



in temporary foster care. The court adjudicated the minor neglected and, at a dispositional hearing, the court continued the minor in foster care and ordered each parent to complete specific tasks before the minor would be returned to either parent's care. The State filed a supplemental petition to terminate the rights of both parents. The trial court found father unfit as alleged in the termination petition. The court then found it was in the best interests of the minor to terminate father's parental rights. Father appeals the trial court's findings of his unfitness and the minor's best interests resulting in the termination of his parental rights. We affirm.

¶ 3

### BACKGROUND

¶ 4

The minor, Z.J.S., was born February 27, 2012. On March 6, 2012, upon the minor's release from the hospital, the State filed a neglect petition on behalf of the minor alleging the minor was neglected because his mother, Amanda L. (mother), and his putative father, Aaron S. (father), provided an environment that was injurious to his welfare. This neglect petition alleged the minor's two siblings, A.S. and Am.S., were previously adjudicated neglected in Rock Island County juvenile cases, Nos. 10-JA-98 and 11-JA-11, respectively.<sup>1</sup> According to Z.J.S.' original neglect petition, neither parent made substantial or reasonable progress toward having the older siblings returned to either parent's care and there were pending petitions to terminate the parental rights of both parents regarding A.S. and Am.S. in their cases, Nos. 10-JA-98 and 11-JA-11.

¶ 5

The neglect petition for Z.J.S. also alleged both mother and father had been previously diagnosed with mental health issues and neither parent had been compliant with mental health treatment. Regarding father, the neglect petition further asserted father had a history of substance abuse, had not completed substance abuse treatment, and had been arrested four times during the past year for domestic battery against mother. The court appointed a guardian *ad*

---

<sup>1</sup> The minor and his two siblings share the same mother, however, Aaron S. is the father of this minor, Z.J.S., and Am.S., in case No. 11-JA-11, and not the father of A.S.

*litem* (GAL) for the minor, counsel for each parent, and ordered temporary shelter care placement for the minor pending the outcome of this neglect petition.

¶ 6 On June 1, 2012, after a contested hearing, the juvenile court found the minor neglected and set the matter for a dispositional hearing. On June 26, 2012, the court entered a written dispositional order finding the minor was neglected based on his parents providing an injurious environment for the minor, and named the Department of Children and Family Services (DCFS) as the minor’s guardian to continue foster care placement. Also, on June 26, 2012, the court entered a supplemental dispositional order listing specific tasks each parent had to complete to have the minor returned to the care of either parent.<sup>2</sup> In that supplemental dispositional order, father was specifically ordered to: attend and successfully complete parenting classes, obtain psychological and psychiatric evaluations, and follow all recommendations for psychological and psychiatric treatment, including taking prescribed medication.

¶ 7 On August 9, 2013, the State filed a supplemental petition to terminate the parental rights (supplemental petition to terminate) of both father and mother. Regarding father, the supplemental petition to terminate alleged father failed to make reasonable efforts to correct the conditions that were the basis for the removal of the child, and failed to make reasonable progress toward the return of the child to father within nine months after the adjudication of neglect, during the period from June 26, 2012, through March 26, 2013. Further, the petition alleged father lacked the ability to discharge parental responsibilities because father failed to maintain permanent housing, failed to take medication as prescribed as part of his recommended mental health treatment, and father’s psychological evaluation indicated father lacked the “wherewithal necessary to ensure the safety and stability of any child in his care.”

---

<sup>2</sup> The parents did not reside together during the pendency of these proceedings.

¶ 8

## I. Fitness Hearing

¶ 9

The court held the fitness hearing on the supplemental petition to terminate on December 16, 2013.<sup>3</sup> The court took judicial notice of the prior rulings and findings in the instant case, as well as those in the siblings' cases, case Nos. 10-JA-98, *In re* A.S., and 11-JA-11, *In re* Am.S.

¶ 10

The State's first witness was Sherry Koerperich, a child welfare advanced specialist. Koerperich testified she had been the minor's caseworker since March 2012, when the minor was released from the hospital. She was also the family's caseworker involving the minor's siblings and had been working on the same service plan with father in those cases. At the time Z.J.S.' case was filed, neither parent had completed their service plans with respect to the minor's siblings. Mother remained homeless and father did not follow through with his mental health treatment plans or maintain stable housing. DCFS determined that the minor would be at a risk of harm if placed with either parent upon his release from the hospital.

