

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).

2013 IL App (4th) 120850-U

NOS. 4-12-0850, 4-12-0851, 4-12-0852, 4-12-0853 cons.

FILED
 January 28, 2013
 Carla Bender
 4th District Appellate
 Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: P.B., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Morgan County
v. (No. 4-12-0850)	)	No. 10JA8
AMANDA COZART,)	
Respondent-Appellant.)	
-----)	
In re: S.B., a Minor,	)	No. 10JA9
THE PEOPLE OF THE STATE OF ILLINOIS,)	
Petitioner-Appellee,)	
v. (No. 4-12-0851))	
AMANDA COZART,)	
Respondent-Appellant.)	
-----)	
In re: Ar. B., a Minor,	)	No. 10JA10
THE PEOPLE OF THE STATE OF ILLINOIS,)	
Petitioner-Appellee,)	
v. (No. 4-12-0852))	
AMANDA COZART,)	
Respondent-Appellant.)	
-----)	
In re: Am. B., a Minor,	)	No. 10JA11
THE PEOPLE OF THE STATE OF ILLINOIS,)	
Petitioner-Appellee,)	
v. (No. 4-12-0853)	)	Honorable
AMANDA COZART,	)	Jeffery E. Tobin,
Respondent-Appellant.	)	Judge Presiding.

PRESIDING JUSTICE STEIGMANN delivered the judgment of the court.
 Justices Appleton and Pope concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed the trial court's termination of the respondent's parental rights, concluding that the court's fitness findings were not against the manifest weight of the evidence.

¶ 2 In June 2012, the State filed separate amended petitions to terminate the parental rights of respondent, Amanda Cozart, as to her children, P.B. (born June 6, 2006), S.B. (born July 10, 2007), Ar. B. (born September 19, 2008), and Am. B. (born March 2, 2010). That same month, the trial court conducted a fitness hearing and found respondent unfit. In August 2012, the court conducted a best-interest hearing that resulted in the termination of respondent's parental rights.

¶ 3 Respondent appeals, arguing only that the trial court's fitness finding was against the manifest weight of the evidence. We disagree and affirm.

¶ 4 I. BACKGROUND

¶ 5 A. The Circumstances Preceding the State's January 2012 Petition To Terminate Respondent's Parental Rights

¶ 6 On June 28, 2010, the State filed separate petitions for adjudication of wardship, alleging that all four of respondent's children were neglected minors in that their environment was injurious to their welfare pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(b) (West 2010)). The State also alleged that Am. B. was an abused minor in that a parent, responsible adult, or immediate family member inflicted, caused to be inflicted, or allowed to be inflicted physical injury upon Am. B. by other than accidental means pursuant to section 2-3(2)(i) of the Juvenile Court Act (705 ILCS 405/2-3(2)(i) (West 2010)).

¶ 7 1. *The Evidence Presented at the June 2010 Shelter-Care Hearing*

¶ 8 A summary of the evidence presented at the June 2010 shelter-care hearing—conducted the same day as the State's wardship filings—revealed the following.

¶ 9 Gayle Hopper, a supervisor with the Department of Children and Family Services (DCFS), testified that on June 24, 2010, DCFS received information that respondent arrived at a local hospital with Am. B., who had significant injuries to her head, forehead, and face. An initial investigation by medical personnel, police, and DCFS revealed that (1) Am. B. had several skull fractures and a brain hemorrhage; (2) respondent was present when the injuries were inflicted upon Am. B.; (3) respondent informed Hopper that Walter Brown, the biological father of all four children, had "done some damage to [Am. B.];" and (4) at a minimum, 12 hours had elapsed between the injuries inflicted on Am. B. and her medical examination.

¶ 10 Thereafter, the trial court entered a shelter-care order, finding that probable cause existed to believe that (1) P.B., S.B., Ar. B., and Am. B. were neglected and (2) Am. B. was abused as alleged by the State. The court thereafter appointed DCFS as the children's temporary guardian.

¶ 11 2. *The Adjudicatory and Dispositional Hearings*

¶ 12 At an August 26, 2010, adjudicatory hearing, the trial court accepted respondent's admissions concerning the State's allegations of abuse and neglect of her children. Thereafter, the trial court entered an adjudicatory order, consistent with respondent's admissions. After an October 2010 dispositional hearing, the court adjudicated P.B., S.B., Ar. B., and Am. B. wards of the court and maintained DCFS as their guardian.

