

2015 IL App (2d) 141163-U  
No. 2-14-1163  
Order filed March 30, 2015

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IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

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<i>In re</i> JEREMIAH J., TERRION W. and	)	Appeal from the Circuit Court
SHARLISA W., Minors	)	of Winnebago County.
	)	
	)	Nos. 11-JA-373
	)	11-JA-36
	)	11-JA-37
	)	
	)	Honorable
(The People of the State of Illinois, Petitioner-	)	Mary Linn Green,
Appellee v. Elisa E., Respondent-Appellant).	)	Judge, Presiding.

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

**ORDER**

¶ 1 *Held:* The court allowed respondent's counsel's motion for leave to withdraw pursuant to *Anders v. California*, 386 U.S. 738 (1967), and affirmed the trial court's order terminating respondent's parental rights.

¶ 2 Respondent, Elisa E., appeals from an order of the circuit court of Winnebago County terminating her parental rights to the minors, Jeremiah J., Terrion W., and Sharlisa W. Pursuant to the procedures set forth in *Anders v. California*, 386 U.S. 738 (1967), counsel now moves to withdraw on appeal. In her motion, counsel states that she has carefully read the entire record and found no issues which would warrant relief by this court. We granted respondent 30 days to

respond to the motion to withdraw. Respondent filed a timely *pro se* response, the relevant contents of which we will discuss within this order.

¶ 3

## I. BACKGROUND

¶ 4 The record reflects that on November 14, 2011, the State filed a two-count neglect petition for Jeremiah J. (Jeremiah). In count I of the petition the State alleged that Jeremiah's environment was injurious to his welfare in that respondent was not properly administering to him the prescribed medication he needed for his respiratory disorder, thereby placing him at risk of harm pursuant to 2-3(1)(b) of the Juvenile Court Act of 1987 (Act). 705 ILCS 405/2-3(1)(b) (West 2010). In count II of the petition the State alleged that Jeremiah's environment was injurious to his welfare in that respondent had mental health problems, specifically, that she admitted to not taking her medication for bipolar disorder, and that she had volatile interactions with Jeremiah's healthcare providers, thereby placing him at risk of harm. 705 ILCS 405/2-3(1)(b) (West 2010).

¶ 5 A shelter care hearing was held on November 15, 2011. At the hearing, Andy Saunders, an investigator with the Department of Children and Family Services (DCFS), testified that Jeremiah was born on June 18, 2011, and that he was assigned to this case on November 7, 2011. On November 8, 2011, he made contact with respondent and Jeremiah at Swedish American Hospital. Saunders said that Jeremiah had been diagnosed with reactive airway disease and wheezing and was brought to the hospital on November 7, 2011. The hospital administered breathing treatments with Albuterol via a nebulizer. Jeremiah responded well and was released on November 9, 2011.

¶ 6 Saunders testified that he was in possession of the hospital's records which indicated that Jeremiah was also hospitalized on October 19, 2011, with the same breathing problems. He

received nebulizer treatments at that time as well, improved, and was discharged on October 21, 2011. Two days later, Jeremiah was brought back to the emergency room for the same problem. On October 25, 2011, Jeremiah was brought to the Crusader Clinic (clinic) for the same problem. Respondent admitted to the nurse practitioner at the clinic that she had not been giving Jeremiah the Albuterol as prescribed. Again, once Jeremiah received a nebulizer treatment his condition improved. Saunders said that DCFS took Jeremiah into protective custody on November 9, 2011, because of the numerous hospital visits and the reports from the nurse practitioner that there were concerns respondent was not administering the treatments as prescribed.

¶ 7 Respondent testified that she was trained to use the nebulizer at Swedish American Hospital. On October 19, 2011, Jeremiah was taken to the clinic for a scheduled appointment by his godmother who had been babysitting Jeremiah. Respondent did not know that Jeremiah had been hospitalized until the next day because he was supposed to spend the night with his godmother and she did not tell respondent that he was in the hospital. After being discharged on October 21, 2011, respondent brought Jeremiah back to the hospital on October 23, 2011, because the medication was not working. She testified that she had been giving him the nebulizer every four hours as instructed. Respondent went back to the clinic on October 25, 2011, because Jeremiah needed his shots. The nurse prescribed an additional medicine, Pulmicort, which he was supposed to get in the morning and evening as well as the Albuterol every four hours.

