

2014 IL App (2d) 140507-U
No. 2-14-0507
Order filed December 12, 2014

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).

IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

<i>In re</i> A.D. and L.P., Minors)	Appeal from the Circuit Court
)	of Kane County.
))
)	
v.)	Nos. 11-JA-0089
)	11-JA-0090
)	
)	Honorable
(The People of the State of Illinois, Petitioner-)	Linda S. Abrahamson,
Appellee, v. E.D., Respondent-Appellant).)	Judge, Presiding.

JUSTICE HUTCHINSON delivered the judgment of the court.
Justices Zenoff and Birkett concurred in the judgment.

ORDER

¶ 1 *Held:* Respondent made reasonable progress toward the return of the minors, reasonable efforts to correct the conditions that led to the minors' removal, and maintained a reasonable degree of interest, concern, and responsibility in the minors' welfare. The record reflected that, during the course of a nearly two-year period since the minors were adjudicated neglected, respondent had one relapse with substance abuse and one incident of domestic violence requiring police intervention. Nonetheless, during that timeframe, respondent completed substance abuse treatments, underwent multiple psychological evaluations, had consistent visitation with the minors, engaged in family therapy, and maintained steady employment and housing. Thus, the trial court's finding of unfitness was against the manifest weight of the evidence, and we reversed.

¶ 2 In May 2014, the trial court entered an order terminating respondent's, E.D.'s, parental rights with respect to A.D. and L.P. Prior to that order, the trial court had found respondent unfit in that she failed to correct conditions that were the basis for removal during the nine-month periods from November 16, 2011, through August 16, 2012, and from August 17, 2012, through May 17, 2013, respectively; failed to make reasonable progress toward the minors' return; and failed to maintain a reasonable degree of interest, care, or responsibility as to the minors' welfare pursuant to section 1(D)(m) of the Adoption Act (the Act) (750 ILCS 50/1(D)(m) (West 2012)). On appeal, respondent contends that (1) the State failed to prove by clear and convincing evidence that she was unfit, and (2) the trial court erred in finding that it was in the minors' best interests to terminate her parental rights. Because we agree with respondent that the State failed to prove by clear and convincing evidence that she was unfit, we reverse the trial court's determination.

¶ 3 I. BACKGROUND

¶ 4 The record reflects that respondent is the mother of A.D., born in January 2004, and L.P., born in November 2007. The minors' natural father signed a final and irrevocable consent to adoption and is not a party to this appeal.

¶ 5 On August 19, 2011, the State filed petitions for adjudication of neglect, alleging that the minors' environment was injurious to their welfare due to respondent's history of alcohol abuse, domestic issues at home, and failure to cooperate with an open Department of Children and Family Services (DCFS) case. Following a shelter care hearing, the trial court entered an order granting temporary custody to DCFS. On November 15, 2011, the trial court entered adjudicatory orders that adjudicated the minors neglected pursuant to a stipulation that respondent and the father had domestic violence issues while the children were in the home. On

December 5, 2011, the trial court entered dispositional orders granting the State's petition finding the minors neglected, placing the minors in the custody of DCFS, and setting the permanency goal of returning the minors in 12 months.

¶ 6 On November 25, 2013, the State filed petitions for termination of parental rights with respect to the minors. The petitions alleged that respondent was unfit in that she failed to make reasonable efforts to correct the conditions that were the basis of removal, or make reasonable progress toward the return of the minors, during the nine-month period from November 16, 2011, through August 16, 2012; failed to make reasonable efforts to correct the conditions that were the basis of removal, or failed to make reasonable progress toward the return of the minors, during the nine-month period from August 17, 2012, through May 17, 2013; and failed to maintain a reasonable degree of interest to the minor's welfare under section 1(D)(m) of the Act.

¶ 7 On February 3, 2014, the trial court conducted an unfitness hearing. Julia Stevens, a foster care case worker with Youth Service Bureau (the agency) in Aurora testified on behalf of the State. Stevens was assigned to respondent's case in August 2011. A client service plan enacted on August 18, 2011, recommended that respondent comply with substance abuse treatment, which at the time included inpatient treatment, comply with mental health treatment, undergo parenting education and a domestic violence assessment, and monitor her sobriety. After completing an integrated assessment, Stevens noted that her concerns with respondent were substance abuse, mental health stability, and domestic violence. Stevens learned that respondent was receiving psychiatric services and medication monitoring at Ecker Mental Health Care Center with Dr. Walter Pedemonte.

¶ 8 In October 2011, Stevens conducted a follow-up integrated assessment with respondent. Respondent acknowledged that DCFS became involved due to her drinking and family issues.

Respondent acknowledged that she used alcohol to self medicate, but claimed that she had not consumed alcohol since August 2011. Stevens noted that respondent did not believe that she needed inpatient treatment because she was no longer drinking. Respondent claimed that two breathalyzer tests that came back positive were false positives, that she was attending Alcoholics Anonymous, and that she enjoyed the support she received there.

¶ 9 Stevens testified that respondent had not been receiving individual therapy for mental health. Stevens advised respondent that mental health treatment would be beneficial. Respondent related that she was receiving psychiatric treatment from Pedemonte, and that she had been diagnosed with ADHD, depression, and anxiety.

¶ 10 The trial court took judicial notice that, on November 15, 2011, respondent stipulated that domestic violence had occurred in the home, which placed the minors at risk. After that court hearing, respondent requested to have unsupervised visits with the minors, but Stevens advised that such visits were not possible without a court order. Stevens testified that respondent was “not happy” but “understood it.” On December 15, 2011, Stevens learned that, because respondent no longer had custody of the minors, she would receive treatment at Ecker Center on a sliding scale and would be referred to a therapist at the agency to treat her mental health issues.

¶ 11 During cross-examination, Stevens testified that respondent was “engaged with her children.” When respondent was not drinking, she was “capable.” Respondent’s apartment was “clean and appropriate.” Stevens acknowledged that, during her time working with respondent, respondent had undergone five or six drug and alcohol tests. Those tests were negative. The minors enjoyed being with respondent, and respondent would typically bring an activity for the minors during visitations, such as books, puzzles, and crafts.

¶ 12 Jamie Mowers testified that she is a foster care caseworker for the agency, which seeks to achieve permanency with children. Mowers became respondent's caseworker in January 2012. When Mowers received the case, the client service plan required substance abuse treatment; a mental health assessment; cooperation with medication monitoring; following all recommendations, which included individual counseling, psychological evaluation, psychiatric evaluation, psychotropic medications; and obtaining stable housing and income. An administrative case review was conducted on February 17, 2012, the purpose of which was to review the tasks that were set for respondent. Respondent was given an unsatisfactory review for substance abuse because she had not been engaging in all recommendations from the just-completed assessment through Breaking Free. Respondent was given satisfactory reviews for mental health as well as stable housing and income. Respondent was having weekly, two-hour supervised visits with the minors in her home. Respondent received a satisfactory review for visitation. On January 31, 2012, respondent requested that visitation be increased to three hours. Mowers responded that the two-hour schedule was already in place. Mowers suggested to respondent that she continue to engage in services.