¶ 13 B. *The State's June 2012 Petition To Terminate Respondent's Parental Rights*

¶ 14 In June 2012, the State filed amended petitions to terminate respondent's parental rights as to P.B., S.B., Ar. B., and Am. B. pursuant to the Adoption Act (750 ILCS 50/1 to 24 (West 2010)). Specifically, the State alleged that respondent was an unfit parent because she failed to (1) protect her children from conditions within their environment that were injurious to their welfare (750 ILCS 50/1(D)(g) (West 2010)); (2) make reasonable efforts to correct the conditions that were the basis for the removal of her children from her custody (750 ILCS 50/1(D)(m)(i) (West 2010)); (3) make reasonable progress toward the return of her children within nine months after the adjudication of neglect or abuse (August 26, 2010, to May 26, 2011) (750 ILCS 50/1(D)(m)(ii) (West 2010)); and (4) make reasonable progress toward the return of her children during any nine-month period after the end of the initial nine-month period following the adjudication of neglect or abuse (750 ILCS 50/1(D)(m)(ii) (West 2010)). The State also alleged that respondent was an unfit parent because she was incarcerated, had been repeatedly incarcerated as a result of a criminal conviction, and respondent's repeated incarceration prevented her from discharging her parental responsibilities. 750 ILCS 50/1(D)(s) (West 2010).

¶ 15 1. *The June 2012 Fitness Hearing*

¶ 16 A summary of the evidence presented at respondent's June 2012 fitness hearing, showed the following.

¶ 17 a. *The State's Evidence*

¶ 18 Annette Huddleston, a DCFS caseworker assigned to respondent's case since its inception, testified consistently with Hooper's testimony at the shelter-care hearing, adding that, at that time, further medical tests revealed that Am. B. also had rib fractures. Huddleston noted that in February 2009, DCFS had another case open on respondent that required her to complete

the following client-service-plan goals: (1) obtain a general educational development (GED) certification, (2) complete parenting classes, and (3) participate in domestic-violence and mental-health counseling. Huddleston maintained respondent's previous client-service-plan goals and delivered that new plan to respondent at the county jail—where respondent had been incarcerated since July 2010—awaiting trial on the State's charge of aggravated battery of a child.

¶ 19 Huddleston subsequently rated respondent's overall progress in completing her client-service-plan goals as unsatisfactory, noting that (1) DCFS was not able to conclude that respondent would be able to keep herself or her children safe from domestic violence and (2) respondent was not complying with her mental-health medication. Huddleston would meet with respondent "at least every other month," but respondent's primary focus at those meetings concerned the status of her criminal case. Specifically, respondent would attempt to refute the details of the police investigation report regarding Am. B.'s injuries. Huddleston explained to respondent that her criminal case was not her concern and would attempt to change the conversation back to her children, but respondent seemed disinterested. Because of her incarceration, respondent was unable to see her children but did speak with them over the telephone for a brief period until respondent's family later prohibited that contact. Huddleston noted that in June 2011, the guardian *ad litem* successfully petitioned the trial court to prohibit respondent from any further contact with her children. (The record shows that at a June 2011 permanency hearing, the parties agreed that given respondent's prolonged incarceration, the court should change the children's status to substitute care pending termination of respondent's parent rights.)

¶ 20 Huddleston opined that at no time since June 2010—when the children were placed with DCFS—was respondent close to having her children returned to her custody.

Huddleston based her opinion on respondent's inability to make reasonable progress on her client-service-plan goals because of her incarceration, which also prevented her from exercising any parental responsibilities since June 2010. Huddleston believed that respondent neither had the capacity nor the ability to protect herself or her children from abusive relationships.

¶ 21 Huddleston acknowledged that respondent completed her parenting class goal as well as her domestic-violence counseling, but she rated her mental-health goal as unsatisfactory because (1) respondent's psychological evaluation indicated that she had poor parenting skills and that she was at risk to continue to engage in abusive relationships and (2) her mental-health counseling provider conveyed that respondent resisted therapy and would not comply with the medication prescribed. Huddleston also could not confirm respondent's compliance with her educational goal.

¶ 22 Following Huddleston's testimony, the trial court took judicial notice of four previous cases in which respondent filed orders of protection against Brown.