¶ 8 Flossie Hoarde, an early childhood prevention specialist, testified that she went to respondent's home in late October 2011 and witnessed Respondent giving Jeremiah a nebulizer treatment. She saw respondent hold the mask to the baby's mouth until all the steam was gone, anywhere from 20 to 25 minutes.

¶ 9 At the conclusion of the shelter care hearing the court found there was probable cause to believe that Jeremiah was neglected. Specifically, it found that respondent may have been administering the treatment correctly, but the problem was that it was not given as frequently as prescribed and as Jeremiah needed. The court then ordered that DCFS take temporary custody of Jeremiah.

¶ 10 On February 8, 2012, the State filed two identical neglect petitions alleging seven counts of neglect for both Sharlisa W. (Sharlisa) and Terrion W. (Terrion). Sharlisa was born on October 8, 2001, and Terrion was born on December 18, 2009. The first three counts of the petitions related to Sharlisa and Terrion's father and are not pertinent to this appeal. The remaining counts all related to respondent and alleged that the children were neglected due to an injurious environment pursuant to section 2-3(1)(b) of the Act. 705 ILCS 405/2-3(1)(b) (West 2010). In count IV the State alleged that respondent had placed the minors at risk of harm because of her anger management issues, specifically, that she had reacted with hostility to DCFS personnel by throwing over a table. In count V the State alleged the children were at risk of harm because respondent had not cured the conditions which caused her to become "court involved." In count VI the State alleged that the children were at risk of harm because respondent struck Terrion in the face. In count VII the State alleged that the minors were at risk of harm because respondent had mental health issues which prevented her from properly parenting her children.

¶ 11 On February 8, 2012, a shelter care hearing was held. Aimee Jerding, a DCFS investigator, testified that DCFS was alerted in December 2011 that Sharlisa and Terrion's father, who had custody of them at the time, was having mental health problems. According to Jerding, respondent was awarded custody of Sharlisa and Terrion on February 2, 2012, through a

Winnebago County family court case. Since respondent already had a minor in DCFS custody the matter was investigated. Jerding testified that Sharlisa told her that respondent hit Terrion in the face so hard that Sharlisa thought his lip was going to bleed. Sharlisa was also very worried about respondent yelling loudly and frightening her.

¶ 12 According to Jerding, respondent received a mental health assessment in July 2011 which indicated that in 2009 she had been diagnosed with impulse control disorder/major depressive disorder and personality disorder not otherwise specified. Jerding said that respondent had been very hostile to her and that she had observed respondent having breaks with reality, for example, respondent once stated that she was Rosa Parks. Jerding also testified about several other incidents where respondent was very hostile to others, including yelling and screaming in front of the children.

¶ 13 Geoff Franklin, Jeremiah's case manager, testified that respondent was engaged in parenting services and training about the proper administration of medication. He was surprised at how suddenly respondent could become volatile, and he wanted respondent to work on her temper through individual counseling. In his opinion, respondent had unaddressed issues that related to her care when she was a child in DFCS custody, and he believed counseling would be appropriate for that issue as well.

¶ 14 Respondent testified and said she did not hit Terrion in the face and that Sharlisa had hit him instead because she was angry about being disciplined by respondent. When the children were at her house she fed them, bathed them, washed their clothes and got them to school. There were no problems except with Sharlisa and when she misbehaved respondent took things away from her, but she did not use physical punishment. She had given the children medication

properly in the past. She did not believe she had an anger problem and it was only when DCFS came to take away her children that she felt very upset and angry.

¶ 15 After hearing all the witnesses the court then found that the State had met its burden of proof for the temporary shelter care hearing and found an urgent and immediate necessity to remove Sharlisa and Terrion from the home.

¶ 16 An adjudicatory hearing was held on May 16, 2012. As it related to Jeremiah, respondent stipulated to the factual basis in count I of the neglect petition (medical neglect) and count II was dismissed. With regard to Sharlisa and Terrion, the children's father stipulated to the factual basis in count I and counts 2 through 7 were dismissed. Respondent did not object to the children's father stipulating to count I of their neglect petitions. At the dispositional hearing on August 24, 2012, respondent stipulated that DCFS would have guardianship and custody of the children and the trial court ordered respondent to cooperate with DCFS to receive services.