¶ 13 Regarding individual counseling, John Coutre, a counselor at the agency, had been assigned to respondent. Respondent believed that Coutre had a conflict of interest because he had been treating respondent's ex-husband. Respondent wanted her ex-husband to be referred to another counselor, and Mowers advised that they would refer her elsewhere. Respondent mentioned to Mowers that she had been receiving counseling through Breaking Free and that she only wanted to see the counselor there. Mowers spoke with the counselor at Breaking Free, who advised that she could only treat respondent for addiction. The counselor could not treat

respondent for other aspects that included dealing with stress triggers, learning to work as a family unit, and how to work with children who have experienced trauma.

¶ 14 On March 1, 2012, a child-and-family team meeting occurred, which involved respondent, Mowers, Mowers' supervisor, and the minors' therapist. The parties discussed increasing respondent's visitation with the minors. Mowers testified that A.D., who was diagnosed with post-traumatic stress disorder, needed to transition very slowly. Respondent both understood the concern and "supported it." Respondent agreed with the minors' therapist that visitation should no longer occur at the foster home. Respondent was participating in intensive outpatient treatments for substance abuse three times per week, held a job, provided pay stubs, and was doing random drug testing.

¶ 15 On March 16, 2012, Mowers had another conversation with respondent regarding visitation. Mowers explained that visitation would not increase until April to allow sufficient time to prepare A.D. for the change. Mowers spoke with the minors' therapists, who suggested a longer period of time for the transition. When Mowers advised respondent of the therapist's suggestion, respondent disagreed. Mowers spoke with respondent again on March 20, March 22, and March 26 demanding longer visits. During some of the phone conversations, respondent was demanding and her voice "was loud." During the first week of April 2012, visitation increased from two to three hours per week. Respondent called Mowers during the first week of April and demanded that visitation be increased to five hours.

¶ 16 In April 2012, Mowers visited respondent's apartment. Mowers advised respondent that individual counseling or therapy was recommended. Respondent disagreed with the recommendation, noting that she was already receiving services through Breaking Free. Mowers noted to respondent that Breaking Free did not offer the type of individual therapy necessary to

meet her needs, and that the counseling at Breaking Free did not go beyond substance abuse. Respondent said that she did not want to “double up” on services because she had a counselor at Breaking Free. Respondent indicated that she would appeal the recommendation. Mowers testified that the assessment conducted at Ecker included a number of different modalities, including psychotherapy. Mowers referred respondent to an outside source in St. Charles for individual counseling, which addressed counseling beyond addiction.

¶ 17 Pursuant to a court order, respondent began unsupervised visitation with the minors in June 2012. Also that month, a mediation session occurred to address respondent’s appeal regarding her mental health tasks. Respondent opted for a fair hearing before a judge regarding her mental health tasks, but that matter was dismissed because respondent appealed from a service that was not part of the plan.

¶ 18 On July 21, 2012, a call was made to a hotline regarding respondent’s erratic behavior. As a result, the agency changed respondent’s visitation to one day per week. The visitation would be supervised. Later in July, respondent’s paramour contacted the agency and left a message that he and respondent had an altercation and the police were involved. Mowers testified that respondent’s paramour reported that respondent had started using alcohol again and that she was being aggressive. Mowers testified that there were concerns that respondent and her paramour lived together, reports that respondent had been using again, and that there were incidents involving the police. Mowers testified that respondent’s threatening behavior caused concern. That behavior included continuous phone calls, demanding behavior, showing up at the agency, and interfering with the minors’ mental health by stating that A.D. could no longer see her counselor.

¶ 19 On September 17, 2012, a child-and-family team meeting occurred to discuss visitation and service providers. Respondent agreed to attend family and couples counseling, and her unsupervised visits were to occur only in the home or in a park. In November 2012, respondent was permitted to have overnight visits with the minors. The purpose of such visits was to continue working toward the minors returning home.

¶ 20 In December 2012, the agency decided to return to the minors their father. The agency made the decision based on recommendations from family and individual counselors. Mowers testified that there was concern regarding the bonding relationship between respondent and A.D., and respondent had just started family counseling between her and the minors. Respondent had still not engaged in individual therapy. Mowers testified that it had been explained to respondent “many times” that the counseling she received at Breaking Free did not address the same issues as individual therapy. The minors were returned to their father on January 21, 2013. Respondent continued to work on the services that were in her client service plan. At the end of January 2013, respondent was attending counseling but was not utilizing the items her counselor gave her to work on her routine with the minors.

¶ 21 The minors were removed from their father’s care on April 15, 2013. Mowers testified that, when the minors were removed again, respondent was not in individual therapy. The minors were not returned to respondent because the agency did not have verification that respondent was engaging in the services and her contact with the agency had been “very minimal.” The minors were returned to foster care and, on April 24, 2013, Mowers created a client service plan for respondent. No changes were made to the service plan compared to the prior one. Respondent had successfully completed substance abuse treatment but still needed to engage in individual therapy, family counseling, and maintain income and housing.

¶ 22 On May 15, 2013, the trial court entered a permanency goal of the minors returning home within 12 months. Respondent was attending family counseling twice a month and visiting the minors, which visits were going “very well.” Respondent had not provided any verification that she was attending individual counseling.

¶ 23 Another service plan was created on July 5, 2013. When that plan was evaluated on August 1, 2013, respondent had been satisfactorily continuing with her substance abuse treatments, which included attending Alcoholics Anonymous, working with her counselor at Breaking Free, and having negative drug tests. Respondent was also given a satisfactory rating for her mental health treatments. She had been continuing with her mental health treatments, had undergone a psychological evaluation conducted by Dr. Nicholas O’Riordan, and was continuing with her family counseling. The agency became aware that there was a warrant for respondent’s arrest, although Mowers could not recall what that warrant related to. Other than that, respondent was in compliance with the service plan. Respondent had visitation with the minors on the weekend, which was “going well.” Mowers testified that O’Riordan’s evaluation recommended individual therapy and family therapy. O’Riordan also recommended general psychiatric care in addition to medication. Mowers testified that respondent’s family counselor recommended dialectical behavioral therapy.

