



terminated his parental rights to T.M., K.M., and P.M. He challenges the court's finding that it was in the children's best interests to terminate his parental rights. Because we conclude that the finding is not against the manifest weight of the evidence, we affirm the trial court's judgment.

¶ 3

## I. BACKGROUND

¶ 4

### A. The Petitions for Adjudication of Wardship

¶ 5

On April 1, 2009, the State filed three petitions for adjudication of wardship in the Macoupin County circuit court. The subjects of these petitions were two boys, T.M. (born July 23, 1999) and K.M. (born November 13, 2003), and a girl, P.M. (born March 9, 2007). The petition named respondent (born February 16, 1981) as the father.

¶ 6

Each petition contained two counts. Count I alleged the child was "neglected" within the meaning of section 2-3(1)(b) of the Juvenile Court Act of 1987 (705 ILCS 405/2-3(1)(b) (West 2008)) in that the child's environment was injurious to his or her welfare. The environment allegedly was injurious in that on March 25, 2009, the mother misused prescription drugs and overdosed on them. Count II alleged the child was "neglected" within the meaning of section 2-3(1)(a) (705 ILCS 405/2-3(1)(a) (West 2008)) in that on March 31, 2009, the mother abandoned the child and told Margaret A. Young that she could not take care of her children.

¶ 7

### B. The Temporary-Custody Hearing

In a temporary-custody hearing on April 2, 2009, the trial court found probable cause to believe that the children were neglected in that they "reside[d] in an environment injurious to [their] welfare." The court further found an immediate and urgent necessity to remove the children from the home because of the "instability of [their] caretaker" and the unavailability of any "relative caretakers." Therefore, the court awarded temporary custody of the children to the guardianship

administrator of the Illinois Department of Children and Family Services (DCFS), giving DCFS the right to "place" the children.

¶ 8 C. The Adjudicatory Hearing on the Petition for Adjudication of Wardship

¶ 9 On August 24, 2009, the trial court held an adjudicatory hearing, at which the mother's attorney appeared. Neither respondent nor his attorney appeared, and consequently the court found respondent to be in default. The mother admitted count I of the petitions, and count II of the petitions was dismissed. The court entered an order finding the children to be neglected.

¶ 10 D. The Dispositional Hearing

¶ 11 In a dispositional hearing on November 5, 2009, the trial court made T.M., K.M., and P.M. wards of the court, finding it was in their best interest to do so. The court awarded custody and guardianship to DCFS and ordered the parents to complete parenting classes and otherwise cooperate with DCFS.

¶ 12 The dispositional order warned the parents that if they failed to follow the service plans, they could lose their parental rights.

¶ 13 E. The Transfer of the Case to Sangamon County

¶ 14 On October 28, 2010, by agreement of all the attorneys, the trial court transferred the cases from Macoupin County to Sangamon County.

¶ 15 F. The Motion for Termination of Parental Rights

¶ 16 On March 10, 2011, the Sangamon County State's Attorney filed a motion to terminate the parental rights of respondent and the mother to T.M., K.M., and P.M. In paragraphs 9(c) and (d) of each motion, the State alleged that respondent was an "unfit person" for the following reasons: (1) he failed to make reasonable progress toward the return of the children to him within

nine months after an adjudication of neglect, specifically, within the nine-month period from August 24, 2009, to May 24, 2010 (see 750 ILCS 50/1(D)(m)(ii) (West 2010)); and (2) he failed to make reasonable progress toward the return of the children to him during a nine-month period after the end of the initial nine-month period following the adjudication of neglect, specifically, during the period of May 24, 2010, to February 24, 2011 (see 750 ILCS 50/1(D)(m)(iii) (West 2010)).

¶ 17                   G. The Permanency Review Hearing on March 10, 2011

¶ 18                   In a permanency-review hearing on March 10, 2011, the trial court noted that the parents had made "very little, if any, progress" toward meeting the permanency goals. Therefore, the court changed the goal to "substitute care pending court decision."

