

**NOTICE**  
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2014 IL App (4th) 130693-U

NO. 4-13-0693

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

**FILED**  
January 10, 2014  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

In re: Al. J. and Aa. J., Minors,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Champaign County
v.	)	No. 11JA33
PRECIOUS JACKSON,	)	
Respondent-Appellant.	)	Honorable
	)	John R. Kennedy,
	)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.  
Justices Pope and Holder White concurred in the judgment.

**ORDER**

¶ 1 *Held:* The trial court properly found respondent mother unfit and terminated her parental rights.

¶ 2 Respondent mother, Precious Jackson, appeals the orders finding her an unfit parent of Al. J. (born June 9, 2009) and Aa. J. (born February 10, 2012) and terminating her parental rights. Jackson argues the trial court’s orders are against the manifest weight of the evidence. We affirm.

¶ 3 I. BACKGROUND

¶ 4 In May 2011, the State filed a petition for adjudication of neglect on behalf of Al. J. The State alleged three counts of neglect related to Jackson, contending Al. J.’s environment was injurious to her welfare when she resided with Jackson because (1) Jackson had a history of continued mental illness, (2) Al. J. was exposed to the risk of physical harm, and (3)

Jackson failed to correct the conditions that resulted in a prior adjudication of parental unfitness regarding Al. J.'s older half-siblings (705 ILCS 405/2-3(1)(b) (West 2010)).

¶ 5 In August 2011, the trial court entered an adjudicatory order finding Al. J. neglected. The court found Jackson suffered from bipolar disorder and paranoid schizophrenia and her condition was unstable. Jackson was not receiving treatment at that time, and Jackson had been adjudicated unfit regarding three of Al. J.'s half-siblings. She had not corrected the conditions that led to that adjudication.

¶ 6 On February 10, 2012, Jackson gave birth to Aa. J. Three days later, the State filed a supplemental petition for adjudication of neglect in regard to Aa. J. The State alleged Aa. J. resided in an environment injurious to her welfare because of Jackson's history of mental illness and Jackson failed to correct the conditions that resulted in a prior adjudication of parental unfitness (705 ILCS 405/2-3(1)(b) (West 2012)). In March 2012, the trial court found Aa. J. neglected.

¶ 7 In January 2013, the State moved for a finding of unfitness and the termination of the parental rights to Al. J. and Aa. J. of Jackson and Nathaniel Claybourn, who is the putative father of both children and not a party to this appeal. The State alleged Jackson was unfit on three grounds: (1) Jackson failed to make reasonable efforts to correct the conditions that were the basis for the children's removal (750 ILCS 50/1(D)(m)(i) (West 2012)); (2) Jackson failed to make reasonable progress toward the children's return within nine months of the neglect adjudication (750 ILCS 50/1(D)(m)(ii) (West 2012)); and (3) Jackson failed to maintain a reasonable degree of interest, concern, or responsibility as to her children's welfare (750 ILCS 50/1(D)(b) (West 2012)).

¶ 8 At Jackson's parental fitness hearing in May 2013, Jackson stipulated the testimony of a psychologist, William Kohen, would reflect the conclusions and observations from his March 15, 2012, report of his February 21, 2012, evaluation of Jackson. Kohen found Jackson suffered from a mood disorder not otherwise specified, but noted the available documentation suggested she suffered from bipolar disorder. Kohen also determined Jackson suffered from delusional disorder or psychotic disorder not otherwise specified, while noting available documentation suggested paranoid schizophrenia. Kohen recommended Jackson consistently attend counseling sessions and attend a psychiatric appointment to determine if she would benefit from psychotropic medications.

¶ 9 Tammie Roedl, a therapist with Lutheran Social Services of Illinois (LSSI), testified she began therapy sessions with Jackson in May 2012. The sessions stopped in October 2012, when Roedl left LSSI. When the sessions began, Jackson had completed a mental-health assessment and a treatment plan for Jackson had been established. Jackson had not yet been treated.

¶ 10 Roedl testified she and Jackson were to speak about coping skills regarding stabilizing mood and then process the circumstances that brought the children into the care of the Department of Children and Family Services (DCFS). Roedl knew Jackson had been diagnosed with bipolar disorder.

¶ 11 According to Roedl, Jackson attended every therapy session. Jackson made progress toward processing the circumstances that led to DCFS involvement. The sessions were going well until the end of October 2012, when Roedl left LSSI. Jackson was cooperative and forthright. Therapy was still needed, and Jackson had not been discharged.

