2015 IL App (2d) 150386-U
No. 2-15-0386
Order filed August 10, 2015

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re JULIANNA O. and BRETT O., Minors	)	Appeal from the Circuit Court
	)	of Winnebago County.
	)	
	)	Nos. 12-JA-103
	)	13-JA-193
	)	
	)	Honorable
(The People of the State of Illinois, Petitioner-Appellee, v. Nicole C., Respondent-Appellant).	)	Mary Linn Green,
	)	Judge, Presiding.

JUSTICE HUDSON delivered the judgment of the court.
Justices McLaren and Zenoff concurred in the judgment.

ORDER

¶ 1 *Held*: (1) The trial court's finding that respondent was an unfit parent due to her failure to maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare was not contrary to the manifest weight of the evidence: (2) the propriety of the other grounds upon which the trial court determined respondent was unfit is moot; and (3) the trial court's determination that it was in the minors' best interests that respondent's parental rights be terminated was not against the manifest weight of the evidence.

¶ 2 Respondent, Nicole C., appeals the judgment of the circuit court of Winnebago County finding her to be an unfit parent to her minor children, Julianna O. and Brett O., and terminating her parental rights. We affirm.

¶ 3 I. BACKGROUND

¶ 4 The record reveals the following facts relevant to this appeal. Respondent is the mother of Julianna, born on September 4, 2010, and Brett, born on January 20, 2013.[1] This case came to the attention of the Department of Children and Family Services (DCFS) following an incident occurring on September 13, 2011. On that date, the fire department and police were dispatched to respondent's home in response to a 9-1-1 call. The caller reported that Julianna was crying and respondent did not answer the door or her telephone. The fire department broke down the door and found respondent unresponsive inside. Respondent was taken to a hospital, where tests revealed she had a blood-alcohol level of 0.291. Against medical advice, respondent discharged herself from the hospital. On October 24, 2011, intact services were opened for the family and a safety plan was initiated. DCFS terminated the safety plan based on the level of support in place for respondent. After termination of the safety plan, respondent and the minors' father were involved in an altercation. At that time, the father contacted DCFS, claiming that respondent was drinking again and that Julianna was not safe in her care. During a family meeting with DCFS, the father recanted his story. Nevertheless, respondent and the father admitted to having issues in the past with regard to drinking and arguing. As a result, DCFS recommended substance-abuse treatment and referred the family to domestic-violence counseling. DCFS reported that respondent's participation in counseling services was not successful due to lack of attendance.

¶ 5 On April 12, 2012, the State filed a two-count neglect petition, which it later amended. In count I of the amended petition, the State alleged that Julianna's environment was injurious to her welfare in that respondent has a substance-abuse problem which prevents her from properly

[1] The minors' biological father voluntarily surrendered his parental rights and signed consents for adoption of the children. As a result, his status is not at issue in this appeal.

parenting, thereby placing the minor at risk of harm pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(b) (West 2012)). In count II of the amended petition, the State alleged that Julianna's environment was injurious to her welfare in that respondent failed to comply with the safety plan, in that she did not cooperate with treatment, thereby placing Julianna at risk of harm pursuant to section 2-3(1)(b) of the Juvenile Court Act (705 ILCS 405/2-3(1)(b) (West 2012)). At the initial court date, the State opted not to proceed with shelter care and the parties agreed that guardianship and custody was to remain with the natural parents. The parties also agreed that the parents would cooperate with DCFS, submit to a substance-abuse assessment, comply with recommended treatment, remain free of alcohol and illegal drugs, and be subject to random drug screening.

¶ 6 A family team meeting was held on June 21, 2012, at which the caseworker expressed concerns regarding respondent's commitment to substance-abuse treatment. The caseworker reported that respondent minimizes her substance-abuse issues and that she missed several days of treatment. Respondent was eventually discharged from substance-abuse treatment due to lack of cooperation. Moreover, respondent failed to complete two drug drops, resulting in them being considered positive. On June 22, 2012, respondent began serving a six-month prison sentence as a result of the incident that brought respondent to the attention of DCFS. Respondent informed DCFS that while incarcerated she enrolled in substance-abuse treatment through an organization known as "Remedies." Respondent was also instructed to begin services to address domestic-violence issues. The father took care of Julianna while respondent was incarcerated. Respondent enrolled in a work-release program and began services on July 12, 2012.