¶ 24 On September 16, 2013, respondent tested positive for cocaine. The agency confronted respondent with the information and advised her that she would need to undergo substance abuse treatment again. Respondent left the meeting. Respondent missed scheduled visits on October 13, 2013, and October 20, 2013. Respondent attempted to reschedule the October 20th visitation, but was advised that she could not do so. Respondent did not confirm a visit scheduled for October 27, 2013, which resulted in that visit being cancelled.

¶ 25 On October 30, 2013, pursuant to a court order, the goal was changed from returning the minors home to substitute care pending a termination of parental rights. Respondent had visitation with the minors once a month for two hours. Respondent continued with visitation. Mowers testified that the agency did not refer respondent for a substance abuse assessment because, once the goal changed, the agency was no longer required to provide such services. If the goal had not been changed, the agency would have paid for the substance abuse assessment.

¶ 26 O’Riordan testified that he is a licensed clinical psychologist who specializes in juvenile court work. O’Riordan is the mental health services supervisor at River Valley Detention Center. O’Riordan received a referral from the agency to prepare a psychological evaluation of respondent. The agency made the referral because it was concerned that respondent was not making progress toward the service plan aimed at returning the minors; specifically, respondent’s emotional outbursts, substance abuse issues, history of domestic issues, and unwillingness to undergo individual counseling. O’Riordan met with respondent on July 12, 2013, for approximately three hours. O’Riordan diagnosed respondent with borderline personality disorder and alcohol abuse, although respondent was in remission at the time of the evaluation. O’Riordan recommended that respondent engage in both individual and family therapy. O’Riordan further recommended that respondent participate in Alcoholics Anonymous. On cross-examination, O’Riordan acknowledged that respondent maintained an appropriate appearance and his impression of her was that she was “a working woman in the business world.”

¶ 27 Pedemonte, a psychiatrist who provided psychiatric evaluations on medication monitoring at Ecker, performed a thirty minute psychiatric evaluation of respondent on August 2, 2011. Respondent related that the minors were in foster care. Respondent complained of

depression, anxiety, problems with attention and concentration, and financial problems. Respondent related that she could not find a job and had a history of driving under the influence. Pedemonte diagnosed respondent with major depression, chronic recurrent, non-psychotic syndrome. Respondent had attention deficit disorder and a history of alcohol abuse and dependence. Pedemonte recommended weekly individual psychotherapy, a follow up with Alcoholics Anonymous, and that respondent continue with the medications that had been prescribed. Pedemonte testified that respondent complained that her medication doses were “very, very high” and requested that the dosages be reduced. Pedemonte told respondent that he would reduce the dosage to see if respondent could keep taking the medications. Respondent was taking Lexapro to address depression and impulse control, and Focalin to address her attention deficit disorder. Pedemonte testified that he recommended individual psychotherapy because:

“[Respondent] was complaining of chronic depression, feeling that she didn’t have any energy during the morning. She was feeling that she needed some support because she didn’t have any kind of support except her boyfriend. She was grieving and mourning the separation from her children and she wanted them back, and she didn’t know if she was going to get them back, or not, and she asked me for [***] support and to help her through my supervision and medication monitoring to get back those children.”

Respondent returned to see Pedemonte every two months for fifteen minutes and was also to see Theresa Flores, a therapist at Ecker, on a weekly basis.

¶ 28 Cynthia Pauley, a substance abuse counselor at Breaking Free, testified that she performed a substance abuse assessment for drugs and alcohol for respondent. Pauley treated respondent from January 2012 through December 2012. Pauley recommended a level 2 intensive outpatient diagnosis of alcohol abuse. The treatment required respondent to attend

group meetings three days a week and meet with a counselor once a week for individual therapy. The group sessions discussed relapse prevention, self-esteem, and sober recreational activities. The goal of the individual sessions was for respondent to be living a stable life, regularly attend meetings, work, build financial responsibility, and become a productive member of society. Respondent successfully completed the level 2 program and was officially transferred to a level 1 program on May 31, 2012. Respondent ultimately moved from sessions three times per week to once per month. From February 2012 through July 2012, Pauley gave respondent random drug screens and breathalyzers, which all came back negative. Respondent successfully completed Breaking Free's anger management program, which was required when moving from level 2 to level 1. Pauley did not recommend that respondent undergo mental health treatment because she did not feel that "[respondent] needed it." Pauley testified that respondent successfully completed Breaking Free's program, which required respondent to regularly attend meetings, work with a sponsor, and have clean drug and breathalyzer screenings.

¶ 29 Elizabeth Long, a therapist at First Baptist Counseling, testified that she provided family therapy to respondent and the minors. The purpose of family therapy is to heal conflict and help the family function in a healthy manner. Long first met with the family on October 23, 2012. Before the meeting, A.D. told Long that she "hated her mother" and L.P. "seemed anxious." Long testified that respondent was excited to see her children but was also frustrated with the process. Long performed a biopsychosocial assessment of respondent. Respondent informed Long that she had been diagnosed with ADHD and Long "became aware of some intense relationships that [respondent] had been in." Based on the information that respondent related, Long wondered if respondent had Axis 2 personality disorder, which is a lifelong pattern of unhealthy or dysfunctional behavior. Long's diagnostic impression was that there had been

“irregular attachment” that needed to heal because the bond between respondent and the minors was not secure. Long believed that the attachment issues resulted in part from respondent being emotionally and, at times, physically unavailable to the minors.

¶ 30 Respondent was engaged in counseling from October 2012 through December 2012, but became disengaged after the minors were placed with their father. On January 14, 2013, respondent was crying, angry, and upset. Long encouraged respondent to undergo individual therapy after concluding that respondent had underlying issues. Long testified that respondent was not receptive to individual therapy. In February 2013 and March 2013, respondent was trying to be involved. From May 2013 through early August 2013, respondent continued to engage and cooperate. She attended family therapy sessions, shared meals with her family, set family activities, and implemented discipline strategies for the minors. Respondent was cooperating with all goals and the minors were enjoying spending time with respondent. Long testified that the minors were more relaxed around respondent, “happy to be with her,” and that the therapy “was moving in a very positive direction.” Long testified that in mid August 2013, “everything was looking pretty good at that point.”