¶ 19                   The assistant State's Attorney then came forward with written motions to terminate parental rights in the three cases. After the court admonished the parents regarding these motions, the mother surrendered her parental rights to the three children.

¶ 20   H. The Fitness Hearing

¶ 21                   In a fitness hearing on June 23, 2011, respondent stipulated he was an "unfit person" as alleged in paragraph 9(c) and (d) of the motions for termination of parental rights.

¶ 22   I. The Best-Interest Hearing

¶ 23   1. *The Best-Interest Report*

¶ 24                   On July 12, 2011, Camelot Care Center Foster Care prepared a best-interest report. The report was signed by the case manager, Abbie Rolf, and by the case manager supervisor, John McGlathery. It revealed the following.

¶ 25   a. T.M. (11 years old)

¶ 26   (1) *His Physical and Mental Health*

¶ 27 Although T.M. is physically healthy, he has some persistent mental-health problems, *i.e.*, attention deficit hyperactivity disorder and "[d]epression, not otherwise specified," which make it necessary for him to attend sixth grade at the Sangamon Area Special Education District Central School. Through psychotropic medication and in-home counseling, however, these problems have been ameliorated to the point where, at school, T.M. no longer has to ask to be completely secluded, as he frequently had to do in the past. Instead, he can regain his equilibrium merely by having time alone at his desk.

¶ 28 The foster parents are diligent in monitoring T.M.'s psychological symptoms; administering his medication; documenting his symptoms and dosages; and arranging for psychiatric appointments, in-home counseling, immunizations, and annual medical examinations.

¶ 29 *(2) His Physical Safety and Welfare*

¶ 30 The foster parents are meeting T.M.'s basic needs for food, shelter, and clothing, as Rolf has confirmed by visiting the foster home at least two times a month. T.M. is dressed appropriately and has more than enough clothing.

¶ 31 Also, the residence appears to be in good repair, with no fire or safety hazards, and it has enough space for the size of the family.

¶ 32 *(3) His Academic Performance*

¶ 33 Rolf writes: "School records over time support that the consistency and stability of this foster home has contributed to [T.M.]'s academic success. [T.M.] has an IEP [(individualized education plan)] and his educational needs are met both by the school and in the foster home. This past school year [T.M.] made significant progress on his IEP goals with the help both from the school and from the foster parents. [T.M.] was also on the honor roll for 2 weeks." The foster

parents attend school meetings and advocate for T.M.

¶ 34 As for extracurricular activities, Rolf writes: "[T.M.] has a budding interest in golfing, as encouraged by his great-[a]unt[,] and he loves swimming."

¶ 35 (4) *His Relationship With the Foster Parents*

¶ 36 T.M. has said he is happy in his current placement, and he has "expressed a strong bond with his foster parents," especially with his foster mother. He has remarked to his foster mother that she acts as a " 'mom should act.' "

¶ 37 When respondent did not attend a Father's Day celebration put on by T.M.'s great-aunt and her partner, T.M. was "thrilled" to give the Father's Day gift to his foster father.

¶ 38 (5) *His Relationship With His Biological Parents*

¶ 39 Rolf writes that T.M. "has been able to maintain a connection with his biological mother as well at the family gatherings, even after her surrender." Although T.M. would like to return to respondent, he understands that respondent has made insufficient progress toward that end, and T.M. "appears to be frustrated and angry at this." When informed of Camelot's decision to pursue the termination of parental rights, T.M. replied that he had " 'seen it coming.' "

¶ 40 (6) *The Availability of an Adoptive Home*

¶ 41 The foster parents have not made a commitment to adopt T.M., although they are willing to keep him until he is old enough to be on his own. Rolf writes: "The foster family has not yet had a child with mental health issues and they are concerned about what the future may hold. Camelot is requesting a psychological evaluation to attempt to identify any foreseeable issues. With continued guidance and assistance Camelot believes this home may become an adoptive resource."

b. K.M. (seven years old)

¶ 42

(1) *His Physical and Mental Health*

¶ 43 K.M. resides in the same foster home as his brother, T.M. Although K.M. is physically healthy, he, too, has some psychological problems. He has been diagnosed with attention deficit hyperactivity disorder and oppositional defiant disorder. He takes psychotropic medication and receives in-home counseling. The foster parents are diligent in monitoring K.M.'s symptoms and medication and in arranging for all the necessary psychiatric and counseling appointments.