¶ 7 On August 9, 2012, respondent factually stipulated to count I of the State's amended neglect petition, and Julianna was adjudicated neglected. Count II was dismissed on the State's

motion, subject to respondent agreeing to complete services based on both counts of the amended petition. As of October 2012, respondent was incarcerated for a violation of the work-release program. At that time, respondent was pregnant with Brett. Although respondent enrolled in substance-abuse counseling through Remedies, her substance-abuse counselor noted that her attendance was sporadic. In addition, because of her incarceration, respondent was no longer attending domestic-violence counseling. The father continued to care for Julianna during respondent's incarceration. In a report, DCFS noted that, historically, Julianna has always been well cared for during the pendency of its dealings with the parties.

¶ 8 On January 11, 2013, a dispositional hearing was held. As part of the dispositional order, the court made Julianna a ward of the court. The court placed guardianship and custody of Julianna with Cynthia O., Julianna's paternal grandmother. Visitation between Julianna and the parents was at the discretion of Cynthia. At that time, the court also ordered the parents to cooperate with DCFS, remain free of alcohol and illegal drugs, and be subject to random drug screening. Following her release from prison, respondent was placed on probation, and she began residing with Cynthia. Respondent gave birth to Brett on January 20, 2013.

¶ 9 On April 23, 2013, the caseworker then assigned to the matter authored a "Concern Report." According to the report, respondent enrolled in substance-abuse treatment at Rosecrance, but was unsuccessfully discharged due to "attendance issues." Furthermore, respondent was referred by probation to Remedies for substance-abuse treatment, but had yet to complete services. On March 7, 2013, respondent failed to complete a drug drop requested by the caseworker. On April 8, 2013, respondent was charged with public drinking. At the time, respondent's probation officer reported that she would seek to vacate respondent's probation.

The report also noted that relatives, including Cynthia, indicated that they were having problems with respondent drinking and smoking in the home.

¶ 10 On May 2, 2013, DCFS received a hotline report alleging substantial risk of harm to Brett due to an incident of domestic violence between respondent and the father. Around the same time, DCFS also received information that respondent engaged in verbal aggression with Cynthia in the presence of Brett. On May 7, 2013, the State filed a two-count neglect petition regarding Brett, which it later amended. In count I of the amended petition, the State alleged that, pursuant to section 2-3(1)(b) of the Juvenile Court Act (705 ILCS 405/2-3(1)(b) (West 2012)), Brett's environment was injurious to his welfare in that respondent has a history of substance abuse which prevents her from properly parenting, thereby placing the minor at risk of harm. In count II of the amended petition, the State alleged that Brett's environment was injurious to his welfare in that his parents engage in domestic violence, thereby placing the minor at risk of harm. See 705 ILCS 405/2-3(1)(b) (West 2012).

¶ 11 A shelter-care hearing with respect to both minors was held on May 7, 2013. During the hearing, the caseworker acknowledged that respondent sporadically participated in substance-abuse programs. Nevertheless, she stated that during a meeting with respondent on May 3, she smelled alcohol on respondent. The caseworker also received a report that respondent passed out on May 3 due to excessive drinking. In addition, the caseworker believed that respondent was under the influence of alcohol at the shelter-care hearing. The caseworker opined that respondent had not made reasonable progress in dealing with her substance-abuse or domestic-violence issues. Following the hearing, the court entered a temporary custody order placing guardianship and custody of the minors with DCFS. The order further provided that DCFS shall have discretion to place the minors in traditional foster care or with a responsible relative, that

visitation between the parents and the minors shall be at the discretion of DCFS, that Cynthia shall not supervise visitation, and that neither parent may reside with Cynthia. The order also provided that the parents shall have a minimum of three hours' visitation per week if "appropriate and possible." Respondent's visitation with the children became sporadic following the hearing, with only one supervised visit occurring between May 21, 2013, and August 1, 2013.

¶ 12 On July 9, 2013, the State filed a motion to modify or vacate the dispositional order with respect to Julianna. In its motion, the State alleged that Cynthia had allowed unsupervised contact between the parents, Julianna, and Brett. Meanwhile, the caseworker supervised a visit between respondent and the minors on August 2, 2013. During this visit, the caseworker smelled alcohol on respondent's breath. In a report detailing this incident, the caseworker voiced concerns that respondent had not remained sober and was struggling with substance-abuse issues. The caseworker noted, however, that respondent was scheduled to begin substance-abuse counseling at Remedies in August 2013 and that she had found employment.