¶ 31 On August 23, 2013, respondent failed to attend a family therapy session. Respondent’s failure to show up caused the minors to have anxiety, confusion, and fear. On September 9, 2013, Long discussed dialectic behavioral therapy with respondent and explained why the therapy would be important. Respondent was agreeable to the therapy. On October 1, 2013, respondent appeared at a family therapy session sweating profusely and looking agitated. Respondent told Long that Mowers had informed her that she had tested positive for cocaine, but respondent insisted that the drug test was wrong. Respondent left the therapy session ten minutes early, claiming that she had to go to work. The following week, respondent did not want

to admit to the minors that she had relapsed, although she was willing to admit that she had issues with alcohol. Respondent's denial created confusion for A.D., who had been told by her therapist that respondent had relapsed. At a family therapy session on October 14, 2013, respondent looked "ashen" and "was shaking." Respondent told the minors that she had relapsed, but related to Long that she did so "because she felt that she had no other choice" after other professionals had told the minors that she had relapsed. Respondent said that she was willing to go to a treatment program because "it was the best thing for the children." On October 21, 2013, respondent said that she was overwhelmed and angry because she had lost her job. Respondent blamed her job loss on "all of these appointments" that she had to keep. At a family therapy session that day, L.P. asked respondent if she was on drugs and A.D. "sat frigid and did not participate." Respondent told the minors that she loved them very much. On November 4, 2013, and November 11, 2013, after the goal had changed, respondent did not show up for family therapy sessions.

¶ 32 John Coutre, a therapist for the agency testified that he first met with respondent on February 13, 2012, to begin preparing a psychosocial assessment. Coutre testified that, during his first meeting with respondent, she expressed disagreement about meeting with him because she did not trust the agency and wanted to meet with someone else. Coutre testified that a person who has substance abuse issues will receive substance abuse treatment, but clients are also usually referred to individual counseling to deal with other life issues. Coutre testified that respondent would have benefitted from individual counseling to help her "deal with the stress and the feelings that were being brought up through the process of being separated from her children and from *** the breakup of her marriage." Coutre also diagnosed respondent with alcohol dependence in early full remission. On cross-examination, Coutre admitted that he was

treating the minors' father at the same time that he conducted his evaluation of respondent, but did not believe that there was a conflict of interest.

¶ 33 Lauren Beck testified that she was a case aide for the agency, and was the case aide for respondent and the minors from November 4, 2011, through October 26, 2012. During that time, respondent had 33 visits with the minors that lasted from 4:30 p.m. until 6:30 p.m. at respondent's apartment. Respondent appropriately disciplined the minors when necessary and Beck did not have any major concerns over respondent's ability to safely parent the minors during the visitations. Beck testified that the minors usually ran to respondent and would give her hugs and kisses when they would see her. Respondent would usually have an activity for the minors to engage in, such as decorating a Christmas tree, and would also have a snack prepared for them. Respondent and the minors would eat as a family, and would talk and interact while eating. Respondent would help the minors prepare for trips that they would take with their foster parents.

¶ 34 Beck testified that before August 2012, she never witnessed A.D. exhibit an attitude with respondent or indicate that she did not want to visit respondent. However, in August 2012, A.D.'s behavior toward respondent changed. Beck could not remember whether A.D. explained why her behavior toward respondent changed. Beck testified that she recorded three visits, on August 30, 2012, September 7, 2012, and September 14, 2012, where A.D. did not like visiting respondent and did not want to see or talk to her mother; and the only reason A.D. visited was to see the kitten. Beck testified that she recorded one incident where L.P. was nervous about visiting respondent. That incident occurred when Beck would be supervising for only the first thirty minutes, and L.P. was nervous about Beck leaving. Beck testified that, on October 5, 2012, L.P. expressed that he did not want to visit respondent because he did not like her.

¶ 35 Jerome Schwartz testified that he started dating respondent in either July 2011 or August 2011, and that their relationship ended in September 2013. Schwartz and respondent had lived together since approximately August 2011. Schwartz testified that, on September 1, 2013, respondent appeared to have been drinking. Respondent appeared to be agitated, was nitpicky, and berated Schwartz about “several things,” including working too much. Schwartz testified that respondent exhibiting such behavior was unusual when she was sober. When respondent was sober, she was “very nice [and] very appreciative of all of the things in our lives.” Schwartz testified that he and respondent had an argument and that respondent “grabbed my shirt and was trying to pull me away from the pick-up truck.” Respondent also started “beating” Schwartz on his back with her fists.

¶ 36 Respondent called Sharon M., a CASA representative, to testify. Around March 2012, Sharon regularly interacted with respondent and the minors. During that time, respondent was attentive with the minors, disciplined the minors when appropriate, and spoke to them appropriately. In May 2012, Sharon did not have any concerns over respondent’s interactions with the minors. Respondent had a loving relationship with minors and the affection appeared to be mutual. Respondent’s three visits in August 2012 were also appropriate. At one point, A.D. appeared angry. Respondent spoke to A.D. in an encouraging tone and wanted to talk with A.D. about what made her angry. As of April 28, 2013, Sharon reported to the trial court that she had no concerns with respondent’s parenting skills. Between March 2012 and May 2013, Sharon observed respondent with the minors approximately seven times and never observed her to be intoxicated or under the influence of a controlled substance. Sharon never observed respondent make an outburst of anger toward the minors.

¶ 37 Respondent testified that she is a certified nursing assistant. She had worked at Sherman Hospital and Delnor Hospital. Most recently, respondent had worked for Asta Health Care, a skilled nursing facility, from approximately December 2011 through October 15, 2013. Asta first hired respondent to work as a nurse's assistant, but promoted her to an administrative assistant and then director of admissions and marketing.

¶ 38 In either July or August 2011, Julia Stevens, respondent's caseworker, asked respondent to undergo a psychological evaluation and suggested that respondent undergo individual counseling. Respondent had the psychological evaluation and went to two individual therapy sessions at Ecker with Flores. However, after those sessions, Stevens advised respondent that she could no longer go to Ecker because there was no longer a contract, so respondent would have to go to the agency to have another evaluation. Respondent went to Coutre for another evaluation, but saw the minors' biological father in the waiting room. Respondent asked Coutre if he was treating the minors' father, and when Coutre related that he was, respondent expressed her concern that there was a conflict of interest. Coutre advised respondent that he was going to finish the evaluation and then let respondent see someone else for individual therapy. Respondent filed a service appeal through DCFS because she believed that Coutre's mental health assessment was biased due to the conflict of interest. Respondent believed that the appeal "was like thrown out" because "this is not even something that could have been appealed because individual therapy was never even on my [s]ervice [p]lan." Respondent underwent another mental health assessment on her own, not by referral. According to respondent, the results of that assessment were for her to continue seeing a psychiatrist, but "[t]here was nothing else required." Respondent informed Mowers of that assessment. Respondent agreed to mediate the mental health requirements with DCFS, but an agreement could not be reached.

¶ 39 In January 2012 through March 2012, respondent's visitation increased from two hours one day a week to three hours one day a week. Respondent suggested that increase, as opposed to adding an additional hour on a different day, because it was cold out and the minors had winter attire, including snow shoes and coats. According to respondent, one hour was not enough time for visitation because "by the time they do all that, there is really no time for me." Respondent began unsupervised visitation in June 2012. In July 2012, the court ordered respondent's visitation to be supervised again, but that visitation became unsupervised again in September 2012. Respondent's visitation increased during October 2012 and November 2012.