¶ 44 Previously, K.M. "had quite a few sexual issues, such as public masturbation, exposing himself, and encopresis," Rolf writes. "Over the past year, these behaviors have diminished to nearly non-existent."

¶ 45

(2) *His Physical Safety and Welfare*

¶ 46 The foster parents are meeting K.M.'s basic needs for food, shelter, and clothing. Again, the home is safe and clean, and it is spacious enough.

¶ 47 K.M. likes swimming and playing with the family dog.

¶ 48

(3) *His Academic Performance*

¶ 49 K.M. will attend second grade at Sherman Elementary School in the fall. He receives special education because of his psychological problems. Rolf writes: "[K.M.] made significant improvements on his IEP goals this past year, particularly his behavioral issues at school. With diligent work in the foster home [K.M.] was able to bring his spelling grade from an F to an A."

¶ 50

(4) *His Relationship With His Foster Parents*

¶ 51 K.M. has been in his current foster home since December 21, 2009. He was five years old when he was removed from the custody of his biological mother.

¶ 52 Rolf writes: "[K.M.] is struggling with understanding the termination process and

still asks about going home to his dad. At other times, [K.M.] has said that he knows he isn't going home to his parents. Since the goal was changed to Substitute Care Pending Termination of Parental Rights on 3-10-11, [K.M.] has had one visit per month with his father supervised by Camelot." He also visits with his biological parents at family gatherings supervised by his great-aunt and her partner, who are licensed foster parents.

¶ 53 (5) *The Availability of an Adoptive Home*

¶ 54 The foster parents have not made a commitment to adopt either K.M. or T.M. but are willing to continue being foster parents for these two boys until they are old enough to be on their own. Rolf writes: "The foster family has not yet had a child with sexually reactive issues and they are concerned about what the future may hold." As with T.M., Camelot is arranging for a psychological evaluation of K.M. "to attempt to identify any foreseeable issues." Rolf believes that "[w]ith continued guidance and assistance," the foster parents might change their minds and adopt K.M. and T.M.

¶ 55 c. P.M. (four years old)

¶ 56 (1) *Her Physical and Mental Health*

¶ 57 P.M. is placed in the home of her paternal great-aunt, Jen, and her partner, Linda. P.M. has been with them since March 15, 2010. She was two years old at the time she was removed from the custody of her biological mother.

¶ 58 Although she is physically healthy, P.M. previously was diagnosed with selective mutism. With the help of Jen and Linda and early-intervention services, P.M. has overcome the selective mutism, and she is now an "outgoing, intelligent, and very happy little girl," Rolf writes. "She is often observed playing with Jen or Linda and laughing. She follows directions and accepts

consequences from Jen and Linda. She is successfully potty trained and exhibits no out of the ordinary behaviors."

¶ 59 *(2) Her Physical Safety and Welfare*

¶ 60 Rolf has observed that the home has adequate food; that it is in a good state of repair, with no visible safety or fire hazards; and that it is large enough for the family. P.M. was dressed in appropriate clothing and had more than enough clothing to meet her needs.

¶ 61 *(3) Her Academic Performance*

¶ 62 P.M. is in pre-kindergarten. She can recite the alphabet and identify letters. She can count and identify numbers. She can identify colors. And she is "developing a budding interest in golf and soccer."

¶ 63 *(4) The Availability of an Adoptive Home*

¶ 64 Jen and Linda intend to adopt P.M., who "does not ask about her mom or dad."

¶ 65 d. Interaction of the Children With Respondent During Visitations

¶ 66 Rolf writes:

"[T.M.] last saw his father on July 6th at a visit supervised by Camelot. [T.M.] rarely asks this worker, his counselor, or his foster parents about his father. It is evident that there is a bond of sorts between [T.M.] and [respondent], however, this worker also does not receive calls from [respondent] asking about [T.M.]

