



Department of Children and Family Services (DCFS) that began following an incident the previous day that resulted in Valerie taking A.E.A.T. to Herrin Hospital after noticing blood in her urine and extensive bruising on her body. Valerie stated that her boyfriend, Jason Sanders (Jason), had told her that while he was caring for A.E.A.T. a bookshelf had fallen on her and caused the bruising. Valerie told a DCFS investigator that Jason sometimes spanked A.E.A.T. with enough force to cause bruising. During a follow-up visit to the hospital initiated by A.E.A.T.'s foster mother, an examination revealed multiple bruises showing a wide range of healing progress, indicating that they had been suffered over a period of time rather than during one incident involving a bookshelf falling on her. Bruises were discovered on the child's scalp, forehead, cheek, temple, ear, chest, arm, thigh, buttocks, scapula, coccyx, spine, and the base of her skull.

¶ 5 Valerie testified that some of the bruising had been caused by spanking, but that most of it was caused by A.E.A.T. banging her head on the wall when she was placed in a corner of a room as punishment and by "not paying attention where she was going" when she was playing. Valerie also claimed that A.E.A.T. would sometimes suffer bruising when she used the bathroom and "she [would] have to go so bad she would sit down, and the potty seat would slide back and the lid would fall down."

¶ 6 Valerie acknowledged that Jason would spank A.E.A.T. when he was caring for her while Valerie was at work, and that she at one point after noticing bruises told Jason to stop spanking her. She continued to defend Jason, though, saying that she didn't think "he honestly realized how hard he was hitting her." She also attempted to justify the bruising Jason caused by explaining that the child's "transition from diapers to panties" contributed to the bruising. Valerie claimed that the spankings stopped after she told Jason not to do it anymore, but then they started again. Valerie told a Court Appointed Special Advocate (CASA) representative that she and Jason were engaged to be married and that aside from

the court's warning that her parental rights could be terminated she had no reservations about leaving A.E.A.T. in his care.

¶ 7 On August 28, 2007, the court conducted a shelter care hearing and subsequently entered an order granting temporary custody to DCFS. The order provided that Valerie was entitled to supervised visitation with A.E.A.T., but Jason, with whom Valerie had claimed she no longer had a relationship, was to have absolutely no contact with the child. The court admonished Valerie that if she were to tell the court that her engagement to Jason had been broken off and she no longer had contact with him, things were "not going to go well for [her] at all" if it was later discovered she had "lied about that."

¶ 8 On November 1, 2007, CASA filed a family service plan, which called for a permanency goal of returning A.E.A.T. to Valerie's care within 12 months. The plan provided that Valerie's goals were to (1) receive a psychological evaluation through DCFS to assess her ability to safely parent A.E.A.T. and protect her from harm, (2) attend psychotherapy sessions and follow her therapist's recommendations, and (3) sign all information releases so that her care providers could exchange information with DCFS. The plan additionally called for Catholic Social Services (CSS) to refer Valerie to care providers who could provide any treatment deemed necessary.

¶ 9 On November 1, 2007, following a hearing, the court entered an order finding that A.E.A.T. had been physically abused by Jason when he was caring for her. The court ordered that temporary custody was to remain with DCFS and that DCFS was to conduct an investigation into the abuse and prepare a report for the court. The court ordered Valerie to comply with all the terms of the family service plan and court orders or risk having her parental rights irrevocably terminated.

¶ 10 A report filed by CASA recommended that A.E.A.T. remain in the custody of DCFS at least until Valerie completed the goals in the family service plan. In its report, CSS also

recommended to the court that the child remain in the custody of DCFS while Valerie complied with the terms of the family service plan.

¶ 11 Following a January 3, 2008, hearing, the court entered an order in which it found that it was in the child's best interest to make her a ward of the court. The court left to DCFS's discretion the appropriateness of granting Valerie visitation, and it ordered Valerie to cooperate with DCFS and CSS. The court again ordered that Jason was to have no contact with the child.