¶ 13 On August 14, 2013, the parties informed the court that they had an agreement with respect to the motion to modify guardianship and custody of Julianna. Pursuant to the agreement, the court entered an order granting guardianship and custody of Julianna to DCFS, with discretion to place the minor in traditional foster care or with a responsible relative. The order further provided that visitation would be at the discretion of DCFS, with standard orders of protection and cooperation. With respect to Brett, the parties stipulated to count I of the neglect petition, as amended. Count II was dismissed on the State's motion, subject to respondent agreeing to complete services based on both counts of the amended petition. Custody and

guardianship of Brett was also awarded to DCFS, with the same conditions as those imposed with respect to Julianna. The minors' placement remained with Cynthia.

¶ 14 Sometime prior to October 10, 2013, respondent admitted to having unsupervised visitation with her children, during which she was reported to be caring for the children five nights a week. Respondent also admitted that she relapsed on July 4, 2013, had been drinking since then, and had engaged in substance abuse while unsupervised with the children. As a result, the children were moved to a new relative placement. Between August and October 2013, respondent's participation in substance-abuse treatment was described by the counselor as "minimal." Respondent attributed her failure to attend substance-abuse treatment during this period to caring for her children. Respondent's caseworker reported that after the incident in which respondent was suspected of being intoxicated during a visitation, she was consistently visiting with her children and acting lovingly and appropriately with them during the visits. However, during a visitation on October 29, 2013, respondent was suspected of being under the influence, and respondent admitted drinking prior to her visit with the minors. Moreover, respondent failed to complete a drug screen scheduled for November 5, 2013, so it was considered positive.

¶ 15 A client service plan dated November 19, 2013, required respondent to address various issues, including substance abuse and domestic violence. Respondent's overall progress with respect to these tasks was rated as unsatisfactory. The caseworker noted that respondent failed to notify her of a relapse involving substance abuse, she attended a visit with the children while under the influence, she failed to complete a drug screen in November 2013, and she failed to successfully engage in services during the period covered by the plan. At a permanency-review hearing in February 2014, the court determined that the most appropriate goal for the minors is

return home within 12 months. The court further determined that respondent did not make reasonable efforts for the review period. The matter was continued to August 5, 2014.

¶ 16 Meanwhile, respondent attended a substance-abuse assessment and was referred to a program through Rosecrance. The counselor reported that respondent appeared intoxicated at her first intake appointment on February 14, 2014. The foster family at that time also reported that respondent appeared to be under the influence during visits in December 2013 and February 2014. In March 2014, while participating in an intensive outpatient substance-abuse program at Rosecrance, respondent tested positive for the use of opiates. Respondent self-reported using heroin at around the same time. In April 2014, respondent was admitted to the detoxification unit at Rosecrance and then referred for inpatient services. Against the advice of medical professionals, respondent left the program. Client service plans dated March 13, 2014, and April 28, 2014, required respondent to address substance-abuse, domestic-violence, and mental-health issues. The caseworker rated respondent's overall progress on these tasks as unsatisfactory. The caseworker noted that during the periods covered by the service plans, respondent tested positive for the use of opiates, she failed to successfully engage in substance-abuse treatment, she failed to engage in mental-health services, and she did not consistently attend domestic-violence services.

¶ 17 In May 2014, respondent was again referred for detoxification services. In June 2014, following her detoxification stay, respondent successfully completed inpatient treatment. Upon discharge, respondent was instructed to participate in an intensive outpatient program at Rosecrance, obtain a sponsor, and attend sobriety meetings. In July 2014, respondent was unsuccessfully discharged from the intensive outpatient program due to missing two drug drops and lack of attendance. According to Rosecrance staff, respondent reported at that time that she

was actively using one to two bags of heroin per day. Respondent also failed to complete recommended mental-health services, individual counseling, and domestic-violence services.

¶ 18 In June 2014, respondent's probation officer reported that she had not been compliant with the terms of her probation. On July 11, 2014, respondent's probation officer requested a drug drop. Respondent tested positive for opiates. On July 17, 2014, respondent attended a probation hearing. She has since been serving a sentence at Logan Correctional Center for a probation violation (drug use) with a projected parole date of June 2015.

¶ 19 On August 1, 2014, the children were placed with David O., the father's uncle, and David's wife, Jeanne O. The minors visited respondent twice while she was incarcerated, once on September 11, 2014, and once on October 10, 2014. According to the caseworker, the children appeared excited to see respondent during these visits, and, at the end of both visits, Juliana was visibly upset and expressed that she did not want to leave.