[K.M.] last saw his father on July 6th at a visit supervised by Camelot. [K.M.] sometimes asks this worker about his father and when he can go home to him, despite worker explaining that

[respondent] has not completed services. It is evident that there is a bond between [K.M.] and respondent, but it appears to be a superficial bond as well.

[P.M.] last saw her father on July 6th at a visit supervised by Camelot. [P.M.] does not ask this worker or her foster parents about her father. [Respondent] does not call this worker to ask about [P.M.]

Visitation between [respondent] and the children has been observed as basic and undeveloped. There is minimal interaction of substance. Often the children will ask [respondent] for things and he will give in to them relatively quickly. They often do not listen to prompting or redirection by [respondent], but will listen to this worker or the case aide. During one visit [T.M.] said, 'I'll talk to him now,' referred to after his father gave in and got him extra food at a visit. The children do not appear genuinely interest[ed] in visiting their father, but rather what they can obtain from him."

¶ 67 *2. Other Evidence in the Best-Interest Hearing*

¶ 68 The trial court held a best-interest hearing on September 15, 2011, in which the State called Rolf. She was the only witness to testify in the hearing. She reiterated many of the points in her best-interest report but provided some additional details as well.

¶ 69 In December 2009, T.M. and K.M. moved into their current foster home, the home of Lisa and Mark Watson in Sherman (having previously lived in foster homes in Jerseyville and Grafton). In addition to T.M. and K.M., the Watsons have two twins, who likewise are foster

children, and an adopted nine-year-old daughter. T.M. gets along well with his foster siblings, although he has to resist the urge to resume the parental role he previously had when he and K.M. lived with their mother.

¶ 70           Soon after moving in with the Watsons, T.M. was psychiatrically hospitalized—and this was not the first time. He had been hospitalized several times for suicidal ideation and uncontrollable rage. But he has calmed down at the Watsons', where he receives in-home counseling every week. There have been no further hospitalizations since the crisis he suffered when he first moved in with them in December 2009.

¶ 71           When T.M. was hospitalized around December 2009, respondent never called to ask how T.M. was doing. Ever since visits were suspended in August 2011, T.M. has not inquired about respondent. Respondent called once, to ask if visits were going to resume, but he does not regularly call.

¶ 72           The Watsons provide opportunities for T.M., K.M., and P.M. to spend time together. Every time there is a family function at Linda's and Jen's house, they invite the boys over. The boys sometimes stay overnight there.

¶ 73           Rolf admitted, on cross-examination, that it was theoretically possible the Watsons could decide they no longer wanted to be T.M.'s and K.M.'s foster parents. In that event, DCFS would try to place T.M. and K.M. together in another foster home, but there was no guarantee that DCFS would succeed in finding a foster home in which they could be placed together. Rolf agreed it would be detrimental to the boys if their relationship were broken.

¶ 74           Rolf clarified that the current foster parents of T.M. and K.M. had not ruled out adopting T.M. and K.M. They merely were weighing their options, given that they had never had

foster children with psychological impairments.

¶ 75 But the Watsons intend to stay the course as foster parents of T.M. and K.M. The assistant State's Attorney asked Rolf:

"MISS THARP: \*\*\* Do you know, it is the intent from what you have heard from the foster family, is it their intent to keep that going?

A: Absolutely. This is a very fortunate situation that we rarely experience."

¶ 76 In his concluding argument to the trial court, respondent's attorney pointed out the "lingering possibility" that T.M. and K.M. could start acting up, in which event the Watsons might change their minds about being their foster parents, and then DCFS might not be able to find a new foster home in which the two boys could be placed together. As a hedge against that possibility, respondent's attorney urged the trial court to maintain respondent's parental rights and to leave the goal, for the time being, as substitute care pending court decision.

¶ 77 The trial court asked respondent's attorney:

"THE COURT: \*\*\* [I]f we keep this at substitute care pending Court decision, I'm just trying to envision what's going to happen at the next hearing. What is your guy going to present?