¶ 12 Over the next several months, Valerie apparently attempted to comply with the requirements in the family service plan but had been unable to complete treatment through a program called Project 12-Ways due to a lack of available spots in the program. On July 28, CSS filed a permanency hearing court report, in which it noted that Valerie had made progress toward the goals in the family service plan and recommended that A.E.A.T. be returned to her care. The following day, CASA filed its report, in which it noted that Valerie had failed to complete the Project 12-Ways program and had permitted Jason to spend time at her home. The report stated that Valerie and Jason had both claimed that they were no longer dating each other. The report noted that it had been approximately a year since the child was removed from Valerie's care, and it recommended that they be reunited as soon as possible.

¶ 13 On September 2, 2008, DCFS filed an updated family service plan. The plan noted that with the exception of the Project 12-Ways program, which continued to have no open spot for Valerie, she had been making progress toward completing the goals necessary for reunification. On December 17, 2008, CSS filed an addendum to its previous report, in which it reported that Valerie had finally been granted a spot in Project 12-Ways.

¶ 14 In January 2009, CASA and CSS filed permanency hearing reports with the court. The reports noted that Valerie had complied with all the terms of her service plan, including

participation in Project 12-Ways. Following a January 8 hearing, the court entered a permanency order, in which it found that Valerie had made substantial progress toward meeting the goal of returning the child to her care within 12 months of the original service plan. The court ordered that Jason was to continue to have no contact with A.E.A.T.

¶ 15 Valerie continued to be in compliance with her service plan for several more months, and she had been awarded six hours of unsupervised visitation a week. CASA noted in its May 19 permanency hearing court report that A.E.A.T. had been in foster care for almost two years and recommended to the court that it was in her best interest to transition back to living with Valerie.

¶ 16 On May 27, though, the child's guardian *ad litem* filed with the court a motion to prevent and cease unsupervised visitation. The guardian *ad litem* alleged in the motion that A.E.A.T. had reported that Valerie had spanked her. Valerie filed a response to the motion, appended to which was an affidavit in which she denied spanking the child and claimed that DCFS had investigated the allegation and determined that it was unfounded.

¶ 17 The following day, the court held a permanency hearing. The court entered a permanency order, in which it noted that Valerie had made substantial progress toward the goal of returning A.E.A.T. to her care within 12 months. The court stated that Valerie continued to be in compliance with her service plan. It again ordered that Jason was to have no contact with the child. During an August 27 hearing the court was informed that Valerie continued to be in compliance with her service plan and was still participating in Project 12-Ways and individual therapy.

¶ 18 Valerie continued to have overnight visitation with A.E.A.T. in her home. One of A.E.A.T.'s foster parents had expressed concern to Valerie's caseworker that Valerie was allowing Jason to have contact with A.E.A.T. after the child told her that a friend of Valerie named Jason had been staying with Valerie while she was visiting and that the three of them

slept in the same bed. A.E.A.T. further said that Valerie had told her not to tell anyone about Jason because Valerie could get into trouble. The day that the caseworker learned of these allegations, she paid an unannounced visit to Valerie's home, where A.E.A.T was staying pursuant to the order allowing overnight visitation. Upon arriving at the home, the caseworker discovered that Valerie, A.E.A.T., and Jason were all present. The child was immediately removed from Valerie's care and returned to her foster home. Project 12-Ways deemed Jason's presence during the visit a violation of its contract with Valerie, and it immediately discharged her from the program.

¶ 19 Valerie's therapist opined that her actions called into question all of the progress she had appeared to have made, and her caseworker stated in her subsequent report that Valerie was apparently "unable to put her daughter's needs before her own, and furthermore, has not been able to apply the necessary skills that she learned in counseling to ensure [the child's] safety." CSS subsequently recommended that Valerie's parental rights should be terminated.

