

**NOTICE**

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2014 IL App (4th) 130836-U  
NO. 4-13-0836

**FILED**  
January 21, 2014  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

IN THE APPELLATE COURT  
OF ILLINOIS  
FOURTH DISTRICT

In re: K.C., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Macon County
v.	)	No. 11JA116
SARAH SATER,	)	
Respondent-Appellant.	)	Honorable
	)	Thomas E. Little,
	)	Judge Presiding.

PRESIDING JUSTICE APPLETON delivered the judgment of the court.  
Justices Pope and Steigmann concurred in the judgment.

**ORDER**

¶ 1 *Held:* (1) The State presented sufficient evidence to support the trial court's order finding respondent was an unfit parent when she failed to successfully complete any of the required tasks set forth in her case plan.

(2) The State presented sufficient evidence to support the trial court's order finding termination of respondent's parental rights was in the minor's best interest.

¶ 2 In August 2013, the trial court terminated respondent Sarah Sater's parental rights to her minor child, K.C., born September 27, 2010. Respondent appeals, claiming the court's unfitness finding and best-interest finding were against the manifest weight of the evidence. We disagree and affirm.

¶ 3 I. BACKGROUND

¶ 4 In November 2011, the Illinois Department of Children and Family Services

(DCFS) received a hotline call, claiming respondent's paramour, Carl Riley, was beating respondent in the presence of K.C., who was then 14 months old. DCFS was familiar with Riley, as he had been the subject of prior indicated reports involving his two children. He surrendered his parental rights after he was convicted of shooting to death the mother of his children. DCFS took K.C. into protective custody after respondent refused to reside in a shelter away from Riley. Throughout this case, DCFS worked with K.C.'s father as a potential placement. He is not a party to this appeal.

¶ 5 As of April 2012, the trial court had entered (1) an adjudicatory order, finding K.C. to be a neglected minor and appointing DCFS as temporary guardian, and (2) a dispositional order, finding respondent unfit and unable to care for K.C. and making the child a ward of the court. Respondent had not engaged in services and remained with Riley, even after further reported allegations of domestic abuse against her. Respondent's progress toward the goal of regaining custody of K.C. was nonexistent. She failed to successfully follow through with the recommended tasks of (1) completing alcohol and drug treatment, (2) participating in random drug drops, (3) participating in individual counseling, (4) participating in mental-health treatment, (5) completing a parenting course, and (6) maintaining adequate and safe housing. She did however consistently participate in visits with K.C.

¶ 6 Due to respondent's lack of progress, on June 4, 2013, the State filed a petition to terminate her parental rights, alleging she was an unfit parent because she (1) failed to protect the child from conditions within her environment injurious to the child's welfare (750 ILCS 50/1(D)(g) (West 2012)), (2) failed to make reasonable progress toward the return of the child within the initial nine-month period after the adjudication of neglect (750 ILCS 50/1(D)(m)(ii)

(West 2012)), and (3) failed to make reasonable progress toward the return of the child during any nine-month period after the end of the initial nine-month period following adjudication (750 ILCS 50/1(D)(m)(iii) (West 2012)).

¶ 7 On July 19, 2013, the trial court conducted a fitness hearing. First, the State advised the court it was withdrawing the third allegation set forth above and relying only on the initial nine-month period of March 19, 2012, through December 19, 2012. Liz McGarry, a manager of the addictions program at Behavioral Health Center, testified that respondent had been scheduled to participate in 56 drug screens since November 23, 2011. She participated in 11, all of which resulted in a positive indication for marijuana. After an assessment in May 2013, respondent was recommended for outpatient substance-abuse treatment. She failed to follow up with the treatment recommendation.

¶ 8 Virginia Karl, a parenting instructor at Webster-Cantrell Hall, testified that respondent attended her parenting classes beginning in June 2012. The course schedule consisted of one class per week for 16 weeks. Respondent attended only eight classes and two partial classes. She did not successfully complete the course. Karl also testified she had attended several visits between respondent and K.C. and noticed respondent "did well." Respondent brought appropriate snacks and interacted well with K.C.

¶ 9 Whitney Welch, the caseworker at Webster-Cantrell Hall, testified she had worked with respondent since November 2011. She established respondent's case plan, which included the recommended tasks of (1) parenting, (2) individual counseling to address mental-health and domestic-violence issues, (3) substance-abuse assessment and to follow recommendations, and (4) maintain appropriate housing. In December 2011, respondent

participated in an assessment, which combined an evaluation for both substance abuse and mental health. Substance-abuse treatment was not recommended at that time because respondent did not report she was currently using drugs or alcohol. However, the evaluator recommended mental-health services. Respondent began attending counseling sessions in February 2012. The counselor informed Welch that she had "a lot of concerns" about respondent's relationship with Riley. However, the counselor was not able to address the issue thoroughly because, of the 35 scheduled appointments between February 2012 and July 2013, respondent attended only 8.