¶ 20 A client service plan dated November 5, 2014, rated respondent's overall progress as unsatisfactory. The caseworker noted that respondent has struggled with her sobriety. Further, respondent's attendance at domestic-violence classes was inconsistent and her participation, when she was present, was lacking. The caseworker also noted that respondent failed to engage in mental-health services. Following a permanency review hearing on November 5, 2014, the court determined that respondent did not make reasonable efforts or reasonable progress toward regaining custody of the children during the relevant review period. In addition, the court determined that it is in the minors' best interest that the goal for the children be changed to substitute care pending termination of parental rights.

¶ 21 On January 6, 2015, the State moved to terminate respondent's parental rights. The State alleged that respondent was an unfit parent on the following three grounds: (1) failure to

maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare (750 ILCS 50/1(b) (West 2012)); (2) failure to make reasonable efforts to correct the conditions that were the basis for the removal of the minors from her within nine months after an adjudication of neglect (750 ILCS 50/1(m)(i) (West 2012)); and (3) failure to make reasonable progress toward the return of the minors to her within any nine-month period after an adjudication of neglect (750 ILCS 50/1(m)(ii) (West 2012)). With respect to Julianna, the State identified the relevant nine-month periods as: (1) August 9, 2012, through May 9, 2013; (2) May 9, 2013, through February 9, 2014; and (3) February 9, 2014, through November 9, 2014. With respect to Brett, the State identified the relevant nine-month periods as: (1) August 14, 2013, through May 14, 2014; and (2) May 14, 2014, through February 14, 2015. The State further alleged that it was in the best interests of the minors that respondent's parental rights be terminated.

¶ 22 A hearing on respondent's fitness to parent was held on March 4, 2015. At the hearing, the court took judicial notice of the various dispositional and adjudicatory orders entered in the case. The only two witnesses to testify at the fitness hearing were respondent and Jeffrey March, the caseworker then assigned to the matter. Respondent testified regarding her history of incarceration. She stated that she was incarcerated in 2012. She was incarcerated again on July 15, 2014, when she violated her probation by testing positive for heroin. Respondent acknowledged that she needed to remain drug and alcohol free to get her children back. She was also aware that she needed to complete substance-abuse treatment to get her children back. Respondent stated that she has been attending substance-abuse treatment "on and off" for four years. She explained that she has had to stop attending for various reasons, including employment and incarceration.

¶ 23 Respondent testified that she is currently housed in the Logan Correctional Center. In September 2014, while incarcerated, respondent enrolled in a treatment program through Wells. She completed the program in November 2014. Her drug drops during the program were clean. However, on January 10, 2015, respondent tested positive for heroin while she was incarcerated. Following the positive drop, respondent was placed in segregation. As a result, respondent is not allowed to have any contact visits with the children for six months. Respondent admitted that she knew that she was not supposed to be using heroin while she was incarcerated and that she would be placed in segregation if she got caught. Respondent also acknowledged that she was aware that if she were placed in segregation, she would not be able to see her children.

¶ 24 March testified that he was assigned to the case late in October 2014 or early in November 2014. March testified that the most current service plan is dated November 5, 2014. March identified other service plans dated April 28, 2014, March 13, 2014, and November 19, 2013. The service plans were admitted into evidence. March also testified that since he became the caseworker, a visitation plan was established to allow respondent to visit the minors once a month. March testified that visits did occur in November and December 2014. March attempted a visit in January 2015, but was turned away because respondent was in segregation. March was not aware that the visit would be disallowed until he was turned away at the prison. No visits occurred after that.

¶ 25 At the close of the fitness hearing, the court found that that the State proved by clear and convincing evidence that respondent was unfit based on all three grounds alleged in the petitions. The case then proceeded to a best-interests hearing.

¶ 26 At the best-interests hearing, March testified that Julianna is four years old and Brett is about one-and-a-half years old. Since August 1, 2014, the minors have resided with foster

parents David and Jeanne, who have agreed to provide permanency. March visits the foster home about once a month. He has not observed the children interact with David, but noted that the children refer to Jeanne as "mom." Based on his observations, March opined that the children are comfortable in the foster home. He also noted that Julianna indicated that she wants to remain in the home. March further opined that the foster parents possess the ability to meet the needs of the children and that the foster home is a safe and stable place for the minors. He noted that each child has his or her own room and that the home has a fenced yard. Moreover, the foster parents emphasize the children's education, have enrolled Julianna in dance classes, and have paid a dental bill that DCFS would not cover. March testified that the foster parents are committed to adopting the minors, and he opined that it is in the best interests of the minors that they be freed up for adoption.