¶ 23 b. Respondent's Evidence

¶ 24 Respondent testified that on or about June 16, 2010, Brown and various members of his family came into the home she shared with her four children, took her and her children "hostage," and transported them to another residence. While there, respondent stated that Brown threatened her with violence if she attempted to leave. When Brown permitted respondent to leave the home, she was always accompanied by Brown or other members of his family.

¶ 25 On June 24, 2010, respondent returned from the hospital, where she had taken P.B. and Ar. B. for minor ailments. When she arrived, she attempted to see Am. B. but Brown prevented her from doing so by striking her. About 20 minutes later, Brown left and respondent

went to check Am. B., who was laying on her stomach "with two black eyes and black stuff coming out of her nose." Sometime later, respondent was allowed to call the police, after which Am. B. was taken to the hospital. Respondent stated that prior to Am. B.'s injuries, Brown had never been violent with her children, although he had physically assaulted respondent in the past. Respondent later admitted that in April 2009, she filed for an order of protection, claiming, in part, that Brown had hit P.B. Respondent noted her mistakes in protecting her children from Brown but stated that she was willing to do whatever it took to get a second chance to show that, as a parent, she could protect her children.

¶ 26 Respondent acknowledged that she had pleaded guilty to aggravated battery of a child and obstructing justice. Respondent explained that the aggravated battery charge was based on the injuries Am. B. sustained, and the obstructing justice charge was based on her willingness to assist Brown as he attempted to evade the police investigation into his role. (Respondent received a three-year sentence for aggravated battery of a child and, under a different case, received a one-year sentence for obstructing justice.) Respondent also recounted her voluntary dismissal of an order of protection against Brown approximately six weeks before he injured Am. B., adding that she failed to protect Am. B. from Brown.

¶ 27 c. The Trial Court's Fitness Finding

¶ 28 At a hearing conducted a week after the fitness hearing, the trial court stated, as follows:

"The Court finds that there has been some progress and effort which has been made by [respondent], but it does not constitute reasonable effort and reasonable progress in complying with

the terms of the plan. Specifically, there's been insufficient progress with counseling, therapy, and there is further an extended period of incarceration for [respondent]. There's been extended incarceration in the past. And the Court expects based upon the current circumstances of [respondent] that she will be incarcerated into the fall of 2013. And the Court also finds that there was a failure to provide previously a safe environment to the minor children. ***

The Court specifically finds that [respondent] is not credible in the testimony she provided to the Court. There was testimony from her wherein she claimed that there was no abuse of the children prior to June of 2010, a claim that is clearly contradicted by her, her verified petitions in at least [two order of protections cases]."

Thereafter, the court found that the State had proved, by clear and convincing evidence, the fitness allegations it outlined in its June 2012 petition to terminate respondent's parental rights.

¶ 29

2. The August 2012 Best-Interest Hearing

¶ 30

At an August 2012 best-interest hearing, the State presented evidence that all the children were living in an appropriate and loving home with their respective foster parents, all of whom had expressed an interest in adopting the children. Respondent did not present any evidence on her own behalf. Thereafter, the trial court entered a written order, terminating respondent's parental rights as to P.B., S.B., Ar. B., and Am. B. (In March 2012, the court

terminated Brown's parental rights, which is not part of this appeal.)

¶ 31 This appeal followed.

¶ 32 II. THE TRIAL COURT'S FITNESS FINDING

¶ 33 A. The Applicable Statute and the Standard of Review

¶ 34 Section 1(D)(g) of the Adoption Act provides, in pertinent part, as follows:

"D. 'Unfit person' means any person whom the court shall find to be unfit to have a child, without regard to the likelihood that the child will be placed for adoption. The grounds of unfitness are any one or more of the following, except that a person shall not be considered an unfit person for the sole reason that the person has relinquished a child in accordance with the Abandoned Newborn Infant Protection Act:

* * *

(g) Failure to protect the child from conditions within his environment injurious to the child's welfare." 750 ILCS 50/1(D)(g) (West 2010).

¶ 35 In a termination of parental rights proceeding, "[t]he State must prove parental unfitness by clear and convincing evidence, and the trial court's findings must be given great deference because of its superior opportunity to observe the witnesses and evaluate their credibility." *In re A.L.*, 409 Ill. App. 3d 492, 500, 949 N.E.2d 1123, 1129 (2011) (quoting *In re Jordan V.*, 347 Ill. App. 3d 1057, 1067, 808 N.E.2d 596, 604 (2004)). "A reviewing court will not reverse a trial court's fitness finding unless it was contrary to the manifest weight of the