¶ 10 Welch further testified respondent's housing was inconsistent. She had fallen behind in her payments and lost the trailer in which she lived. She moved in with her mother, but her mother lost her trailer as well because she was not authorized to have respondent and Riley reside with her. Respondent and Riley remain together even though respondent was advised that, if she intended to remain with Riley and have K.C. returned to her care, they both would have to participate and successfully complete recommended services. Riley participated in "some parenting classes but was very inconsistent." He had also participated in a substance-abuse assessment and began individual counseling, but he did not successfully follow through with either. Welch described Riley as "very uncooperative." He refused to participate in the random drug screens. Welch said when she had discussed with respondent the issue of Riley's past and his current lack of participation with services, respondent acknowledged that she had, in effect, chosen Riley over K.C. According to Welch, respondent has not addressed any of her issues and has not made progress on any of the recommended tasks. Even if she began active and successful participation in all of her tasks, it was not reasonable to assume K.C. could be returned to her care within six months. Respondent has expressed her unwillingness to end her

relationship with Riley.

¶ 11 After the presentation of testimony, the State offered the caseworker's report filed July 15, 2013, which reiterates Welch's testimony. The State rested. Respondent testified on her own behalf. She said she was told at the beginning of the case she needed to participate in a substance-abuse assessment. She said there was "trouble" with the referrals in that the "funds had stopped." She participated in an assessment in May 2013, but she did not begin treatment as she was supposed to do in July 2013 because "they had canceled [her] services." She did not attend many parenting classes due to transportation issues. She had lost her vehicle and the city buses did not operate at night after the time the classes were dismissed. She said she went to some counseling sessions with the first assigned counselor but, when a new counselor was assigned, respondent quit attending because she "didn't know who [the new counselor] was."

¶ 12 After the presentation of evidence, the trial court found the State had proved the allegations of respondent's unfitness by clear and convincing evidence as to the grounds alleged.

The court stated:

"It is very clear that the mother has failed to successfully complete parenting; her domestic violence issues have not been properly addressed; she has not completed domestic violence; her substance abuse problems have not been addressed by the mother and her housing remains unstable.

In short or in summary, the mother has failed to successfully complete the requirements of her service plan. I specifically note the testimony of Ms. Welch when she stated that

even if the mother started today and completed everything as quickly as possible, could the child be returned home in the next three to six months, was basically the way the question was asked, and Ms. Welch's response was that because of the mother's history of initially starting some of services but not following through that that was not realistic to believe that the child could be returned in three to six months. I do find that testimony to be credible. I find the testimony of Ms. Welch overall to be credible.

Underlying all of this is the fact that despite repeated warnings that continuing the relationship with Mr. Riley could jeopardize her parental rights, the mother has chosen to choose the paramour over her child and the evidence is abundantly clear—crystal clear that that relationship does continue. So that's just corroborative and I believe supports my decision."

¶ 13 On August 26, 2013, the trial court conducted a best-interest hearing at which Welch again testified for the State. She said respondent had done nothing since the fitness hearing toward her goal of regaining custody of K.C. Welch said K.C., who was almost three years old, has "struggled in the foster home" with anxiety and other emotional issues. She said the best goal at this point was "return home with the father." She said there was no possibility of respondent improving to a point where she could regain custody of K.C., "[n]ot with her history in the case." Welch said she had prepared a best-interest report in preparation for the hearing, and she had nothing to change or add to the report. She said respondent remained in a

relationship with Riley.

¶ 14 Respondent testified she had failed to complete her recommended tasks due to "troubles—transportation troubles and other troubles," such as illness and financial hardship. She said she has "tried [her] best."

¶ 15 After considering the evidence in light of the statutory factors, the trial court concluded the "most important" factor was K.C.'s need for permanence. The court found the State had proved by a preponderance of the evidence that it was in the minor's best interest to terminate respondent's parental rights. This appeal followed.

¶ 16 II. ANALYSIS

¶ 17 Respondent claims the trial court's findings of unfitness and the minor's best interest were both against the manifest weight of the evidence. We disagree and affirm.