¶ 40 When the minors were transitioned back to their biological father's custody, respondent continued to have visitation and attend family counseling. Respondent's drug and alcohol tests during this time were negative. Respondent raised concerns about the emotional stability of the minor's father and she appealed the minor's placement with him. During that process, the minors were taken away from their biological father.

¶ 41 Respondent testified that the agency never discussed O'Riordan's recommendations with her. Respondent maintained that she had been "willing and ready to comply with whatever those recommendations were." Between July 2011 and July 2013, respondent had four mental health evaluations, including one evaluation she undertook on her own accord. Respondent testified that it was her "yearly" and that she would "do it anyways." The other three evaluations were at the agency's referral.

¶ 42 Respondent acknowledged her positive drug test in September 2013. Respondent discussed the positive test with the agency, but the agency did not offer any services to assist with her relapse because the goal had changed. Respondent did not test positive in any other

drug test going back to December 2011. Respondent testified that she had not been involved in any domestic violence incidents between November 2011 and September 2013.

¶ 43 On April 30, 2014, the trial court entered an order finding respondent unfit. The trial court noted that the client service plans admitted into evidence had a substance abuse prong and a mental health prong. The purpose of the substance abuse prong was for respondent to maintain a drug-and-alcohol free lifestyle. The purpose of the mental health prong was for respondent to achieve an appropriate level of understanding of mental illness and how it affects parenting and relationships. Tasks for the mental health prong included having a mental health assessment and follow all recommendations, which may include individual counseling.

¶ 44 The trial court acknowledged that respondent had successes during the relevant timeframes, particularly with housing and employment. However, the trial court found “the substance abuse prong and the mental health prong to be more directly or most directly related to the safety of [the minors], which is why we are all here today. So I am not going to address in this ruling [respondent’s] progress or efforts on anything except for the substance abuse or the mental health prongs.”

¶ 45 For the period from November 16, 2011, through August 16, 2012, the trial court found that the evidence supported that respondent was sober, but that she never engaged in any individual counseling even though it was included in the client service plans and recommended by the agency. For the period from August 17, 2012, through May 17, 2013, the trial court noted that respondent had engaged in family counseling and that respondent was sober. However, the trial court emphasized Long’s and O’Riordan’s testimony that family counseling was not the same as individual counseling because the former did not address respondent’s individual issues. The trial court noted that the minors were placed back into foster care in April 2013, “but

respondent was not in individual counseling, nor by that time was she demonstrating progress in her family counseling.” The trial court noted, however, that Long testified that, when the minors were placed back in foster care, “respondent stepped up her progress in family counseling.” For the final basis of the State’s petition, that respondent failed to maintain a reasonable degree of interest in the minors’ welfare, the trial court found O’Riordan’s testimony “very illuminating,” and noted that he diagnosed respondent with borderline personality disorder. A person diagnosed with that disorder is prone to alcohol abuse and he recommended individual counseling. The trial court noted respondent’s positive drug test in September 2013, that respondent and stopped attending family counseling in August 2013. The trial court concluded that respondent was unable to maintain her progress.

¶ 46 The trial court noted that respondent’s lack of individual counseling “seems to be the crux of the argument on both sides ***.” The State argued that respondent did not engage in such counseling, and therefore, failed to make progress in correcting her conditions. Respondent countered that she did not believe that she had to engage in individual counseling, but that was only one item in a long list, and that she was in substantial compliance with the other aspects of her client service plans. The trial court concluded that it did not believe that “substantial compliance equal[ed] substantial progress.” The trial court found that individual counseling was required at all relevant times and that respondent’s belief that it was only a recommendation was “hair splitting.” The trial court concluded that respondent would have benefitted from individual counseling because it would have given her better insight into how her actions affected the minors and helped her to control her demanding behavior. The trial court further found that “substantial progress” meant that respondent would have been able to handle emotional upheavals without relapse. The trial court concluded:

“So I do find that [respondent’s] failure to engage in individual counseling over each relevant timeframe to be directly related to her failure to make substantial progress during each pled timeframe. And as such, find that the State has met its burden of proving by clear and convincing evidence that [respondent] failed to make progress during each of those pled timeframes. I also find that [respondent] knew about the individual counseling and that its requirement was within the [c]lient [s]ervice [p]lan [and] that there was no impediment to [respondent’s] participation in counseling. As Dr. O’Riordan testified, [respondent] had the intelligence to benefit from the counseling and that she actively refused to do it. As such, I also find that the State showed by clear and convincing evidence that [res]pondent] failed to even make reasonable efforts to correct those conditions.”

¶ 47 With respect to failing to maintain a reasonable degree of interest, concern, or responsibility, the trial court agreed that respondent had visited the minors frequently, “and *** that is evidence of her interest and concern.” However, regarding responsibility, the trial court noted that “the evidence shows that [respondent] knew that individual counseling was required of her” but “as far as I see, and I believe the evidence supports, *** [respondent] worked at every turn to avoid this task.” Therefore, according to the trial court, the State proved by clear and convincing evidence that respondent did not maintain a reasonable degree of responsibility to her children.

¶ 48 Thereafter, the trial court conducted a best-interests hearing. Following that hearing, the trial court determined that it was in the minors’ best interest to terminate respondent’s parental rights. Respondent timely appealed.

¶ 49

II. ANALYSIS

¶ 50 Before addressing the merits, we first address the timeliness of our disposition. Illinois Supreme Court Rule 311(a)(5) (eff. Feb. 26, 2010) provides that, in appeals from final orders in child custody cases, “[e]xcept for good cause shown, the appellate court shall issue its decision within 150 days after the filing of the notice of appeal *** .” In this case, respondent filed her notice of appeal on June 12, 2013. However, we believe that good cause has been shown. On July 17, 2014, respondent filed a motion for an extension to supplement the record and to file her initial brief. On July 23, 2014, we granted that motion and gave respondent until August 18, 2014, to supplement the record and file her brief. The State filed its response brief on September 8, 2014, and respondent filed her reply brief on September 15, 2014.

¶ 51 Turning to the merits, respondent contends that the trial court erred in finding her unfit and that terminating her parental rights was in the minors’ best interests. Regarding unfitness, respondent argues that the trial court’s findings that she failed to make reasonable efforts to correct the conditions which were the basis of removal or to make reasonable progress toward the minors’ return from November 16, 2011, through August 16, 2012, and August 17, 2012, through May 17, 2013, respectively, were against the manifest weight of the evidence. Respondent further argues that the trial court’s finding that she failed to maintain a reasonable degree of interest, concern, or responsibility as to the minors’ welfare was also against the manifest weight of the evidence. With respect to the trial court’s best-interests finding, respondent argues that the State failed to meet its burden of proving by a preponderance of the evidence that terminating her parental rights was in the minors’ best interests.