¶ 17 On November 13, 2012, the first permanency hearing was held. The goal at that point was to return the children home within 12 months. Christine Molander, a Youth Services Bureau (YSB) caseworker, testified that respondent was engaged in anger management counseling, had completed a domestic violence assessment, and was compliant in her service requirements. Molander said that respondent's two hour weekly visits with the children went well. Molander would like to see respondent's visits with the children be unsupervised after around a month of good progress in counseling. The trial court found that respondent had made reasonable efforts for this review period and gave YSB the discretion to place the children with respondent if appropriate.

¶ 18 A second permanency hearing was held on May 14, 2013. The goal still remained to return the children home within 12 months. Lisa Wells, a YSB caseworker, testified that

respondent had been arguing with Sharlisa and not consistently interacting with Terrior and Jeremiah at visits. The agency was in the process of setting up parenting skills lessons for respondent and for the visits to be monitored by a parenting coach. Respondent was living at a shelter but had an appointment to get back on a list for housing. She had been compliant with services, however, she had missed four out of nine counseling sessions for being ill, having an appointment to secure housing, shopping in Chicago, and oversleeping. Wells said respondent had made some progress but not enough.

¶ 19 Respondent testified that she only missed four counseling sessions out of six months. On two of those occasions she had a doctor's appointment, and on the other two she had a bad headache. With regard to the caseworker's testimony about arguing with Sharlisa, respondent said that she refused to give Sharlisa her allowance because she got suspended from school for fighting. The caseworker was not happy about the conversation between respondent and Sharlisa and told respondent to speak to her daughter in a respectful way. The only problem she had with Sharlisa is that the child gets angry if she does not get her way. Respondent admitted that she sometimes got on the floor to play with the younger children during the visits, but that she did not do that all the time. At the conclusion of the second permanency hearing the trial court found that respondent had made reasonable efforts but it did not make a finding with regard to progress.

¶ 20 The third permanency hearing was held on September 17, 2013. Lisa Wells again testified and said that respondent had made reasonable efforts but not progress. Wells said that the YSB had significant concerns about respondent's ability to meet the needs of her children and her own needs even though she had completed all of the required services. Respondent often got angry and exploded and still struggled with visits with her children. The results of

respondent's psychological evaluation were still pending. She had struggled to obtain housing and was currently living in a motel in Rockford. Respondent had cancelled several visits due to having a high risk pregnancy, but she had provided documentation to that effect.

¶ 21 Respondent testified that she had been in the system since she was three months old and DCFS told her they would help her but they made no effort to do so. When she was younger and in foster care she was diagnosed with bipolar disorder and she took medication until she was around 16 years old. She no longer took any medication. She had a mental health assessment about a month ago and she was not diagnosed with any condition or prescribed any medication. The trial court again found that respondent had made reasonable efforts, but deferred a finding of reasonable progress.

¶ 22 A fourth permanency hearing was held on November 25, 2013. A report tendered by Lisa Wells indicated that respondent had completed a psychological evaluation on September 9, 2013, and the recommendation from that evaluation was that therapy services should continue to be offered to respondent, but that without respondent admitting to any problems there was no likelihood of progress. Respondent had missed nine out of ten visits with the children at the agency. Wells testified that the results of the psychological evaluation indicated that due to respondent's low functioning she was unable to properly parent her children.

¶ 23 Respondent testified that she was living in her own apartment and had employment as well as disability income. She missed visits with the children due to her high risk pregnancy, and informed the case worker every time she knew she would miss a visit. The trial court found that respondent had made reasonable efforts but not reasonable progress for this review period. It therefore found that it was in the minors' best interests to change the goal to substitute care pending court determination on termination of parental rights.