¶ 18 A. Finding of Unfitness

¶ 19 The trial court found respondent was an unfit parent for failing to (1) protect the minor from conditions within her environment injurious to her welfare (750 ILCS 50/1(D)(g) (West 2012)) and (2) make reasonable progress toward the return of the minor within the nine-month period immediately following adjudication, or between March 19, 2012, and December 19, 2012 (750 ILCS 50/1(D)(m)(ii) (West 2012)). Respondent challenges only one of the two grounds upon which the court based its finding of unfitness. Due to her failure to challenge the court's finding that she was unfit for failing to make reasonable progress toward the return of the minor during the initial nine-month period, her appeal is moot. See *In re D.L.*, 191 Ill. 2d 1, 8 (2000). Evidence of a single statutory ground is sufficient to uphold a finding of parental unfitness. *In re D.D.*, 196 Ill. 2d 405, 422 (2001). Therefore, even if the court erred in finding

respondent unfit under section 1(D)(g), the termination of her parental rights may be upheld solely on the grounds of section 1(D)(m)(ii). Although respondent does not challenge the termination of her parental rights under this section, we will briefly address the court's findings regarding her failure to make reasonable progress during the nine-month period of March 19, 2012, and December 19, 2012.

¶ 20 The Juvenile Court Act of 1987 provides a bifurcated mechanism whereby parental rights may be terminated. 705 ILCS 405/2-29(2) (West 2012). Under this procedure, there must first be a showing of parental unfitness based upon clear and convincing evidence, and a subsequent showing that the best interests of the child are served by severing parental rights. *In re M.J.*, 314 Ill. App. 3d 649, 655 (2000). "A trial court's determination of parental unfitness involves factual findings and credibility assessments that the trial court is in the best position to make." *M.J.*, 314 Ill. App. 3d at 655. We will not disturb a finding of unfitness unless it is contrary to the manifest weight of the evidence and the record clearly demonstrates that the opposite result was proper. *In re D.F.*, 201 Ill. 2d 476, 498 (2002).

¶ 21 "Reasonable progress" is an objective standard: it cares only about results, not about respondent's abilities or about how hard she tried. See *In re R.L.*, 352 Ill. App. 3d 985, 998 (2004); *In re D.D.*, 309 Ill. App. 3d 581, 589 (2000). To be objectively reasonable, the progress must be sufficient to justify a belief that the child could be returned to the parent in the near future. *In re Janine M.A.*, 342 Ill. App. 3d 1041, 1051 (2003). Reasonable progress is "measured by looking at the parent's compliance with the service plans and the court's directives in the light of the conditions that gave rise to the removal of the child and in light of other conditions that later became known and would prevent the court from returning custody of the

child to the parent." *Janine M.A.*, 342 Ill. App. 3d at 1051.

¶ 22 The evidence demonstrated that respondent failed to make sufficient progress between March and December 2012. Other than participating in visits with K.C., respondent failed to complete her recommended tasks. She attended only half of the classes required for the parenting course; she participated in only the substance-abuse assessment rather than the recommended treatment; she acknowledged and ignored the warning that her relationship with Riley would jeopardize the return of K.C. to her care; she subjected herself to domestic violence without seeking counseling or shelter; she began, but failed to follow through with, her individual counseling; and she failed to maintain suitable housing. Considering this evidence, we cannot say the trial court's finding of unfitness on the grounds that respondent failed to make reasonable progress during the initial nine-month period following adjudication was against the manifest weight of the evidence.

¶ 23 B. Best-Interest Finding

¶ 24 Likewise, we find the trial court's best-interest determination was supported by the evidence. Focusing on the child's best interests, as we are required to do upon this inquiry (see *In re T.A.*, 359 Ill. App. 3d 953, 959 (2005)), we agree with the court's decision that termination of respondent's parental rights was in the minor's best interest when the evidence suggested it would be a very long time before the State could even possibly consider returning the minor to respondent's care, and only then if respondent would engage in services. DCFS was working with K.C.'s father with the hope of placing her in his care. Respondent, on the other hand, had made no changes since K.C. was taken into protective custody and, in fact, had made the voluntary decision to maintain a relationship with Riley, a person who threatened the

physical safety of respondent and placed anyone else in the home at the risk of being harmed. The minor deserved a safe, secure, and permanent environment, which she could not obtain in respondent's care now or in the foreseeable future. Based on this evidence, we affirm the court's judgment terminating respondent's parental rights.

¶ 25

### III. CONCLUSION

¶ 26

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

¶ 27

Affirmed.