¶ 52 In *Santosky v. Kramer*, 455 U.S. 745 (1982), the Supreme Court declared that parents’ interests in the “care, custody, and management” of their children is a fundamental liberty interest protected under the fourteenth amendment. *Id.* at 753. Termination of parental rights

constitutes a permanent and complete severance of the parent-child relationship. *In re C.N.*, 196 Ill. 2d 181, 208 (2001). Terminating parental rights “is an extraordinary measure, given the superior rights of parents, against the rights of others, to raise their children.” *In re Cornica J.*, 351 Ill. App. 3d 557, 566 (2004).

¶ 53 In Illinois, the Juvenile Court Act of 1987 provides a two-stage process for the involuntary termination of parental rights. First, the State must prove by clear and convincing evidence that a parent is unfit pursuant to section 1(D) of the Adoption Act. *In re D.T.*, 212 Ill. 2d 347, 352 (2004). A trial court’s finding with respect to unfitness will not be reversed unless that finding was against the manifest weight of the evidence. *In re Joshua K.*, 405 Ill. App. 3d 569, 580 (2010). If a parent is found unfit, the State must show by a preponderance of the evidence that termination of parental rights is in the child’s best interests. *Id.* at 364. Once a determination of parental unfitness is declared, a “parent’s interest in maintaining the parent-child relationship must yield to the child’s interest in a stable, loving home life.” *Id.* A trial court’s best interest finding will not be reversed unless it is against the manifest weight of the evidence. *In re Veronica J.*, 371 Ill. App. 3d 822, 831-32 (2007).

¶ 54 A. Unfitness

¶ 55 Section 1(D) of the Act provides various grounds on which a parent may be deemed unfit. 750 ILCS 50/1(D) (West 2012). The first two relevant counts of the State’s petition here alleged that respondent was unfit pursuant to section 1(D)(m)(i), (ii), and (iii), which are separate criteria for finding a parent unfit. *In re F.S.*, 322 Ill. App. 3d 486, 491 (2001). Section 1(D)(m)(i) provides that a parent is unfit by failure “to make reasonable efforts to correct the conditions that were the basis for the removal of the child from the parent”; and section 1(D)(m)(ii) provides that a parent is unfit by failing “to make reasonable progress toward the return of the child to the

parent with 9 months after an adjudication [of neglect] *** .” 750 ILCS 50/1(D)(m)(i), (ii) (West 2012). On the one hand, in determining whether a parent has made reasonable efforts to correct the conditions that led to the minors’ removal, a court must consider the kind of effort that would be reasonable for the particular parent from that parent’s point of view. *F.S.*, 322 Ill. App. 3d at 491. On the other hand, the determination of “reasonable progress” involves an evaluation of progress measured against the conditions that led to the minors’ removal or any newly arising conditions which might warrant continuing custody of the child in DCFS. *Id.* “Reasonable progress” has been defined as “demonstrable movement toward the goal of reunification.” *Joshua K.*, 405 Ill. App. 3d 569, 580 (2010). The benchmark for measuring a parent’s progress under section 1(D)(m) encompasses the parent’s compliance with service plans and court directives in light of the conditions that gave rise to the minors’ removal. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1067 (2006). Nonetheless, the failure to comply with the specifics of a service plan, while relevant, is alone insufficient to overcome evidence of reasonable progress toward the correction of the conditions that led to the removal of the child. *F.S.*, 322 Ill. App. 3d at 492-93. Unfitness under subsections 1(D)(m)(i) and (ii) “are to be examined in light of only the first nine months after the adjudication of neglect ***.” *Daphnie E.*, 368 Ill. App. 3d at 1067.

¶ 56 The State also alleged that respondent failed to maintain a reasonable degree of interest, concern, or responsibility to the minors’ welfare. “In assessing a parent’s unfitness under this ground, a court considers a parent’s efforts to visit and maintain contact with the child, as well as other indicia, such as inquiries by the parent into the child’s welfare.” *In re B’Yata I.*, 2013 IL App (2d) 130558, ¶ 35. The interest, concern, or responsibility must be objectively reasonable, and a parent is not fit merely because she had demonstrated some interest in or affection for her

child. *Daphnie E.*, 368 Ill. App. 3d at 1064. Courts may consider completion of service plan objectives, and courts should consider a parent's efforts which show interest in the child's well-being even if those efforts were unsuccessful. *Id.* at 1064-65. Unlike determining reasonable efforts or reasonable progress under section 1(D)(m), where a court must limit its finding to a specific timeframe, "in determining the degree of interest, concern, or responsibility as to the welfare of the children no such time frame exists." *In re M.J.*, 314 Ill. App. 3d 649, 656 (2000).

¶ 57 Guided by these principles, and after carefully reviewing the record, we determine that the trial court's finding of unfitness was against the manifest weight of the evidence. In *In re S.J.*, 233 Ill. App. 3d 88 (1992), this Court reversed a trial court's unfitness finding after the lower court concluded that the minor's mother failed to maintain a reasonable degree of interest, concern, or responsibility to the minor's welfare; and also failed to make reasonable efforts to correct the conditions that were the basis of removal of the child from the parent or make reasonable progress toward the return of the child. *In S.J.*, the minor was born in July 1989 with cocaine in her system, and in August 1989, the trial court adjudicated her a neglected minor and made her a ward of the court. *Id.* at 91. The court ordered that the mother successfully complete parenting classes, complete a substance abuse program, participate in Narcotics Anonymous, complete a drug evaluation, and refrain from ingesting any illegal substances. *Id.* The record reflected that the mother recognized the seriousness of her problem and underwent five days of "detox." *Id.* at 92. DCFS reported that the mother was eager to visit and become reunited with the minor. She had been present at most visits, called with an explanation when she could not attend, and interacted appropriately with the minor. *Id.* In November 1989, the mother stopped visiting the minor after becoming upset that she could not take her daughter home. *Id.* at 93. She was upset that she could not raise her daughter and admitted to using cocaine and marijuana.

