordingly, respondent has forfeited any contention that the trial court erred in its best interests finding in regards to Cortrell. See Ill. S. Ct. R. 341(h)(7) (eff. July 1, 2008) (points not argued in the appellant's brief are forfeited). Even otherwise, we find no error. According to the testimony, Cortrell had been in his current foster care placement for eight years and had bonded to his foster parents to the extent that he could given his reactive attachment disorder, which could potentially improve with permanency. The foster parents were providing Cortrell with his basic needs as well as accommodating his special needs,

such as by home schooling him. Cortrell wanted to be adopted by his foster parents, and they wanted to adopt him. In contrast, Cortrell had not seen respondent since 2005 after a court order suspended visitation based on his therapist's recommendation. As such, the trial court's finding that it was in Cortrell's best interests to have respondent's parental rights terminated is not against the manifest weight of the evidence.

¶ 68 Regarding Cornica, respondent argues that the trial court erred in terminating her parental rights, because they have a bond. Respondent points to the testimony showing that she had been consistently visiting Cornica her whole life, Cornica enjoyed the visits with her and hugged her, and Cornica expressed that she wanted to maintain contact with her. Respondent argues that rather than being a situation of intentional abuse or neglect, she simply has mental impairments that make her unable to parent Cornica, and their relationship should not be put in jeopardy and be left to the whim of the adoptive parent. Respondent maintains that guardianship is available as a means of permanency for Cornica.

¶ 69 Respondent analogizes this case to *In re M.F.*, 326 Ill. App. 3d 1110 (2002). There, the daughter, who was in her father's custody, had consistent visitation with her mentally disabled mother. *Id.* at 1118. The appellate court affirmed the trial court's ruling that the mother was unfit but reversed its ruling that it was in the daughter's best interests to terminate the mother's parental rights. The court stated that the daughter indicated that she wanted to continue the visits, and there would be no benefit to the daughter by terminating the rights because she would not gain any stability, as she already lived with her father. *Id.*

¶ 70 We find no error in the trial court's ruling as to Cornica. Cornica was still in her original foster care placement, where she had lived almost her entire life. Her basic food, clothing, and

shelter needs were being met, and she was excelling at school. She had a good relationship with the two younger boys who also lived in the home. Cornica called her foster mother “Mom,” was bonded with her, and expressed that she wanted to remain in her foster home and be adopted. The foster mother wanted to adopt her as well. See *In re Tashika F.*, 333 Ill. App. 3d 165, 170 (2002) (a child’s likelihood of adoption is an appropriate factor for the trial court to consider in a best interests hearing). The issue of adoption distinguishes this situation from that in *M.F.*; the child in *M.F.* was not going to gain any stability by the termination of her mother’s parental rights, because her father already had custody of her, whereas in this case Cornica would achieve permanency and stability through adoption. See *In re Angela D.*, 2012 IL App (1st) 112887, ¶ 39 (similarly distinguishing *M.F.*). While Cornica also wanted to continue visiting with respondent, this did not change her desire to be adopted by her foster mother, and the foster mother was willing to continue Cornica’s contact with respondent. Thus, the trial court’s ruling that it was in Cornica’s best interests to terminate respondent’s parental rights is not against the manifest weight of the evidence.

¶ 71

III. CONCLUSION

¶ 72 For the reasons stated, we affirm the judgment of the Lake County circuit court.

¶ 73 Affirmed.