MR. SCRONCE: I guess there is two scenarios. The Watsons either come back and say, okay, we're willing to adopt now. That may change my client's position in regards to surrendering. I can tell you our position is that we went to see [P.M.], [T.M.], and [K.M.] have one hundred percent assurance that their bond continues

throughout their childhood. In the event that the Watsons say, okay, you know, we're willing to adopt. Our position could change. Alternatively, perhaps dad can somehow make progress, and, you know, establish fitness. I mean, there is all kind of things that could happen. I can't predict the future, but I do know that the possibility exists if we terminate parental rights. We heard it from the State's own witness; that the bond of these three children could essentially—it's a possibility, so we don't want to take these risks."

¶ 78 The trial court reasoned that T.M., K.M., and P.M. appeared to be thriving in their present homes. Given that the children, by all indications, were now enjoying a normal childhood, the court found it would be in "their best interest \*\*\* to terminate [parental rights] with respect to [T.M.], [K.M.], and [P.M.]. We've got to give these kids a chance to do something," the court said, "and I think that they are well on their way, at least based on the witness's testimony and the State's argument. So, I side with the State." Accordingly, the court terminated respondent's parental rights.

¶ 79 This appeal followed.

¶ 80 II. ANALYSIS

¶ 81 Respondent points out that in determining the best interests of a child, a trial court must consider familial ties. See 705 ILCS 405/1-3(4.05)(c) (West 2010). The familial ties to which respondent refers are those between T.M., K.M., and P.M. According to respondent, the trial court put those familial ties at risk by "rush[ing] to terminate" his parental rights. He reasons as follows.

¶ 82 The Watsons have not committed themselves to adopting T.M. and K.M., and the State's own witness, Rolf, admitted the possibility that, one day, the Watsons might decide they no

longer wanted to be T.M.'s and K.M.'s foster parents. If that happened, DCFS, of course, would have to find new foster parents for T.M. and K.M., and DCFS might not be able to find a foster home that was willing to take in both boys together; T.M. and K.M. might have to be separated—to their great detriment. And maybe the new foster parents will not be quite as willing as the Watsons, or quite as able, to allow T.M. and K.M. to go to family get-togethers and sleep-overs at Jen's and Linda's house.

¶ 83 It is unclear, though, that preserving respondent's parental rights would have been an effective way of preserving the familial ties between T.M., K.M., and P.M. Even with his parental rights preserved, respondent would have been in no position to ensure the preservation of these familial ties because, given the adjudication that he was an "unfit person," T.M. and K.M. could not have been released to his custody. He had not made reasonable progress toward their return. If the trial court had given him more time, T.M. and K.M. would have remained in a state of indeterminacy, awaiting the reasonable progress that respondent might never make (the chances did not look good at that point). While respondent retained his parental rights, the Watsons could not have adopted T.M. and K.M. in the event that further psychological evaluations laid their concerns to rest.

¶ 84 Besides, adoption or no adoption, the Watsons appear to be the best bet for T.M. and K.M. Of course, it always is a truism that anything, theoretically, is possible, but the Watsons have dealt with the children's issues to date, and they are still T.M.'s and K.M.'s foster parents. The worst is behind them, so it seems; the psychiatric hospitalization, the encopresis, the sexual reactivity: those afflictions have been overcome, and because T.M. and K.M. now have such a good home life, if some of those afflictions reemerge, they probably will not be nearly as severe as in the beginning.

The Watsons have said they will be T.M.'s and K.M.'s foster parents until the boys are old enough to be independent, and the Watsons' actions give no basis for doubting their word. And perhaps, if they find the further psychological evaluations to be sufficiently reassuring, they will adopt T.M. and K.M. Obviously, they would not be able to adopt these boys if respondent's parental rights were still intact. Therefore, contrary to respondent's contention, the court did not make a finding that was against the manifest weight of the evidence when the court found it would be in T.M.'s and K.M.'s best interest to terminate respondent's parental rights. See *In re I.B.*, 397 Ill. App. 3d 335, 340 (2009).

¶ 85

### III. CONCLUSION

¶ 86

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

¶ 87

Affirmed.