¶ 11

According to Koerperich, father had been ordered to comply with the same service plan regarding his other child, Am.S., prior to and throughout this case involving Z.J.S. This service plan required father to cooperate with his mental health, substance abuse and domestic violence treatment programs and recommendations, and to take his prescribed medication. Koerperich said father was found unfit in Am.S.' termination petition, case No. 11-JA-118 on August 27, 2012, for his failure to make reasonable progress toward completing his service plan in that case. Father's parental rights for Am.S. were terminated on October 30, 2012.

¶ 12

Koerperich testified she prepared the report for the court dated December 11, 2012. At that time, father stated he was attending his mental health appointments, from June 26 through

---

<sup>3</sup> The guardian *ad litem* (GAL) was present for the minor. Neither parent appeared at the start of this hearing, however, each parent's appointed attorney was present. Approximately one hour into the hearing, father appeared and participated in this fitness hearing.

December 11, 2012. However, pursuant to father's signed releases, father's medical records documented that father was not taking his medication for schizophrenia as prescribed.

Additionally, father did not maintain permanent housing and was "staying" with his grandparents. Occasionally during this same period, father also stayed with his cousin in Davenport, Iowa. Koerperich stated she attempted but was unable to inspect these residences to determine whether the residences were suitable homes for the minor.

¶ 13 Koerperich reported that father worked at Medeco through a temp agency during this six-month period, and father received income from both employment and disability benefits. According to this caseworker, father had been arrested twice during this six-month period. One arrest was based on a miscommunication regarding whether father was banned from Sunset Heights, a low-income housing complex (Sunset Heights). The other arrest was for failure to report to his probation officer. During this same period, Koerperich recommended to father that he attend counseling at "Monarch," but father did not attend. Koerperich said father attended all of his scheduled supervised visits with the minor, and those visits went well.

¶ 14 Koerperich testified she also prepared the report for the court covering the progress of this family from December 11, 2012, through March 13, 2013. At that time, father continued to stay at his grandparents' house or cousin's house, work for Medeco, and receive disability payments. Father continued to regularly attend his supervised visits which continued to go well. Koerperich again obtained releases from father for his medical and counseling reports. Although father denied his noncompliance with taking his medications, father's medical records stated father had not been taking his medication, was having auditory hallucinations, and father asked the doctor to restart him on medication. Koerperich testified it was important for father to take

his medication because he was diagnosed with schizophrenia. Based on this information, Koerperich said she recommended that father comply with a psychological examination.

¶ 15 Father completed the psychological evaluation on April 10, 2013. According to this evaluation, father was diagnosed with “[s]chizophrenia, undifferentiated type, recurrent, in partial remission.” Father told Koerperich he took Zyprexa and Olanzapine medication for his schizophrenia. According to Koerperich, father showed her a large, white, unlabeled bottle containing large, oval tablets and told her these were his Zyprexa pills. When Koerperich said she thought Zyprexa was a small pill, father admitted those pills were not his Zyprexa, however he did not explain what the large oval pills contained.

¶ 16 By the end of the first nine-month period after the adjudication of neglect regarding Z.J.S., March 26, 2013, father still had not maintained permanent housing for himself and the minor and the caseworker had not been allowed to enter or inspect the grandparents’ home. Additionally, father’s grandmother died during this period which disrupted his living arrangements and father ended up moving in with his cousin at Sunset Heights. Father did not pay for his housing at either of these locations. Koerperich was unable to observe the apartment at Sunset Heights because, when she appeared for an appointment to inspect this living arrangement, no one answered the door. According to Koerperich, father had been living with friends in Rock Island in January 2012 and mother also stayed there for awhile. Then father lived with friends in Davenport until he moved back with his grandmother during the summer of 2012.

¶ 17 Koerperich testified father had not followed his mental health treatment during this period because the doctor’s report said medication had been prescribed and father told the doctor, at each appointment, that father had not been taking his medication. Father did not

complete domestic violence treatment by March 26, 2013. However, just prior to this fitness hearing on December 16, 2013, Koerperich learned that father completed domestic violence counseling as a condition of his probation, and his probation was terminated in November 2013.

¶ 18 The State then asked the court to take judicial notice of the filings in this minor's case: the dispositional report filed on June 18, 2012; the permanency review reports filed on December 11, 2012, March 13, 2013, June 24, 2013, and a "status alert" filed May 7, 2013; as well as the various orders entered in the instant case and the court's findings included therein. Father's attorney did not object to the orders or the court's findings, but objected to the hearsay in the reports.