¶ 24 The State filed a motion for termination of parental rights as to Sharlisa and Terriorn on February 7, 2014, and as to Jeremiah on March 19, 2014. The motions both contained three counts of unfitness as to respondent: (1) she failed to maintain a reasonable degree of interest, concern or responsibility as to the children's welfare (count I) (750 ILCS 50/1(D)(b) (West 2012); (2) she failed to make reasonable progress toward the return of her children within 9 months after the adjudication of neglect (count II) (750 ILCS 50/1(D)(m)(ii) (West 2012); and (3) she failed to make reasonable progress toward the return of the children within any nine month period after the initial nine month period after adjudication of neglect (count III) (720 ILCS 50/1(D)(m)(ii) (West 2012) (2/16/13 to 11/16/13 or 5/16/13 to 2/16/14)).

¶ 25 On May 5, 2014, the court held a fifth permanency hearing. The parties acknowledged receipt of the YSB report and agreed to accept the factual content of the report subject to the cross-examination of the caseworker. It was noted in the report that on February 21, 2014, Sharlisa reported being sexually assaulted by a 15-year-old male who was the son of the foster parent's friend. Sharlisa was removed from the foster home and was in a temporary home until an investigation was completed. Sharlisa was receiving services to help her cope with the assault, and she expressed an interest in returning back to foster mother's home. The incident did not occur at the foster mother's home.

¶ 26 Lisa Wells then testified and said that there had been no change with regard to respondent's progress in having the children returned to her care since the goal was changed to substitute care pending a court determination of termination of parental rights on November 25, 2013. The children were all living with the foster mother again and wanted to be adopted by her. The respondent testified and admitted that she had missed some visits, but said she missed them because the weather was bad and she did not want the children to go out in that type of weather.

When she visited the children she interacted with them and told them she loved them. At the conclusion of the hearing the trial court found the goal should remain substitute care pending a determination on termination of parental rights.

¶ 27 The unfitness hearing began on July 24, 2014. Lisa Wells testified that from April to November 2013 respondent missed quite a few of the visits. She would call and confirm the visits 24 hours in advance according to the rules, but on the day of the visit she would call and cancel due to either illness, weather, or other excuses. Respondent only provided doctor's notes for two cancelled visits. From November 2013 to July 2014 respondent attended two or three visits out of nine, and she did not provide any documentation for her missed visits. Wells offered to drive to respondent's home and pick her up for visits, and when respondent lost her bus pass Wells offered her a new bus pass. However, respondent's attendance did not improve with offers of transportation, bus passes, or other accommodations. It took Wells five months to convince respondent to take the psychological evaluation, which prevented the agency from moving forward with placing the children back with respondent.

¶ 28 Wells testified that respondent would have "blowups" with the staff and have outbursts when she would come to the agency. One incident occurred four to six months after Wells was assigned as the caseworker. She was speaking with respondent in the lobby of the agency when respondent became very angry and loud and said the receptionist was saying things about her. Wells had to take her into a conference room and tell her to calm down. Every time respondent came to the agency she had a problem with other people. After September 2013 the agency could not even allow respondent unsupervised visits because she was not being appropriate during them. She focused on the staff monitor in the room, and whether she liked that person or not, and would get angry if she did not like them.

¶ 29 On cross-examination, Wells testified that respondent completed all the services that were required by the agency. She also completed the psychological assessment. With regard to visitation with the children Wells also said that the agency even offered to bring the visits to her home so she could rest while she was pregnant, but respondent did not want home visits.

¶ 30 Respondent testified that she completed all the services and the mental health assessment that was required by the agency. She missed several visits because she had a high risk pregnancy and had a lot of doctor appointments. She had done everything asked of her to the best of her ability. She was capable of having the children at her home and had been visiting them. She loved her children very much and believed that she had a good relationship with them. On cross-examination, respondent denied that she got angry or threatened her caseworker. She said she speaks loudly, but that is just her voice. She admitted to having issues with the receptionist at the agency. She denied threatening to kill the caseworker or her supervisor if they took her baby away. However, respondent's attorney then informed the court that he was present during the meeting with the caseworker and her supervisor, and he heard respondent threaten to kill the caseworker if she took her baby away. Counsel then asked respondent if she wanted a new attorney, and she said no. On rebuttal, Wells testified that respondent had threatened to kill her if the agency took her baby away.

¶ 31 On November 13, 2014, the court found that the State proved by clear and convincing evidence that respondent was an unfit parent as to counts I, II, and II of the State's motion to terminate her parental rights. The case proceeded immediately to a best interest hearing.