Id. In December 1989, DCFS reported that the mother was not making satisfactory progress in creating a safe environment for her daughter, had last visited the minor in September, and was not following through on parenting classes or drug treatments. *Id.*

¶ 58 In March 1990, DCFS reported that the mother had failed to keep an appointment for a drug evaluation scheduled for January and had not visited her daughter since the last report. *Id.* at 94. In June 1990, DCFS again updated the trial court. *Id.* at 95. The mother had moved closer to her daughter and, since the third week of April 1990, had been visiting her daughter twice a week for two hours. The mother increasingly felt comfortable around her daughter. *Id.* A caseworker reported that the mother was sincerely trying to “get her life together.” *Id.* Respondent’s first drug test came back positive for marijuana, but she had been open and honest during therapy. *Id.* The mother was making satisfactory progress, but she had two more drug tests that had tested positive for marijuana, stopped attending therapy, and stopped attending Narcotics Anonymous. *Id.* at 96. In July 1990, DCFS reported that respondent was doing well with visitation but poorly with drug rehabilitation. *Id.* Respondent had more positive drug tests for marijuana and had missed a number of individual and group therapy sessions. *Id.* at 96-97. By September 1990, the mother’s visitation was going well, but she had another positive drug test for marijuana and had missed multiple individual and group therapy sessions. *Id.* at 97. The mother had been discharged from the substance abuse program. *Id.* Between September 1990 and November 1990, mother’s visitation had deteriorated. *Id.* at 98. On November 20, 1990, the State filed its amended petition to terminate parental rights. *Id.* However, visitation had occurred regularly since November 8, 1990, once the visitation had returned to the mother’s home. *Id.* at 98-99.

¶ 59 In finding the mother unfit, the trial court noted that, even when mother lived in close proximity to the minor, she failed to visit her between September 1989 through December 1989. *Id.* at 111-12. The trial court noted that respondent had moved closer to her daughter, but abandoned her visitation efforts when she did not have transportation. The trial court suggested that respondent could have walked three miles to visit her daughter. *Id.* at 112. The trial court found that the mother was not addicted to drugs in the year preceding the hearing, but noted that she failed to follow through with treatment after November 1990. *Id.*

¶ 60 On appeal, we reversed the trial court's determination. *Id.* at 115. With respect to maintaining a reasonable amount of concern, we noted that, as late as December 3, 1990, mother was progressing satisfactorily with visitation. *Id.* at 116. We rejected the trial court's conclusion that the mother could have walked three miles to visit her daughter when she lacked transportation. *Id.* We further emphasized that the mother made efforts to make her home more suitable for her daughter, and also bought her toys and gifts. *Id.* at 117.

¶ 61 Regarding whether the mother made reasonable efforts to correct the conditions which were the basis of removal of the child, we emphasized that, although the mother's initial attempts at treating her substance abuse were unsuccessful, she voluntarily enrolled in a substance abuse program, her last two drug tests were negative for all drugs, and she had not tested positive for cocaine since her daughter's birth. *Id.* at 118. We opined:

“To uphold the trial court's finding of no ‘reasonable efforts’ would effectively allow the court to terminate [the mother's] parental rights because she had smoked marijuana after the birth of her child. We recognize that marijuana is a controlled substance and do not intend to condone its possession or use. However, we do not believe that [the mother's] conduct relating to the use or possession of marijuana in the

case before us should suffice as a basis for judicial action as sweeping and devastating as the termination of a parent's rights in her child." *Id.*

¶ 62 Turning to whether the mother had made reasonable progress toward the return of her daughter, we noted that it was "undisputed" that the mother had not complied with various requests that the agency had made, including inpatient drug treatments, certain scheduled visits, and enrolling in parenting classes. *Id.* at 119. We noted that compliance with DCFS service plans was a means to a desired end, not an end itself, and that a parent could reach a goal envisioned by DCFS without following specific DCFS directives. *Id.* at 120. To hold otherwise could "irrationally elevate administrative means over statutory ends." *Id.* We opined:

"To place undue emphasis on compliance with service plans would raise the danger of a form of 'bootstrapping' under which a parent could lose her rights to her children because she failed to do things that were not necessarily related to her previously established shortcomings as a parent." *Id.*

We concluded:

"We *** emphasize that the ultimate issue is the reasonableness of the progress that the parent has made, in light of all the circumstances, in moving beyond the parental deficiencies that led to the initial removal of the child. *** To place compliance with DCFS plans ahead of the ultimate fact of progress would be to let the tail wag the dog. In a matter as serious as the termination of parental rights, we choose to avoid such a mechanical approach." *Id.* at 121.

We noted that the condition that led to the daughter's removal was the mother's use of cocaine and other drugs. *Id.* Based on the facts of the case, the finding that the mother had failed to

make reasonable progress toward the return of the child was against the manifest weight of the evidence. *Id.* at 122.

¶ 63 We find the reasoning in *S.J.* persuasive in the matter before us. Beginning with failure to make reasonable progress toward the return of the minors, we agree with the court in *S.J.* that the issue is the “*reasonableness* of the progress that the parent has made.” (Emphasis added.) *Id.* at 122. In this case, the relevant timeframes were November 16, 2011, through August 16, 2012, and August 17, 2012, through May 17, 2013. While the trial court made a cursory reference to respondent’s “successes,” particularly “with housing and employment,” it did not address “anything except for the substance abuse and mental health prongs” of the client service plans. The trial court noted that respondent remained sober during both time periods, but concluded that respondent’s failure to participate in individual therapy was a requirement under the client service plans. The trial court concluded that, even if respondent had substantially complied with those plans, it did not believe “in the law substantial compliance equals *substantial* progress.” (Emphasis added.) The trial court held that respondent’s “failure to engage in individual counseling over each relevant timeframe to be directly related to failure to make *substantial* progress during each pled timeframe.” (Emphasis added.) Therefore, the trial court concluded that the State met its burden in proving that respondent “failed to make progress during each of those pled timeframes.”

¶ 64 We cannot accept this finding. We note that the trial court erred by making multiple references to “substantial progress” when the statutory standard is “*reasonable* progress.” (Emphasis added.) See 750 ILCS 50/1(D)(m)(ii) (West 2012). The trial court compounded this error by focusing on one aspect of the client service plans, *i.e.*, individual counseling, while ignoring other aspects that were more directly related to the reasons for which the minors were

removed, *i.e.*, respondent's substance abuse and issues with domestic violence. The record is clear that respondent had successfully completed Breaking Free's substance abuse program, which included an anger management program. The anger management program would have necessarily included some level of individual attention. Respondent had dozens of visits with the minors, including unsupervised overnight visits. For example, Beck testified that 33 visits occurred between November 4, 2011, and October 16, 2012. Respondent underwent four psychological evaluations, including one on her own accord. Respondent was taking medications to address impulse control and ADHD, and was regularly seeing Pedemonte for medication monitoring. Respondent maintained steady employment and a stable home. Respondent started family counseling in October 2012, became briefly disengaged in family counseling in early 2013, when the minors were placed with their father, but became engaged again in May 2013. During the summer of 2012, there was a reported incident of domestic violence with police involvement, which led to respondent again having supervised visits. However, following that incident, respondent agreed to undergo family and couples counseling, and the record reflects that she did engage in family counseling. In September 2012, she was again granted unsupervised visits, and in November 2012, permitted to have overnight visits.