¶ 27 March testified that while incarcerated, respondent sends letters to the minors at least once a month. March indicated that Brett does not verbalize much given his age, but noted that Julianna becomes excited when she learns that she will be visiting respondent. March also noted that the interaction between respondent and the minors is appropriate and that Julianna seems "very attached" to respondent. He testified, however, that because of respondent's incarceration, she cannot provide for the minors' day-to-day basic needs. March testified that respondent's expected release date is June 2015. He noted, however, that because of her positive drug drop, her release could be delayed until November. March further opined that once respondent is released from prison, she would have to seek substance-abuse treatment and demonstrate a period of sobriety to safely care for the children.

¶ 28 Respondent testified that she loves seeing her children and looks forward to her visits with them. She stated that her interactions with the minors involve "[l]ots of smiles, happiness,

hugs, [and] kisses." Respondent testified that between November 2013 and her incarceration in summer 2014, she had weekly, supervised visits with the children. Respondent testified that during those visits, she would read to the children, make them lunch, and play. Respondent did not believe that it would be in the best interests of the children to terminate her parental rights. She explained that it would be better for the children to be placed with her because of the bond between her and the minors. Respondent also stated that she loves the children and can take care of them. Respondent acknowledged, however, that she is unable to care for the children while under the influence of illegal substances.

¶ 29 Respondent testified that her release date from prison is June 6, 2015, and that her segregation will not delay the release. Respondent testified that she has not had a visit with the children since December 2014. However, she requested an in-person visit with the children and her request was granted, with the visit scheduled to occur sometime after the court date. Respondent testified that she will be on parole after her release from prison and she intends to live with her mother in Arlington Heights.

¶ 30 Jeanne testified that the minors have been living with her and David since August 1, 2014. Jeanne testified that each child has his or her own room in the home and that both children are enrolled in preschool. Jeanne testified that Julianna has participated in therapy. Jeanne explained that Julianna has moved around a lot and she is scared that she is going to lose her and David. In addition, Julianna has expressed concern about respondent's ability to care for herself.

¶ 31 Jeanne testified that the minors have a good relationship with her and David. She testified that she administers discipline when needed. Jeanne testified that she, David, and the minors engage in a variety of activities, such as going to the park, attending concerts, plays, and movies, going to the library, reading, and playing with the couple's dogs. Jeanne also testified

that she, David, and the minors have gone to a hockey game, assembled a gingerbread house, built a snowman, colored Easter eggs, and gone to the zoo. Jeanne opined that she and David have become attached to the minors and the minors have become attached to them. Jeanne testified that she and David are willing to provide a permanent home for the minors. Jeanne acknowledged that Julianna is attached to respondent and that she talks about her. She noted that Julianna and respondent have spent time together and have a lot of memories. Jeanne testified that whether she will allow contact between respondent and the minors in the future will depend on respondent's ability to work through her addiction issues.

¶ 32 David testified that although he travels a lot for work, he has regular contact with the children. David testified that his greatest pleasure with both children is watching them learn. David testified that both children are enrolled in preschool and doing well. David confirmed that he and Jeanne are willing to give the minors a permanent home as part of their family.

¶ 33 David testified that Julianna gets upset sometimes. When this happens, David holds her and tries to get her to express why she is upset. He also discusses with Julianna any changes in behavior that would prevent a meltdown in the future. David testified that some of Julianna's meltdowns involve respondent. He explained that Julianna is aware that respondent is incarcerated and that jail is not a good place to be. David acknowledged that Julianna loves her mother, a feeling which he encourages. David testified that he is open to contact between respondent and the minors, but emphasized the importance of him and Jeanne bonding with the children to help them feel a sense of permanency and security. David testified that he and Jeanne are willing to adopt the minors.

¶ 34 At the close of the hearing, the court determined that the State had proven by a preponderance of the evidence that it is in the best interests of the minors that respondent's parental rights be terminated. This appeal followed.

¶ 35 II. ANALYSIS

¶ 36 A parent's right to raise his or her biological children is a fundamental liberty interest, and the involuntary termination of that right is a drastic measure. *In re B'yata I.*, 2014 IL App (2d) 130558-B, ¶ 28. As a result, the Juvenile Court Act sets forth a two-stage process for the involuntary termination of parental rights. 705 ILCS 405/2-29(2) (West 2012). Initially, the State must prove that the parent is unfit. 705 ILCS 405/2-29(2), (4) (West 2012); 750 ILCS 50/1(D) (West 2012); *In re Adoption of Syck*, 138 Ill. 2d 255, 277 (1990); *In re B'yata I.*, 2014 IL App (2d) 130558-B, ¶ 28. If the court finds the parent unfit, the State must then establish that termination of parental rights would serve the child's best interests. 705 ILCS 405/2-29(2) (West 2012); *In re Adoption of Syck*, 138 Ill. 2d at 277; *In re B'yata I.*, 2014 IL App (2d) 130558-B, ¶ 28.