¶ 19 Sherri Jamison, a family support worker for Bridgeway Family Services, testified she supervised the visits between father and the minor for two hours each week on Thursday mornings. She said the visits took place in the town where the minor resided; initially occurring at Jamison's office in Moline, then the Galesburg DCFS office, and, at the time of the hearing, in Princeton. Jamison stated she transported father to these visits. Jamison stated father interacted appropriately with the minor during his supervised visitation.

¶ 20 Father then testified during the fitness hearing that he moved into a two-bedroom house, approximately one week before this hearing, where he lived alone. Since this case was filed, father agreed he lived, for periods of time, with friends, his grandparents, and his cousin at Sunset Heights. After father's grandmother died, father said he "began to go from my \*\*\* grandparents' house and my cousin's house, back and forth a little, for a while."

¶ 21 Father said he worked full-time at Medeco, a factory, earning \$350-400 a week, but he had been "off" for the past two weeks due to a leg injury. Father said he also received disability payments since 2006 because he was diagnosed with paranoid schizophrenia. Father stated he

took Zyprexa, a prescribed medication, for his schizophrenia. Father said he had been seeing Dr. Dudzinski since February 2013. Prior to that, he saw Dr. Chacho.<sup>4</sup> According to father, he took his medication as prescribed. The court admitted into evidence an undated, one-sentence letter, prepared by Dr. Dudzinski for father, stating father was under Dr. Dudzinski's care and has been compliant with treatment (Father's Exhibit 1).

¶ 22 Father testified about the symptoms of his schizophrenia. Father stated he had not had a visual hallucination for 10-12 years. However, father testified he sometimes hears auditory hallucinations, like a mumbling sound, when he goes to sleep at night.

¶ 23 During cross examination, father agreed that Dr. Dudzinski's letter did not include a time period for which father was compliant with his treatment for schizophrenia. Father said he did not know why his medical records, from earlier in the year of 2013, indicated father was not properly taking his medication. According to father, that was not an accurate statement and father believed he always took his medications. Father testified, during his doctor's visits, the doctor asked him if he would like to stay on his medications and father said he wanted to stay on medication because it helped him sleep, and "then, they [the doctors] would change it."

¶ 24 The State recalled Koerperich for rebuttal evidence. Koerperich testified she reviewed father's medical case notes during his visits with Dr. Chacho, his psychiatrist. For example, Koerperich referred to a note in the medical records that provided: "7/25, 2012. Patient has been off his medication for about a month. He's positive for auditory hallucinations." According to Koerperich, she received documentation from Dr. Dudzinski indicating, on August 2, 2013, father told Dr. Dudzinski that father had been off his medication for over a month and the auditory hallucinations were returning. More recent documentation from Dr. Dudzinski, dated

---

<sup>4</sup> The transcript from this hearing refers to this doctor as "Dr. Chacho (phonetic)." An earlier permanency review hearing report spells this doctor's name as "Dr. Chiaco."





However, that home study indicated grandmother was unable to provide adequate care for Z.J.S. and his siblings. This was further complicated because father is not the biological parent of the oldest sibling, A.S. Koerperich stated father's sister, Deshay S., recently inquired about having all three children placed with her although she never met the children. Koerperich ordered a home study for Deshay's house, which was not yet completed, however, in Koerperich's opinion, removing Z.J.S. from his current foster placement after bonding with his foster parents and two siblings would be devastating to the minor. Koerperich said the parental rights for the other two siblings had already been terminated and the adoption process for those minors had already begun in the current foster home. This same foster home wanted to adopt Z.J.S. and the siblings could all live together permanently. Further, Deshay had no relationship with the minors.

¶ 29 Koerperich described the foster parents as having no children of their own and wanting to adopt all three children. Koerperich testified both of the foster parents were employed and were able to afford to raise the minor and his siblings. The foster parents had extended family members in the area who also bonded with the minors. Additionally, the foster parents took the minors to church and on vacation with other family members.

¶ 30 In Koerperich's opinion, it was in the best interests of Z.J.S. to terminate father's parental rights and allow the foster parents to adopt the minor. The foster parents had the means to support all three children. Koerperich also testified that father still had obtained verified sufficient housing, at the time of the best interests hearing, to have Z.J.S. placed in father's care, and the minor had been living in foster care for 2 1/2 years.