¶ 65 In short, by any objective measure, respondent's maintaining her sobriety, having proper visitation, engaging in family therapy, and keeping steady housing and employment during the pled frames represented a "demonstrable movement toward the goal" of reunification. Put differently, the trial court's emphasis on individual counseling being required by the client service plans placed "compliance with DCFS plans ahead of the ultimate fact of progress" and "let the tail wag the dog." See *S.J.*, 233 Ill. App. 3d at 121. Therefore, we conclude that the trial

court's finding with respect to whether respondent made "reasonable progress" was against the manifest weight of the evidence.

¶ 66 Turning to whether respondent made reasonable efforts to correct the conditions which led to the minor's removal, we must consider whether respondent's efforts were reasonable from her point of view. *F.S.*, 322 Ill. App. 3d at 491. The record reflects that respondent successfully completed Breaking Free's substance abuse program and the trial court acknowledged that respondent remained sober during both pled timeframes. Further, although there was one reported incident of domestic violence in August 2012, respondent agreed to attend family and couples counseling, and respondent began attending family therapy in October 2012. Respondent was once again permitted to have unsupervised visitation with the minors. Respondent regularly visited the minors and requested increased visitation. Despite these efforts, the trial court emphasized that respondent refused to engage in individual counseling, and therefore, concluded that the State demonstrated by clear and convincing evidence that respondent failed to "even make reasonable efforts to correct those conditions."

¶ 67 Once again, we cannot agree with the trial court's finding. While the client service plans required respondent to achieve an appropriate level of understanding mental illness and how it affects parenting, which may have included individual therapy, the minors were removed due to respondent's substance abuse and domestic violence issues, not her mental health issues. From her point of view, remaining sober, maintaining visitation, and engaging in family therapy after a single incident of domestic violence would be reasonable. Tellingly, we note that Pauley, respondent's substance abuse counselor at Breaking Free, treated respondent from January 2012 through December 2012, and would see respondent as often as three times per week. Pauley did not recommend that respondent undergo mental health treatments because she did not believe

that respondent “needed it.” Thus, the finding that respondent failed to make *reasonable* efforts to correct the conditions that led to the minors’ removal was against the manifest weight of the evidence. See *id.* at 492 (holding that, despite a drug relapse, the parent had made reasonable efforts to correct her deficient parenting skills resulting from substance abuse even though she could not claim a complete cure from drug dependency).

¶ 68 Finally, with respect to whether respondent maintained a reasonable degree of interest, concern, or responsibility to the minors, the trial court acknowledged that respondent demonstrated interest and concern over the minors through her frequent visitation. However, the trial court concluded that respondent failed to maintain a reasonable degree of responsibility because she did not engage in individual counseling.

¶ 69 While we agree with the trial court’s conclusion that respondent’s frequent visitation with the minors demonstrated her interest and concern in the minors’ welfare, its finding that respondent did not maintain a reasonable degree of responsibility was against the manifest weight of the evidence. Initially, we note that respondent testified that, in August 2011, she attended two individual therapy sessions with Flores. However, after those two sessions, Stevens advised respondent that she could no longer go to Ecker because its contract with the agency had expired. Further, although respondent did not engage in individual counseling after those initial sessions, the record reflects that respondent successfully completed substance abuse treatment, which included anger management; underwent four psychological evaluations; took medications to address impulse control and ADHD, regularly followed up with Pedemonte, and regularly participated (with few exceptions) in family therapy from October 2012 through November 2013, after the goal had changed from reunification to termination. We recognize that respondent missed visits with the minors in October 2013, but the record reflects that she

attempted to reschedule her missed visit on October 20, 2013. Critically, Mowers testified that respondent had continued with visitation after the goal was changed to termination of parental rights. Mowers testified that respondent was with the minors during Christmas in 2013 and respondent informed Mowers of a new address when she moved. By regularly visiting the minors over a nearly two-year period and participating in treatments, which included substance abuse treatments and taking medications to address her mental health issues, we believe that respondent has objectively demonstrated a reasonable degree of responsibility in the minors' welfare.

¶ 70 We recognize that respondent had tested positive for cocaine in September 2013 and was initially reluctant to acknowledge the positive test result, especially to the children. Further, Schwartz testified that respondent "appeared" to have consumed alcohol on September 1, 2013. However, Long testified that respondent was willing to go to a treatment program because "it was the best thing for the children." While we recognize that respondent had issues with substance abuse and we do not condone the possession or use of a controlled substance, we agree with the reasoning in *S.J.* and conclude that the conduct relating to a single positive drug test in a nearly two-year period should not suffice as "a basis for judicial action as sweeping and devastating as the termination of a parent's rights in her child." See *S.J.*, 233 Ill. App. 3d at 118.

¶ 71 In closing, we emphasize the fundamental interest at stake. "Proceedings such as this can result in the permanent and irrevocable termination of a parent's right to raise his or her child." *B'Yata I.*, 2013 IL App (2d) 130558, ¶ 42. The inquiry here is whether respondent made *reasonable* progress toward the minors' return, *reasonable* efforts to correct the conditions that were the basis of removal, and maintained a *reasonable* degree of interest, concern, and responsibility in the minor's welfare. By focusing almost exclusively on respondent's failure to

undergo individual counseling and making multiple references to “substantial progress,” when the conditions that led to the minors’ removal were respondent’s substance abuse and issues with domestic violence, the trial court’s holding led to the result that we cautioned against in *S.J.*, *i.e.*, that “place[ing] undue emphasis on compliance with service plans would raise the danger of a form of ‘bootstrapping’ under which a parent could lose her rights to her children because she failed to do things that were not necessarily related to her previously established shortcomings as a parent.” See *S.J.*, 233 Ill. App. 3d at 120. Accordingly, we conclude that the trial court’s finding that respondent was unfit was against the manifest weight of the evidence.

¶ 72

B. Best Interests

¶ 73 Because we have concluded that the trial court’s unfitness finding was against the manifest weight of the evidence, we need not consider whether the trial court erred in finding that terminating respondent’s parental rights was in the minors’ best interests. See *Joshua K.*, 405 Ill. App. 3d at 580 (“Only if the court makes a finding of unfitness will the court go on to consider whether it is in the best interest of the child to terminate parental rights.”).

¶ 74

III. CONCLUSION

¶ 75 For the foregoing reasons, the judgment of the circuit court of Kane County is reversed.

¶ 76 Reversed.