¶ 37 With respect to the first stage of the termination process, section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2012)) lists various grounds under which a parent may be found unfit. *In re B'yata I.*, 2014 IL App (2d) 130558-B, ¶ 29. The State has the burden of proving a parent's unfitness by clear and convincing evidence. 705 ILCS 405/2-29(2), (4) (West 2012); *In re B'yata I.*, 2014 IL App (2d) 130558-B, ¶ 29. A determination of parental unfitness involves factual findings and credibility assessments that the trial court is in the best position to make. *In re B'yata I.*, 2014 IL App (2d) 130558-B, ¶ 29. As such, the trial court's determination of a parent's unfitness will not be reversed on appeal unless it is contrary to the manifest weight of the evidence. *In re B'yata I.*, 2014 IL App (2d) 130558-B, ¶ 29. A decision is against the

manifest weight of the evidence "if a review of the record 'clearly demonstrates that the proper result is the one opposite that reached by the trial court.' " *In re Brianna B.*, 334 Ill. App. 3d 651, 656 (2002) (quoting *In re M.K.*, 271 Ill. App. 3d 820, 826 (1995)). Moreover, because the grounds for unfitness are independent, we may affirm the trial court's judgment if the evidence supports it on any one of the grounds alleged. *In re E.O.*, 311 Ill. App. 3d 720, 726 (2000).

¶ 38 In its motions to terminate respondent's parental rights, the State set forth three grounds of unfitness: (1) failure to maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare (750 ILCS 50/1(b) (West 2012)); (2) failure to make reasonable efforts to correct the conditions that were the basis for the removal of the minors from her within nine months after an adjudication of neglect (750 ILCS 50/1(m)(i) (West 2012)); and (3) failure to make reasonable progress toward the return of the minors to her within any nine-month period after an adjudication of neglect (750 ILCS 50/1(m)(ii) (West 2012)). The trial court found that the State had proven all three grounds by clear and convincing evidence. On appeal, respondent contends that the trial court's findings as to each ground are against the manifest weight of the evidence.

¶ 39 With respect to the first ground of unfitness, section 1(D)(b) of the Adoption Act provides that a parent may be found unfit for "[f]ailure to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare." 750 ILCS 50/1(D)(b) (West 2012). Since the language of the statute is in the disjunctive, any one of the three individual elements, *i.e.*, interest *or* concern *or* responsibility, may be considered by itself as a basis for unfitness. 750 ILCS 50/1(D)(b) (West 2012); *In re B'yata I.*, 2014 IL App (2d) 130558-B, ¶ 31.

¶ 40 In determining whether a parent has shown a reasonable degree of interest, concern, or responsibility for a minor's welfare, a court considers a parent's efforts to visit and maintain

contact with the child as well as other indicia, such as inquiries into the child's welfare. *In re B'yata I.*, 2014 IL App (2d) 130558-B, ¶ 31. Completion of service plans may also be considered evidence of a parent's interest, concern, or responsibility. *In re B'yata I.*, 2014 IL App (2d) 130558-B, ¶ 31; see also *In re M.J.*, 314 Ill. App. 3d 649, 656 (2000) (noting that failure to comply with the directives of a service plan, *i.e.*, failure to make reasonable efforts or reasonable progress toward the return of the child, is analogous to a parent's failure to maintain a reasonable degree of interest, concern, or responsibility as to the welfare of the children, except that no time frame exists). The court must focus on the parent's efforts, not on his or her success. *In re Adoption of Syck*, 138 Ill. 2d at 279; *In re B'yata I.*, 2014 IL App (2d) 130558-B, ¶ 31. In this regard, the court examines the parent's conduct concerning the children in the context of the circumstances in which that conduct occurred. *In re Adoption of Syck*, 138 Ill. 2d at 278; *In re B'yata I.*, 2014 IL App (2d) 130558-B, ¶ 31. Accordingly, circumstances such as difficulty in obtaining transportation, poverty, actions and statements of others that hinder visitation, and the need to resolve other life issues are relevant. *In re Adoption of Syck*, 138 Ill. 2d at 278-79; *In re B'yata I.*, 2014 IL App (2d) 130558-B, ¶ 31. Furthermore, if personal visits with the children are somehow impractical, other methods of communication, such as letters, telephone calls, and gifts, may demonstrate a reasonable degree of interest, concern, or responsibility, "depending upon the content, tone, and frequency of those contacts under the circumstances." *In re Adoption of Syck*, 138 Ill. 2d at 279. We are mindful, however, that a parent is not fit merely because he or she has demonstrated *some* interest or affection toward the children. *In re Jaron Z.*, 348 Ill. App. 3d 239, 259 (2004); *In re B'yata I.*, 2014 IL App (2d) 130558-B, ¶ 31. Rather, the interest, concern, or responsibility must be objectively reasonable.