¶ 20 When questioned about Jason's presence in her home, Valerie claimed that allowing him to be there was a one-time occurrence following a funeral at which they were both present. At other times, though, Valerie had admitted that she had been seeing Jason on a relatively regular basis throughout 2008 and 2009. Additionally, her caseworker noted that she had once arrived at an appointment with a psychologist in the company of Jason. Valerie later admitted that she had lied when she claimed that she had only seen Jason once, on the night that her caseworker found him at her home in the presence of A.E.A.T.

¶ 21 Subsequent reports from CASA and CSS continued to recommend the termination of Valerie's parental rights due to her failure to protect A.E.A.T from harm by allowing Jason to have contact with the child, in violation of the court's order. CSS recommended that the permanency order to be entered by the court provide for temporary care until a determination was made as to the termination of Valerie's parental rights.

¶ 22 Valerie's visits with A.E.A.T. were cut to two hours per week, and the court ordered her to comply with the requirements of DCFS and prior court orders and to correct the conditions that caused the placement of the child in foster care. The court entered a permanency order with a stated goal of returning the child to Valerie within 12 months of the entry of the order, but the court warned Valerie that her failure to cooperate with DCFS or comply with court orders could result in the irrevocable termination of her parental rights. The court once again ordered her to not allow Jason to have contact with A.E.A.T.

¶ 23 On July 28, 2010, the State filed a petition for the termination of parental rights and for the appointment of a guardian with power to consent to adoption. The State alleged that Valerie was an unfit parent pursuant to four factors in the Adoption Act (750 ILCS 50/1(D) (West 2010)), and it requested the termination of Valerie's parental rights. CSS filed another permanency hearing court report on October 22, 2010. Valerie's visitation with A.E.A.T. was cut further, to one hour per week. The permanency goal remained to be the reunification within 12 months.

¶ 24 On February 24, 2011, the court convened a hearing on the State's petition for the termination of parental rights and for the appointment of a guardian with power to consent to adoption. The hearing was subsequently continued until May 13 and again until August 19. When the hearing finally adjourned, the court entered an order finding that the State had met its burden in establishing that Valerie was an unfit parent pursuant to all four grounds alleged in the petition.

¶ 25 On September 30, the court entered a written order finding Valerie to be an unfit parent, making note of two of the grounds alleged: that she failed to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare (750 ILCS 50/1(D)(b) (West 2010)), and that she failed to make reasonable efforts to correct the conditions that were the bases for the removal of the child (750 ILCS 50/1(D)(m)(i) (West 2010)).

¶ 26 The court conducted a termination of rights hearing, subsequent to which it found that it was in A.E.A.T.'s best interest that Valerie's parental rights be terminated and she be placed for adoption. The court entered an "order of the court and findings at the second stage hearing in the termination of parental rights petition" on January 12, 2012. The court found that Valerie had failed to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare where "the situation was a severe case of abuse as shown by the pictures admitted into evidence," and that Valerie had failed to protect the child from harm by "living with, getting engaged to, and exposing the child to the perpetrator of the harm." The court also found that Valerie was unfit pursuant to section 1(D)(m)(i) of the Adoption Act "by continuing to choose the perpetrator over her child and even exposing her child to the perpetrator against a court order." Continuing, the court found that Valerie "lied, and was not being truthful, although she was caught only once there was evidence of an ongoing relationship. She admitted that she knew it was wrong and still did it." Noting that it had been more than four years since the child had been removed from Valerie's home, the court stated that it "cannot let this situation go on forever," and that A.E.A.T. "needs permanency."

¶ 27 The court concluded its order by finding that the State had met its burden of proving that it was in A.E.A.T.'s best interest that Valerie's parental rights be terminated for the following reasons: (1) Valerie's "continued failure to understand that her actions placed the minor in danger by allowing access to the minor by the alleged perpetrator," (2) her "failure to be able to put her child's needs before her own and placing the child at risk of further harm," (3) her behavior "caused her not to correct the conditions necessary to get the child back in her home for over a two year period," (4) the child feels safe with the foster parents, and (5) the court found Valerie to be "unbelievable, self-centered, and lacking remorse."

