NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2012 IL App (4th) 120446-U

Filed 9/27/12

NOS. 4-12-0446, 4-12-0447 cons.

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: R.S., M.S., and B.S., Minors,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Champaign County
v. (No. 4-12-0446)	)	No. 10JA77
MICHAEL SCOTT,	)	
Respondent-Appellant.	)	
	)	
In re R.S., M.S., and B.S., Minors,	)	
THE PEOPLE OF THE STATE OF ILLINOIS,	)	
Petitioner-Appellee,	)	
v. (No. 4-12-0447)	)	Honorable
NICOLE SCOTT,	)	John R. Kennedy,
Respondent-Appellant.	)	Judge Presiding.

JUSTICE COOK delivered the judgment of the court.
Justices Appleton and Knecht concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court did not err in terminating respondent parents' parental rights.

¶ 2 In May 2012, the trial court terminated the parental rights of respondent father, Michael Scott, and respondent mother, Nicole Scott, with respect to their minor children, R.S. (born October 17, 2006), M.S. (born November 9, 2007), and B.S. (born April 22, 2009). The parents appeal, arguing that the court's orders finding the parents unfit and finding termination was in the children's best interests were against the manifest weight of the evidence. We disagree and affirm.

¶ 3 I. BACKGROUND

¶ 4 In December 2010, following allegations that respondent father molested his then-four-year-old daughter, R.S., the State filed its petition for adjudication of abuse and neglect and shelter care. After a shelter-care hearing, the Department of Children and Family Services (DCFS) took R.S., M.S., and B.S. into protective custody.

¶ 5 In January 2011, the trial court held an adjudicatory hearing. Respondent parents knowingly and voluntarily stipulated that the children were neglected in that, as the State alleged, their environment when they resided with either parent was injurious to their welfare because it exposed them to a risk of sexual assault and abuse. See 705 ILCS 405/2-3(1)(b) (West 2010). Other abuse and neglect allegations were dropped.

¶ 6 In February 2011, the trial court held a dispositional hearing. Respondent father did not appear personally at the hearing as he was incarcerated. Evidence included a dispositional report. The court found each parent was unfit and unable to care for, protect, train, or discipline the minors. The court thus removed custody and guardianship of the children from respondent parents and placed them with DCFS.

¶ 7 In May 2011, the trial court held a permanency hearing. Following evidence, the court found that neither parent had made reasonable progress or reasonable efforts toward the children's return home. The court maintained a permanency goal of the children's return home.

¶ 8 In November 2011, the State filed a motion to terminate respondent parents' parental rights. The State alleged the parents were unfit because they had failed (1) to make reasonable efforts to correct the conditions that were the basis for the removal of respondent minors from them (see 750 ILCS 50/1(D)(m)(i) (West 2010)); (2) to make reasonable progress

toward the return of the minors within the initial nine months of the adjudication of neglect (see 750 ILCS 50/1(D)(m)(ii) (West 2010)); and (3) to maintain a reasonable degree of interest, concern, or responsibility as to the welfare of the respondent minors (see 750 ILCS 50/1(D)(b) (West 2010)).

¶ 9 In February and March 2012, the trial court held a hearing on the motion to terminate parental rights. Evidence included progress reports and recommendations and testimony by witnesses who discussed respondent parents' participation in court-ordered services and visitation. Respondent mother and her sister-in-law, Judy Gaines, testified. The court found the State proved its allegations of the parents' unfitness by a preponderance of the evidence and by clear and convincing evidence. The court found termination of parental rights was in the children's best interests. It gave DCFS the authority to consent to their adoption.

¶ 10 These appeals by respondent father (case No. 4-12-0446) and respondent mother (case No. 4-12-0447) followed. Their appeals have been consolidated for our review.

¶ 11 II. ANALYSIS

¶ 12 Respondent parents argue the trial court erred in finding that they were unfit and that the children's best interests would be advanced by terminating respondents' parental rights and proceeding with adoption opportunities. We disagree.

¶ 13 A trial court's finding of unfitness will be affirmed unless against the manifest weight of the evidence. *In re Adoption of Syck*, 138 Ill. 2d 255, 274, 562 N.E.2d 174, 183 (1990). An unfitness finding supported by any one statutory ground should be affirmed, even if the evidence is insufficient to support other alleged grounds. *In re Jaron Z.*, 348 Ill. App. 3d 239, 259, 810 N.E.2d 108, 124 (2004). Similarly, a trial court's best-interests determination

should be affirmed unless against the manifest weight of the evidence. *In re M.F.*, 326 Ill. App. 3d 1110, 1115-16, 762 N.E.2d 701, 706 (2002).

¶ 14 Respondent father argues the trial court's finding that he was unfit was erroneous. He contends that circumstances such as poverty and lack of transportation made him unable to participate in court-ordered services. See *In re C.P.*, 191 Ill. App. 3d 237, 243, 547 N.E.2d 604, 607 (1989) ("[P]overty standing alone is not an adequate basis for terminating parental rights.") Relying on *In re A.J.*, 296 Ill. App. 3d 903, 913, 695 N.E.2d 551, 557-58 (1998), he asserts that the court erroneously inferred his unfitness from his mere failure to comply with court orders or agency directives.