¶ 12 Shelly Timm, a therapist with LSSI, testified she was Jackson's therapist since October 2012. After Roedl left LSSI, Timm received some of Roedl's clients, including Jackson. Timm spoke with Jackson at least twice over the phone, but they did not begin therapy services. According to Timm, several sessions were scheduled, but Jackson did not show for at least two of them. Two others she canceled. Jackson's treatment was closed as unsuccessful in December 2012.

¶ 13 Johniesha Hobbs, a caseworker with LSSI, testified she served as the caseworker on Jackson's case from July 2011 until May 2012. When Hobbs began as the caseworker, Jackson was incarcerated. She had been found unfit to stand trial. Jackson was then transferred to McFarland Mental Health Center (McFarland) for treatment. During this time, no services were offered to Jackson. Visits also did not occur while Jackson was incarcerated or at McFarland. Jackson was discharged from McFarland in 2011.

¶ 14 Hobbs testified, after Jackson's discharge from McFarland, Jackson was referred to individual counseling with Roedl. Jackson was also referred for a substance-abuse assessment. Upon completing that assessment, no treatment was recommended.

¶ 15 On cross-examination, Hobbs testified Jackson was referred for parenting classes. Jackson successfully completed parenting classes. Jackson also cooperated with visits. When the visits began, Jackson was not "that engaged," but she eventually began playing with Al. J. during visits and they went well.

¶ 16 Todd Beard, formerly a therapist with LSSI, testified he had three therapy sessions with Jackson in February 2011. Beard testified Jackson's records indicated a schizophrenia diagnosis. Beard was involved with the mental-health assessment. Jackson

answered every question. Jackson's memory of incidents related to her criminal history differed from the information in the reports Beard received. Beard had difficulty concluding whether Jackson was being untruthful or had a different perception of those events.

¶ 17 Beard testified schizophrenia was "not the diagnosis that we came to." According to Beard, he diagnosed Jackson with bipolar disorder, severe, with psychotic features. Beard explained the difference in the diagnosis is that psychosis is not persistent every day of every week. The psychosis occurs during a manic phase or during a depressive phase. Beard testified during a psychotic period, Jackson's memory of events would not match other's perceptions.

¶ 18 Beth Smith, a caseworker at LSSI, testified she was the caseworker on Jackson's case from September 2012 until the beginning of February 2013. During this time, Jackson was not employed. Jackson did not complete individual counseling. Jackson also tested positive for marijuana. As a result of the positive test, Jackson was referred for a substance-abuse assessment, which she did not complete while Smith was the caseworker.

¶ 19 On cross-examination, Smith testified she believed the positive marijuana test occurred around October 3, 2012. Although Jackson had previously been assessed as not needing substance-abuse treatment, the positive test result prompted a referral for another assessment at Prairie Center. Smith testified Jackson did not show for a test on June 28, 2012. Jackson also had a negative but diluted specimen on August 23, 2012.

¶ 20 According to Smith, Jackson received Supplemental Security Income (SSI) or disability payments. Smith believed there was one negative drop, but after that one, all were either positive or no-shows. Smith observed visits during her time as caseworker. Jackson was generally cooperative. Jackson provided snacks and made sure Aa. J. was fed. Jackson was also

cooperative in signing releases for information.

¶ 21 On redirect examination, Smith testified she prepared the January 2013 report. When she completed the report, Smith believed Jackson had continued her relationship with Sammy Lotts. An investigator had spotted Lotts's vehicle in Jackson's driveway early in the morning. Lotts also picked up Jackson on several occasions or dropped her off at the agency for counseling or visits. At the time Smith prepared the January 2013 report, Jackson's visit schedule included two hours of weekly supervised visits. Jackson attended 13 of 18 visits.

¶ 22 At the close of the State's case, the State moved for admission of the request to admit facts, to which Jackson did not reply. Jackson did not object to its admission. According to these facts, Jackson was involuntarily committed for psychiatric treatment at Blessing Hospital in Quincy in May 2011. Within weeks after her release from Blessing Hospital, Jackson was admitted to McFarland in Springfield. Jackson reported she first used marijuana at age 15. Jackson frequently used marijuana during her teen and young-adult years and used marijuana during the first seven months of one of her pregnancies.