¶ 32 Respondent did not appear in court for the best interests hearing. Lisa Wells testified that Jeremiah, Terrion and Sharlisa were in the same foster home that they had been placed in two and a half years ago. Along with the foster mother, the children lived with the foster mother's

two biological daughters, ages 6 and 13. With regard to Jeremiah, Wells testified that he was three years old and in good health. He was enrolled in pre-Kindergarten, and his foster mother took him to all his doctor appointments. Wells had observed the interaction between Jeremiah and the foster mother, and in her opinion they have a good relationship. Jeremiah referred to the foster mother as his mother. With regard to the relationship between respondent and Jeremiah, Wells said that when respondent did attend visits Jeremiah usually just played with Terrion; respondent only focused on the baby that she gave birth to in December 2013. Before the baby was born the children would sit in the middle of the floor and play, but respondent would not join in. If a problem arose, the case aide would handle the problem, not respondent. Wells said respondent became upset about two weeks before when Jeremiah said she was not his mother and that his mother was Tamia, the foster mother.

¶ 33 Wells testified that Terrion was five years old and had a good relationship with his foster mother. Terrion had a speech problem but his foster mother understood him very well and she took him to speech therapy every week. Respondent had not inquired about Terrion's speech therapy or progress. He also had a heart murmur and enlarged tonsils, and his foster mother took him to all of his medical appointments. Respondent had been informed about Terrion's medical problems but had not asked about them. She did inquire once about a scheduled tonsillectomy and she was told it had been rescheduled. Terrion attended school and was doing well. His foster mother attended all his school functions and his IEP meetings. Respondent only inquired twice about how Terrion was doing in school.

¶ 34 Sharlisa was 13 years old and had a good relationship with her foster mother. She attended school and was progressing. The foster mother helped Sharlisa with her homework daily and was able to communicate well with her. Wells commented that the relationship

between respondent and Sharlisa was not good. During visits, Sharlisa sat by herself and read a book or did something else. Respondent tried to talk to Sharlisa during the visits, but the topics were often negative, *i.e.*, why Sharlisa got suspended from school, instead of anything positive. The agency tried to engage respondent in counseling with Sharlisa, but respondent refused and said that Sharlisa did not want her there, she did not think of respondent as her mother, and respondent did not want to argue with her.

¶ 35 Wells said that other than an occasional snack, respondent had not provided any food or clothing for the children since they had been in foster care. She had not seen respondent hug or otherwise be affectionate with the children, but she had seen respondent become very angry at the visits. The foster mother provided all the children's daily needs. None of the children had asked about returning to live with respondent. The children were happy and comfortable in the foster mother's home, they were attached to the foster mother's daughters, and the foster mother had indicated an interest in adopting the children.

¶ 36 At the conclusion of the hearing the trial court said that it had considered the statutory best interest factors, the evidence presented, and the arguments of counsel. It then found that the State had proven at least by a preponderance of the evidence that it was in the children's best interest that respondent's parental rights be terminated. Respondent timely appealed.

¶ 37 In her response to appellate counsel's motion to withdraw respondent claims that she was not given a copy of the "appeal" from appellate counsel. She also notes that she is "re-filing" her appeal and requests that another attorney be appointed to represent her in this matter. With regard to the merits of her response, respondent contends that she is not the monster that DCFS claims that she is, and she asks this court to have mercy on her and reverse the trial court's finding of unfitness and the termination of her parental rights. She claims that she only gets

angry when dealing with DCFS, she does not smoke or drink alcohol, and all of her drug tests were negative. Respondent discusses at length her involvement with DCFS as a child and the hardships that she has endured. She also alleges that in October 2014 an investigator was assigned to her because the foster mother hit Terrion in the face. According to respondent, Jeremiah and Terrion have both told her that their foster mother hits them. She also refers to Sharlisa's sexual assault and states that her defense counsel and Lisa Wells told her that the foster mother was not responsible for it. Finally, respondent argues that she has done all her classes more than once, and asks that when the children are returned to her that all necessary assistance be provided, including financial assistance and housing.