¶ 28 The court ordered that Valerie's parental rights be irrevocably terminated and that

A.E.A.T. be placed in the custody of DCFS, which was granted the power to consent to her adoption. Valerie filed a timely notice of appeal.

¶ 29

#### DISCUSSION

¶ 30 On appeal, Valerie argues that the trial court's decision to terminate her parental rights was in error and must be reversed. In support of her argument, she contends that the court's ruling that found her to be an unfit parent for failing to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare and failing to make reasonable efforts to correct the conditions that formed the basis for the removal of A.E.A.T was subject to ruling against the manifest weight of the evidence.

¶ 31 Initially, we note that, as the State argues, Valerie has forfeited one of the issues which formed the court's basis for terminating her parental rights. In its petition for termination, the State alleged that there were four grounds upon which the court could terminate her rights: (1) that she had failed to maintain interest, concern, or responsibility toward the minor (750 ILCS 50/1(D)(b) (West 2010)), (2) that she had failed to make reasonable efforts to correct the conditions that led to the removal of A.E.A.T. (750 ILCS 50/1(D)(m)(i) (West 2010)), (3) that she had failed to make reasonable progress toward reunification in the initial nine months following adjudication (750 ILCS 50/1(D)(m)(ii) (West 2010)), and (4) that she had failed to make reasonable progress in any nine-month period following the initial nine months after adjudication (750 ILCS 50/1(D)(m)(iii) (West 2010)). The court, in orally pronouncing its judgment on the State's petition, found that the State had met its burden on each of the four grounds. In its written order entered subsequent to its oral pronouncement, though, the court only discussed the first two allegations in the State's petition. Valerie, in her appellant's brief, fails to argue that the court erred in finding that she failed to make reasonable progress toward reunification in any nine-month period following the initial nine months after adjudication.

¶ 32 When the court's written order conflicts with its oral pronouncement, the oral pronouncement controls. *People v. Patterson*, 276 Ill. App. 3d 107 (1995). In a parental fitness hearing, the trial court may base a finding of unfitness upon any one of the factors in the Adoption Act. *In re Antwan L.*, 368 Ill. App. 3d 1119, 1123 (2006). An appellant's failure to argue an issue in its brief results in forfeiture of that issue on appeal. *In re D.L.*, 326 Ill. App. 3d 262, 268 (2001).

¶ 33 The State is thus correct in contending that we could affirm the court's judgment based upon Valerie's forfeiture of the fourth factor that formed the basis of the court's judgment, that she failed to make reasonable efforts toward reunification in any nine-month period following the initial nine months after adjudication. Forfeiture aside, though, the trial court's judgment must be affirmed based on the State's allegation that Valerie had failed to maintain a reasonable degree of interest, concern, or responsibility as to A.E.A.T.'s welfare.

¶ 34 Pursuant to the Juvenile Court Act of 1987, the unfitness hearing is the first step in an involuntary termination of parental rights proceeding. 705 ILCS 405/2-29(2) (West 2010). We will not reverse the 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 (2010). The court's finding is against the manifest weight of the evidence when the opposite conclusion is clearly evident. *In re D.L.*, 326 Ill. App. 3d 262, 270 (2001). The trial court is in a superior position to make determinations regarding the credibility of witnesses, and as a reviewing court we cannot substitute our judgment for that of the trial court. *People v. Sanchez*, 115 Ill. 2d 238, 260-61 (1986).

¶ 35 Following a determination of parental unfitness, the court must determine whether it is in the child's best interest that the respondent's parental rights be terminated. *In re Tashika F.*, 333 Ill. App. 3d 165, 170 (2002). At this point in the proceedings, the rights of the parent are subsidiary to the best interest of the child. *Id.* The State bears the burden of

showing by a preponderance of the evidence that the termination of parental rights is in the best interest of the child. *In re D.T.*, 212 Ill. 2d 347, 366-67 (2004).