¶ 23 Also, according to the request to admit facts, Jackson was released from the Champaign County jail on October 3, 2011, and transported to McFarland. She was released from McFarland on November 1, 2011. On November 13, 2011, Jackson stated she wanted to delay visits with Al. J. until after December due to "so many court hearings and business to take care of." On November 14, 2011, Jackson reported she was residing with her paramour, Lotts, and she was pregnant with Lotts's child (Aa. J.). At this time, Jackson stopped taking her schizophrenia medication because her doctor told her the medication could be dangerous to her unborn child. On February 10, 2012, Jackson reported Claybourn may be Aa. J.'s father. On

October 8, 2012, Jackson was involved in a domestic-violence incident with Lotts in the presence of her children. Lotts's vehicle was in Jackson's driveway on November 30, 2012. Lotts, on January 13, 2013, picked up Jackson from the agency.

¶ 24           Thelma H. McCready, Jackson's mother, testified on Jackson's behalf. McCready testified she maintained regular contact with Jackson through phone calls. McCready took Jackson to visits and "a couple of" counseling sessions. The initial visits occurred at McCready's house, but moved to the LSSI office after Jackson moved from McCready's home. The visits went well. Jackson spent time with her children. The last visit observed by McCready was a couple of months before her testimony.

¶ 25           Mercy Hill, Jackson's older sister, testified she maintained regular contact with Jackson. Hill had accompanied Jackson to six or seven visits. Jackson was "very attentive" and loving. They, at times, baked cookies. They laughed with the children. Jackson missed and loved her children. Hill "took a big interest" in the case, because she had lost her children for six months. Hill asked how Jackson was doing. Jackson told Hill she was doing the best she could, trying to cooperate with the tasks asked of her.

¶ 26           The trial court found the State failed to prove Jackson unfit based on lack of reasonable efforts or the failure to maintain a reasonable degree of interest, concern, or responsibility as to her children's welfare. The court concluded, however, the State sufficiently proved Jackson unfit for failing to make reasonable progress within the initial nine months following the adjudications of neglect for both Al. J. and Aa. J. Regarding Al. J., the court found the relevant nine-month period spanned August 2, 2011, to May 2, 2012. The court noted, during this time, Jackson was incarcerated, had a finding of unfitness in regard to a criminal

matter, and was remanded for treatment and then released for additional treatment. The court found, even after Jackson was released, she made no demonstrable progress toward the goal of reunification. Regarding Aa. J., the court concluded the relevant period was March 21, 2012, until December 21, 2012. The court concluded Jackson had made some progress during this time, but, beginning in the late summer of 2012, she regressed. The court noted Jackson's substance abuse, the domestic-violence incident, and the continued relationship with Lotts.

¶ 27 In August 2013, the trial court held the best interests hearing. The State relied on the best-interests report and supplement filed by LSSI. According to the report, Jackson made minimal progress toward reunification with her children. Jackson was psychiatrically hospitalized in February 2013 and April 2013. Jackson successfully completed a parenting class, a substance-abuse assessment, and a psychological evaluation. Jackson completed another recommended substance-abuse assessment in August 2013. Jackson continued to receive supervised visitation. The visits were inconsistent, due in part to her psychiatric hospitalizations. Jackson continued to show appropriate care for her children and her love for them was evident. The report further stated Jackson's mental-health issues severely impeded her ability to maintain stability for herself and her children.

¶ 28 Regarding the children, the report stated Al. J. was placed with her maternal grandmother, McCready. McCready provided care for Jackson's older children and was willing to adopt Al. J. should Jackson's parental rights be terminated. Al. J. had a very close bond with her grandmother and siblings.

¶ 29 Also according to the report, Aa. J. resided in a traditional foster placement, where she resided since entering DCFS care. Aa. J. was happy, friendly, and patient. The foster

parents were willing and able to provide permanency to Aa. J. and continued to maintain a relationship with McCready and Aa. J.'s older siblings.

¶ 30 The trial court concluded the State proved by clear and convincing evidence termination of Jackson's parental rights was in the best interest of Al. J. and Aa. J. The court recognized Jackson's desire to be a part of her children's lives but noted Jackson's effort to improve herself and to progress was sporadic at best. The court concluded Jackson would not be able to care for her children's daily needs in such a way her children would remain safe and healthy. The court found this pattern would continue for a long period of time and Jackson could not offer her children permanence.

¶ 31 This appeal followed.