¶ 38

## II. ANALYSIS

¶ 39 Before determining whether this appeal contains no issues of arguable merit we must first address respondent's claim that that she was not given a copy of the "appeal" from appellate counsel. In the affidavit attached to counsel's motion to withdraw counsel stated that she served a copy of the motion by certified mail to respondent's last known address and informed her of the opportunity to present any additional matters to the court within 30 days. Although counsel's affidavit does not specifically state that she served respondent with both a copy of the motion *and* the memorandum in support of the motion, it is clear that she received both documents. Specifically, in her 88 page response (most of which is non-bates stamped copies of the record in this case as well as a separate case involving one of respondent's other children) respondent attached one page from counsel's memorandum of law in support of her motion to withdraw. On that page are handwritten notes which appear to be in response to the facts as stated by appellate counsel in her memorandum. Therefore, we find respondent's claim that she was not given a copy of this "appeal" to be without merit. See *Matter of Brazelton*, 237 Ill. App. 3d 269, 270-71

(1994) (under *Anders v. California*, 386 U.S. 738 (1967), a copy of the motion and brief must be furnished to the client, and the client must be given time to raise any points she chooses). Having determined that respondent received both documents as required under *Anders*, we now turn to the merits of this case.

¶ 40 Section 2–29 of the Act provides a bifurcated procedure for termination of parental rights. 705 ILCS 405/2–29 (West 2010). To terminate a party’s parental rights, the trial court must find: (1) the party is unfit, by clear and convincing evidence; and (2) by a preponderance of the evidence, that termination of the party’s parental rights is in the best interests of the child. *In re D.T.*, 212 Ill. 2d 347, 365-66 (2004). Neither an unfitness finding nor a best interest finding will be disturbed on review unless it is against the manifest weight of the evidence. *In re M.R.*, 393 Ill. App. 3d 609, 613, 617 (2009). A determination is against the manifest weight of the evidence only if the opposite conclusion is clearly evident or the determination is unreasonable, arbitrary, or not based on the evidence presented. *In re Katrina R.*, 364 Ill. App. 3d 834, 842 (2006).

¶ 41 The first ground upon which the trial court found respondent to be unfit was based upon her failure to maintain a reasonable degree of interest, concern, or responsibility as to the children’s welfare. 750 ILCS 50/1(D)(b) (West 2012). Since the language in section 1(D)(b) of the Act is in the disjunctive, any of the three grounds identified—the failure to maintain a reasonable degree of interest *or* concern *or* responsibility as to the welfare of the child—may be established as a basis for unfitness. *In re C.L.T.*, 302 Ill. App. 3d 770, 773 (1999). In determining whether a parent has shown a reasonable degree of interest, concern or responsibility for her children’s welfare, courts consider a parent’s efforts to visit and maintain

contact with the children, as well as other indicia of interest, such as inquiries into the children's welfare. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1064 (2006).

¶ 42 Here, there is ample evidence in the record to support a finding of unfitness on this ground. The record reflects that respondent did well for the first nine months after her children came into DCFS care. She attended counseling, completed a domestic violence assessment, and was appropriate with the children at visits. However, after that time respondent struggled greatly. She often cancelled visitations with the children and only produced two doctor's notes as excuses for those cancellations. From November 2013 to July 2014 respondent attended two or three visits out of nine. The record reflects that respondent's caseworker made several accommodations for respondent to meet with her children after she cancelled visitations, from offering to pick respondent up and take her to the visitation, offering to replace a bus pass that she had lost, and even offering to bring the children to respondent's home so that she could rest during her pregnancy. However, respondent continued to cancel visits. Even when respondent did visit the children she often did not interact with them appropriately, or at all. In her response to counsel's motion to withdraw respondent stated that she had completed all the services required of her. We agree with that assessment. However, respondent's completion of all the agency's requirements does not change the fact that her repeated cancellations of visitation time with her children, along with her failure to interact with the children when she was present for visitations, was clear and convincing evidence that she failed to maintain a reasonable degree of interest in Jeremiah, Terrion and Sharlisa. For this reason, the trial court's finding that respondent was an unfit parent for her failure to maintain a reasonable degree of interest, concern or responsibility as to the welfare of her children was not against the manifest weight of the evidence. 750 ILCS 50/1(D)(b) (West 2012).