¶ 36 As noted above, the court, in its January 12, 2012, order that irrevocably terminated Valerie's parental rights, found, *inter alia*, that she had continued to "choose the perpetrator over her child" and had violated a court order by exposing A.E.A.T. to Jason. The court made an express finding that Valerie lacked credibility because she had repeatedly lied to the court and her treatment providers about her relationship with Jason, and that although she was only caught once, there was evidence that she had maintained an ongoing relationship with Jason despite the court order prohibiting any contact between A.E.A.T and Jason. The court based its decision that it was in the child's best interest to have Valerie's parental rights terminated on, *inter alia*, her "failure to be able to put her child's needs before her own," thus placing the child at risk of further harm at the hands of Jason and thereby demonstrating that she lacked a reasonable degree of concern as to A.E.A.T.'s welfare.

¶ 37 As discussed above, Valerie was well aware that Jason had repeatedly "spanked" A.E.A.T. with such force that it caused significant bruising. Even after Valerie told Jason to stop spanking the child he continued to do so, and Valerie continued to attempt to explain away the harm he was causing to the child by saying that he did not realize how hard he was hitting her and that some of the injuries were the child's own fault.

¶ 38 The discovery of significant bruising to almost the entire body of A.E.A.T., combined with her knowledge that Jason had caused at least some of the bruising, should have made Valerie aware that Jason had repeatedly inflicted physical injury upon the child, and a mother with a reasonable degree of concern over her child's welfare would have immediately put a stop to the circumstances which gave rise to the abuse her daughter was suffering. Valerie, though, instead continued to make excuses for and justify Jason's abusive treatment, and continued to see him, even in the presence of A.E.A.T., despite being repeatedly warned

by the court that doing so could result in the termination of her parental rights.

¶ 39 In light of Valerie's direct violation of the court's numerous orders that she prevent the child's abuser from having contact with her, we are unable to say that the court's judgment that she lacked a reasonable degree of concern as to the child's welfare was against the manifest weight of the evidence. Because the court's judgment terminating Valerie's parental rights may be affirmed based on any one of the four grounds alleged by the State, and we find that its determination that Valerie was unfit due to her lack of concern as to the welfare of A.E.A.T. was not in error, we need not consider Valerie's contentions of error related to the other grounds that formed the basis of the court's judgment.

¶ 40 We likewise find that the court did not err in finding that it was in A.E.A.T.'s best interest that Valerie's parental rights be terminated. The child was initially removed from Valerie's custody due to significant injuries she suffered at the hands of Valerie's paramour, yet Valerie continuously attempted to excuse and justify Jason's abuse of A.E.A.T. Furthermore, the court had before it the testimony of numerous caseworkers and the child's foster parents, who all testified that A.E.A.T. was doing very well in school and thriving in her foster home, and that it would be in her best interest to establish with finality whether she would remain in her foster home or return to Valerie's home. The child's caseworker testified that A.E.A.T. had told her that although she loved her mother, she did not feel as though she could keep her safe. In light of this testimony, we cannot say that the court's judgment was against the manifest weight of the evidence.

¶ 41 Finally, we wish to point out that, as the trial court noted, it has been almost five years since the now-six-year-old A.E.A.T. was placed into the "temporary" custody of DCFS and the courts "cannot let this case go on forever." Children need permanency, and we respectfully request that, in the future, the trial court proceed on these matters as quickly as reasonably practicable.

¶ 42

## CONCLUSION

¶ 43 Based on the foregoing, the trial court did not err in determining that Valerie was an unfit parent due to her failure to maintain a reasonable degree of concern as to A.E.A.T.'s welfare and that it was in the child's best interest that Valerie's parental rights be terminated. The court's judgment is therefore affirmed.

¶ 44 Affirmed.