¶ 32 II. ANALYSIS

¶ 33 A. Parental Fitness

¶ 34 A parent will be found unfit if the State proves a ground listed in section 1(D) of the Adoption Act (750 ILCS 50(D) (West 2012)). The State carries the burden of proving parental unfitness by clear and convincing evidence. *In re A.L.*, 409 Ill. App. 3d 492, 500, 949 N.E.2d 1123, 1129 (2011). The trial court's fitness determination is entitled to great deference, as that court has the opportunity to view witnesses and witness demeanor at trial. *Id.* This court will not overturn a finding of parental unfitness unless that finding is against the manifest weight of the evidence, meaning "the correctness of the opposite conclusion is clearly evident from a review of the evidence." *In re T.A.*, 359 Ill. App. 3d 953, 960, 835 N.E.2d 908, 913 (2005).

¶ 35 In this case, Jackson was found unfit on one ground listed in section 1(D): Jackson failed to make reasonable progress toward Al. J.'s and Aa. J.'s return within nine

months of the neglect adjudications (750 ILCS 50/1(D)(m)(ii) (West 2010)). Jackson argues this finding is erroneous. Jackson contends the trial court correctly cited the goals she should have achieved, but it ignored her cognitive limitations and how much progress she made in spite of those limitations. Jackson pointed to Roedl's testimony as showing her efforts and progress.

¶ 36 Jackson's argument is misplaced. It is well established reasonable progress is not judged by a subjective standard, but an objective one. See *In re A.P.*, 277 Ill. App. 3d 592, 598, 660 N.E.2d 1006, 1011 (1996). While the question of reasonable efforts "involves a subjective judgment based upon the amount of effort that is reasonable for a particular person," the question of reasonable progress is "objective, depending upon the amount of progress measured from the conditions existing at the time custody was taken." *Id.* "[T]he benchmark for measuring a parent's 'progress \* \* \*' encompasses the parent's compliance with the service plans and the court's directives, in light of the condition" that gave rise to the child's removal and other conditions that later become known that would prevent the court from returning custody of the child. *In re C.N.*, 196 Ill. 2d 181, 216-17, 752 N.E.2d 1030, 1050 (2001). Progress is deemed reasonable when a court can conclude it will be able to return the child to the parent in the near future because the parent will have complied fully with the court's directives. *A.L.*, 409 Ill. App. 3d at 500, 949 N.E.2d at 1129.

¶ 37 Considering Jackson's progress under these standards, we find the trial court's decision is not against the manifest weight of the evidence. Regarding Al. J., the nine-month period spanned August 2011 until May 2012. During this time, Jackson was incarcerated and hospitalized on multiple occasions for mental-health treatment. In this time, she did not receive services and only began the necessary counseling in May 2012. Regarding Aa. J., the relevant

period spanned March 2012 until December 2012. In this time, Jackson made some progress. She completed a parenting class and a substance-abuse assessment. However, as of the summer of 2012, Jackson regressed. She failed screens for marijuana. As a result, Jackson was rereferred for a substance-abuse assessment, which she had not completed. Jackson was involved in a domestic-violence dispute and continued to see the paramour involved in that dispute. Jackson did not return to counseling after Roedl left in October 2012. The trial court did not err in concluding the children could not be returned safely to Jackson's custody in the near future.

¶ 38

#### B. Best Interests

¶ 39 After a parent has been found unfit, the trial court shifts its focus to the interests of the child. *In re D.T.*, 212 Ill. 2d 347, 364, 818 N.E.2d 1214, 1227 (2004). At this time, a “parent’s interest in maintaining the parent-child relationship must yield to the child’s interest in a stable, loving home life.” *Id.* Before a parent’s rights may be terminated, the State must prove by a preponderance of the evidence it is in the child’s best interests those rights are terminated. *Id.* at 366, 818 N.E.2d at 1228. We will not overturn a decision terminating parental rights unless it is against the manifest weight of the evidence. *T.A.*, 359 Ill. App. 3d at 961, 835 N.E.2d at 914.

¶ 40

Jackson argues the evidence showed she loved and cared for her children. Jackson maintains this fact is supported by McCready’s testimony and the testimony of those from LSSI who observed her interactions with her children. Jackson maintains, considering the effort she put into therapy and visits, the trial court should have found she was on track to provide a stable and loving home for her children “in the foreseeable future, if not in the next