In re Daphne E., 368 Ill. App. 3d 1052, 1064 (2006); *In re B'yata I.*, 2014 IL App (2d) 130558-B, ¶ 31.

¶ 41 Respondent argues that the trial court's finding that the State proved by clear and convincing evidence that she failed to maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare is against the manifest weight of the evidence. According to respondent, she was always observed as being appropriate and caring toward her children. Moreover, while she acknowledges her substance-abuse problems, she points out that she successfully completed inpatient drug treatment and she consistently reported any relapses. Even accepting these statements as true, we find ample evidence in the record to support a finding of unfitness based on a failure to maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare.

¶ 42 This case came to the attention of DCFS due to respondent's issues with substance abuse and domestic violence. The initial service plan covered a review period from May 31, 2013, through November 19, 2013, and the tasks outlined in the service plan required respondent to address those issues. Respondent acknowledged at the fitness hearing that she knew that she needed to complete substance-abuse treatment and remain drug and alcohol free to get her children back. Yet, respondent was rated unsatisfactory overall on her progress for the tasks outlined in the service plan. Significantly, the caseworker found that respondent had not demonstrated an ability to maintain sobriety throughout the review period. She noted, for instance, that in October 2013, respondent self-reported a relapse and had been drinking since July 2013. The caseworker also reported that respondent appeared at a visitation on October 29, 2013, while under the influence. In addition, respondent failed to engage in domestic-violence services, she was in danger of being discharged from substance-abuse treatment due to

inconsistent attendance, and she failed to complete a drug screen on November 5, 2013, so it was considered to have been positive.

¶ 43 Subsequent client service plans required respondent to participate in tasks intended to address mental-health issues in addition to substance-abuse and domestic-violence issues. Respondent's progress on those plans, which were dated March 13, 2014, April 28, 2014, and November 5, 2014, was also rated as unsatisfactory. During the relevant review periods, respondent appeared to be under the influence during visits to the home of the foster parents in December 2013 and February 2014. Respondent also appeared under the influence during a February 2014 intake appointment for substance-abuse treatment. In addition, respondent tested positive for opioids in March 2014 while participating in an intensive outpatient substance-abuse program. She was referred to inpatient treatment. Nevertheless, against medical advice, respondent left inpatient treatment in April 2014. In June 2014, following a detoxification stay, respondent successfully completed inpatient substance-abuse treatment. She was instructed to find a sponsor and attend sobriety meetings. However, in July 2014, respondent was unsuccessfully discharged from an intensive outpatient program because she missed two drug drops and violated a contract regarding her attendance. At that time, respondent informed Rosecrance staff that she was actively using one to two bags of heroin per day. Respondent was subsequently incarcerated after her probation officer requested a drug drop and respondent tested positive. Moreover, respondent was referred for individual counseling, but her participation was negatively impacted by her inability to maintain her sobriety. In addition, although respondent attended an assessment for domestic violence, respondent was unsuccessfully discharged from domestic-violence services due to her repeated absences and lack of participation.

¶ 44 In short, the record reflects that respondent struggled to address the problems that placed the children in care. Respondent has a pattern of being involved in substance-abuse treatment and then relapsing. Further, despite an order that she refrain from using alcohol or illegal drugs, respondent was observed to be under the influence while visiting the minors. Respondent's failure to maintain sobriety has lead to her incarceration. Additionally, respondent failed to consistently participate in domestic-violence treatment and she did not followed through with recommendations regarding her mental-health concerns. While the client service plans include some positive comments about respondent's care of the children, respondent fails to put those few positive assessments in the context of the three-year period from 2012 through 2015, and the four failed client service plans. Accordingly, we cannot say that the trial court's finding that respondent failed to demonstrate a reasonable degree of interest, concern, or responsibility as to the minors' welfare was against the manifest weight of the evidence. Given that one ground is sufficient for a finding of unfitness, we need not address the trial court's findings as to the other two counts of unfitness.