¶ 15 Respondent parents' caseworker, Selhattin Gokturk, oversaw a service plan for respondent father that included substance-abuse treatment, parenting classes, individual counseling, and a psychological evaluation. Gokturk offered respondents a gas card and bus tickets to cover their transportation requirements.

¶ 16 Nevertheless, respondent father missed two appointments with his psychologist and failed to complete a psychological evaluation. He made no progress in substance-abuse treatment and was discharged unsuccessfully due to lack of participation. He failed to attend individual sessions with his therapist.

¶ 17 Respondent father was found unfit in that he failed to make reasonable efforts and reasonable progress toward the children's return home in the nine months following their adjudication of neglect. The trial court also found he failed to maintain a reasonable degree of responsibility for his children's welfare. Respondent father's failure, to this extent, to engage in remedial services, despite being offered assistance with transportation, constituted a lack of

reasonable efforts or reasonable progress toward the permanency goal or reasonable responsibility for his children's welfare. See, *e.g.*, *In re Shauntae P.*, 2012 IL App (1st) 112280, ¶ 90, 967 N.E.2d 968, 987 ("[N]oncompliance with an imposed service plan[ ] *** [has] been held sufficient to support a finding of unfitness" due to lack of a reasonable degree of responsibility for the child's welfare.). This case is distinguishable from *A.J.*, 296 Ill. App. 3d at 912-13, 695 N.E.2d at 557-58, where the father "generally received satisfactory ratings," so that his failure to comply with certain other agency directives did not amount to a lack of interest or concern in his daughter's welfare. The court did not err in finding respondent father unfit in this case.

¶ 18 Respondent mother argues the trial court erred in finding her unfit. As with respondent father, she cites difficulties in obtaining transportation that, according to her, affected her ability to comply with service-plan directives.

¶ 19 Until August 2011, during the pendency of this case, respondent mother lived in Charleston and Mattoon. Like respondent father, Gokturk oversaw a service plan for respondent mother that included substance-abuse treatment, parenting classes, individual counseling, and a psychological evaluation. Respondent mother did not use the gas card or bus tickets that Gokturk offered to attend appointments with service providers in Champaign. In August 2011, while this case was ongoing, respondent mother moved to Rockford. About two months later (around the time the State filed its motion for termination of parental rights), she began seeing a local caseworker. In the meantime, Gokturk referred respondent mother to service providers in Rockford.

¶ 20 Respondent mother missed two meetings with a psychologist and failed to

complete a mandated psychological evaluation. She made no progress on substance-abuse treatment and was discharged unsuccessfully from two rounds of treatment due to multiple unexcused absences. She failed to attend scheduled individual sessions with a therapist.

¶ 21 Both Charleston and Mattoon had low-fare Dial-a-Ride transportation services. Respondent mother said she was unable to afford Dial-a-Ride. According to her, she did not receive the gas card that Gokturk said he gave her and she did not pick up the bus tickets from him. After moving to Rockford, respondent mother began using the city bus for transportation. She said the bus system would allow her to attend services in Rockford in the future.

¶ 22 The availability of inexpensive or complimentary transportation negates respondent mother's claim that she was unable to attend services in Champaign for financial reasons. Her absences were, indeed, unexcused. The minors were adjudicated neglected in January 2011. The nine-month statutory period within which respondent mother was required to show reasonable progress toward their return home ended in October 2011. See 750 ILCS 50/1(D)(m)(ii) (West 2010). In that time, respondent mother failed to obtain court-ordered services. The trial court's finding that she failed to make reasonable efforts or reasonable progress toward the permanency goal or to maintain a reasonable degree of responsibility for her children's welfare was not against the manifest weight of the evidence.

¶ 23 Finally, respondent father argues the trial court erred in finding that termination of his parental rights was in the children's best interests. He claims the court's ruling overlooked respondent mother's testimony that the parents' circumstances seemed to be improving. We disagree.

¶ 24 The trial court heard sufficient evidence that the children would benefit from

termination of respondent parents' parental rights. M.S. and B.S. were placed in a foster home together. They had bonded with their foster parents, who expressed an interest in adopting them. R.S. had been removed from that foster home after exhibiting escalating behavioral issues. Her behavior was improving in her new foster home, and her foster parent expressed an interest in adopting her.

¶ 25 In contrast, respondent parents offered no stability as a placement option. At the best-interests hearing, the guardian *ad litem* noted that "today we are not one step closer to these parents correcting the concerns" that led to the children's removal and obstructed their return home. The parents' living arrangement and lifestyles were "even less stable than ever." The guardian *ad litem* indicated that respondents would be unable to provide the children "with an appropriate stable home *** at any time in the foreseeable future."

¶ 26 The trial court did not err in finding that termination of respondent parents' parental rights was in the children's best interests. The court appropriately found that the "significant possibility that the children would have permanent, safe, loving homes if parental rights were terminated" and they were allowed to proceed to adoption outweighed the "very [remote] prospect of them having permanent, safe homes if parental rights are not terminated."

¶ 27 III. CONCLUSION

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

¶ 29 Affirmed.