¶ 43 Although the trial court found respondent unfit on two other grounds, “[a] parent’s rights may be terminated if a single alleged ground of unfitness is supported by clear and convincing evidence.” *In re D.C.*, 209 Ill. 2d 287, 296 (2004). Since at least one ground of unfitness was proven by clear and convincing evidence, we need not consider whether there are any meritorious bases for challenging the remaining grounds of unfitness.

¶ 44 We now turn to the question of best interests. At the best interests stage the court “focuses upon the child’s welfare and whether termination would improve the child’s future financial, social and emotional atmosphere.” *In re D.M.*, 336 Ill. App. 3d 766, 772 (2002). “The issue is no longer whether parental rights *can* be terminated; the issue is whether, in light of the child’s needs, parental rights *should* be terminated. Accordingly, at a best interests hearing, the parent’s interest in maintaining the parent-child relationship must yield to the child’s interest in a stable, loving home life.” (Emphasis in original.) *In re D.T.*, 212 Ill. 2d 347, 364 (2004). The trial court “cannot rely solely on fitness findings to terminate parental rights.” *D.M.*, 336 Ill. App. 3d at 772. The statutory factors that the trial court shall consider in the context of the child’s age and developmental needs include: (1) the child’s physical safety and welfare; (2) the development of the child’s identity; (3) the child’s familial, cultural, and religious background and ties; (4) the child’s sense of attachment, including love, security, familiarity, continuity of relationships with parent figures, and considering the least disruptive placement alternative for the child; (5) the child’s wishes and goals; (6) community ties; (7) the child’s need for permanence; (8) the uniqueness of every family and every child; (9) the risks related to substitute care; and (10) the preferences of the person(s) available to care for the child. 705 ILCS 405/1–3(4.05) (West 2012).

¶ 45 We initially note that in her response to counsel's motion to withdraw respondent refers to Sharlisa's sexual assault and the fact that defense counsel and Lisa Wells allegedly told respondent that the foster mother was not at fault for that incident. We have reviewed the YSB report which referred to Sharlisa's assault and note that the assault did not take place at the foster mother's home. Also, after Sharlisa was temporarily removed from that home after the assault she expressed an interest in returning to the foster mother's home. The foster mother cannot be blamed such a tragic incident, and its occurrence in no way supports an argument that it would be in the best interests of the children to live with respondent. Respondent also alleges that Jeremiah and Terrion had both told her that their foster mother hit them. We can find no support for such allegations in the record. Although respondent attached a document in her response indicating that an allegation about the foster mother hitting Terrion was investigated, that document is part of the record in a separate proceeding and is not subject to review in the instant case. However, even taking respondent's allegation as true, we can infer how that investigation concluded based upon the fact that at the time of the best interest hearing Sharlisa, Terrion and Jeremiah were all living with the foster mother.

¶ 46 The evidence presented at the best interest hearing indicated that the children were in the same foster home that they had been placed in over two years ago, and the foster mother was committed to adopting the children. The children were bonded with the foster mother as well as her two biological daughters. The foster mother had consistently attended to the children's individual needs for doctor visits, speech therapy and IEP meetings. On the other hand, respondent visited the children infrequently and never progressed to unsupervised visits due to her ongoing anger management and mental health issues. Respondent rarely asked about how the children were doing in school or about their medical issues, and the caseworker testified that

she never saw respondent show the children any affection. Also, the children never asked about returning home to respondent. For these reasons, the trial court's finding that it was in Jeremiah, Terrion, and Sharlisa's best interests for respondent's parental rights to be terminated was not against the manifest weight of the evidence. Therefore, we agree with counsel that no meritorious issues regarding best interests exists.

¶ 47

### III. CONCLUSION

¶ 48 After carefully examining the record, counsel's motion to withdraw, the memorandum of law in support of the motion, and the response filed by respondent, we grant the motion to withdraw and affirm the circuit court of Winnebago County. Since we have granted counsel's motion to withdraw on the ground that there are no meritorious issues on appeal, we deny respondent's request for a new appellate attorney to represent her in this matter.

¶ 49 The judgment of the circuit court of Winnebago County is affirmed.

¶ 50 Affirmed.