¶ 45 Once the trial court finds a parent unfit, it must determine whether termination of parental rights is in the minors' best interests. *In re B'yata I.*, 2014 IL App (2d) 130558-B, ¶ 41. As our supreme court has noted, at the best-interests phase, "the parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life." *In re D.T.*, 212 Ill. 2d 347, 364 (2004). Section 1-3(4.05) of the Juvenile Court Act (705 ILCS 405/1-3(4.05) (West 2012)) sets forth various factors for the trial court to consider in assessing a child's best interests. Relevant considerations 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; (4) the child's sense of attachment, including love, security, familiarity, continuity

of relationships with parent figures; (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) preferences of the person available to care for the child. 705 ILCS 405/1-3(4.05) (West 2012). The State bears the burden of proving by a preponderance of the evidence that termination is in the best interests of the minors. *In re D.T.*, 212 Ill. 2d at 366; *In re B'yata I.*, 2014 IL App (2d) 130558-B, ¶ 41; *In re Deandre D.*, 405 Ill. App. 3d 945, 953 (2010). A trial court's best-interests finding will not be disturbed on appeal unless it is against the manifest weight of the evidence. *In re B'yata I.*, 2014 IL App (2d) 130558-B, ¶ 41. As noted above, a decision is against the manifest weight of the evidence only if an opposite conclusion is clearly apparent. *In re Brianna B.*, 334 Ill. App. 3d at 656 (quoting *In re M.K.*, 271 Ill. App. 3d at 826).

¶ 46 The evidence presented at the best-interests hearing indicated that the minors have been in their current foster home since August 1, 2014, and that the foster parents are committed to adopting them. By all accounts, the minors are comfortable in the foster home, and Julianna, the older child, has expressed that she wants to remain in the foster home. The record also reflects that the minors have bonded with their foster parents and that the foster parents consistently attend to the minors' individual needs. For instance, the foster parents have enrolled both children in preschool, where they are doing well. In addition, the foster parents and the children have engaged in a wide variety of cultural activities. Further, the foster parents have taken Julianna to therapy to address concerns she has expressed regarding the minor's frequent moves and her relationship with respondent.

¶ 47 Although respondent undoubtedly loves the minors, she is unable to provide for their day-to-day basic needs. At the time of the hearing, respondent was incarcerated for a violation

of probation after she tested positive for drug use and admitted using heroin. Respondent continued using drugs while incarcerated even though she was aware that she would be placed in segregation if caught and that being placed in segregation would mean that she could not visit with the minors. Moreover, once respondent is released from prison, she will have to seek substance-abuse treatment and demonstrate a period of sobriety to safely care for the children. Given the foregoing evidence, we cannot say that the trial court's finding that it is in the minors' best interests that respondent's parental rights be terminated is against the manifest weight of the evidence. Quite simply, unlike respondent, the foster parents are able to provide the minors with a stable and safe place in which to flourish.

¶ 48 Respondent nevertheless contends that there was "zero evidence" that her children had ever been physically harmed by her. While we do not disagree, the record shows that respondent had no understanding of the *psychological* harm her addictions were causing the children. Indeed, the purpose of the best-interests hearing is to determine what is best for the child, not to assess fault or blame. See *In re O.S.*, 364 Ill. App. 3d 628, 637 (2006). Respondent also complains that it was not clear from the testimony at the best-interests hearing whether the foster parents would allow respondent contact with the children should an adoption occur. However, when a court enters an order terminating one's parental rights, the parent-child relationship ceases to exist. See *In re D.T.*, 212 Ill. 2d at 361. Thus, whether future adoptive parents would allow contact between respondent and her children is a privilege within the purview of the adoptive parents. As the supreme court has stated, "a parent whose rights are terminated no longer has a right to visitation with his or her child." *In re Adoption of Syck*, 138 Ill. 2d at 275. Respondent also argues that the "solution" chosen by the State was to "destroy" the relationship between her and her children rather than to "work out a mechanism by which the children can

still have guaranteed contact with their mother." However, the State worked with respondent from 2012 through 2015, presenting her with four different service plans to help her reunite with her children. Respondent failed to make adequate progress during any of the review periods.

¶ 49 III. CONCLUSION

¶ 50 In light of the foregoing, we affirm the judgment of the circuit court of Winnebago County finding respondent to be an unfit parent and terminating her parental rights.

¶ 51 Affirmed.