¶ 31 Next, Dan I. testified that he and his wife, Brittany, were the foster parents for the minor and his siblings since May 16, 2014. Dan worked as a pharmacist and Brittany worked part-time

at her family's business as a barista at the KJWW cafe. Dan said he used to be the pharmacy manager, but he opted to leave the managerial position so he had more time to spend with Brittany and the three minors. Dan said his schedule now required him to work seven nights in a row and then he was off for seven days. Dan took a five-week "FMLA" leave of absence from work when the minors moved to their home on May 16, 2014, to bond with the minors. Dan said Brittany worked approximately 15 hours per week. Dan testified that they used "In a Kid's World" daycare if they needed to utilize daycare when both parents were working at the same time, but the majority of the time either Dan or Brittany were available to care for the minors. Dan said he and Brittany were able to support all three children financially if they adopted the minors.

¶ 32 Dan said Z.J.S. had a speech impediment and attended speech therapy. He and Brittany also practiced the speech therapy at home with the minor. According to Dan, Z.J.S. and his siblings have a close bond with both Brittany and him. Part of their weekly routine includes attending church on Sundays. Brittany's family lives in the area and her extended family is very close to all three minors. Dan said his extended family lives in the Chicago area, but the minors are also close to his extended family. Dan said he and his wife were already working on the process of adopting Z.J.S.' siblings and they are committed to adopting Z.J.S. if he becomes available for adoption. The State rested its case.

¶ 33 Father's mother, Gloria S., testified that she lived in Noblesville, Indiana. Gloria said she contacted DCFS in 2000, when the first sibling was born. Since April 2013, Gloria said she worked through the interstate compact to try to have the minors placed with her. Gloria said the Indiana caseworker, Katherine Kway, initially told Gloria she was approved to be a licensed, foster parent for the children. Gloria produced a copy of a "rough draft" of the "resource

adoption family preparation summary,” given to her by Kway, which indicated Gloria was conditionally recommended as a licensed relative caregiver for the three minors pending proof of income references and training. However, later, according to Gloria, Kway told Gloria that Koerperich wanted to find an adoptive home for all three of the minors together. Gloria stated she knew that one of the older siblings was not her biological grandchild. Gloria said the interstate compact denied her as a foster placement possibility for the minors. Gloria has appealed that decision, which was still pending.

¶ 34 Next, father’s sister, Deshay S., testified that she would have initiated foster placement of the children with Deshay if her mother, Gloria, had not already been in the process of attempting to have the children placed in her care. In February 2014, Gloria told Deshay that the interstate compact was not going to allow Gloria to get Z.J.S. placed with her. Deshay said she completed filling out the application around July 2, 2014. At the time of this hearing, Deshay said her application was still pending. Deshay asked the court to place all three of the minors with her upon receiving the interstate compact decision on her application.

¶ 35 Father testified he continued to work at Medeco through a temporary service, A-1 Staffing. Father stated he does not really have mental problems, but he does see a psychiatrist every two to three months. Father tendered a document, Father’s Exhibit 2, prepared by his psychiatrist stating the psychiatrist could not confirm whether father regularly took his medication, but father regularly attended his appointments. Father also said he contacted his Walgreen’s store regarding the regularity of refilling his prescription, however, he did not have that document with him.

¶ 36 Father said he consistently visited with his son, Z.J.S. Father said he asked for more visitation with the minor after he rented his own house in November of 2013. Father stated he

rented the house in his name, but his cousin, Terrell, and Terrell's children also stay with him a lot. Father said he lived with his grandmother and grandfather while his grandmother was taking chemo medication and needed a lot of assistance. After his grandmother died, father said he was depressed and he stayed with a relative at Sunset Heights for approximately three to four weeks.

¶ 37 Father said he was not aware of any tasks or court orders that he did not complete. Father admitted he refused to sign a release last month so Koerperich could speak to father's current landlord, but father said he thought she wanted him to sign a release for Sunset Heights. Father felt that release was unnecessary, since he no longer stayed at Sunset Heights. However, father testified that he told Koerperich he would give her a copy of his lease to verify his housing, rather than have her talk to the landlord. Father also admitted he refused to sign a release to verify his employment, but he told Koerperich he would give her a paycheck stub to verify his employment.

¶ 38 Father stated he lost his rights to Am.S., but father felt he could take proper care of Z.J.S. Father said he was very close to Z.J.S, and raising him would be "simple." Father said he never missed visits with Z.J.S.

¶ 39 The State recalled Koerperich as a rebuttal witness. Koerperich produced a copy of a June 19, 2014, email from Katherine Kway, the Indiana caseworker, and explained the final draft of the report from Indiana in 2013 indicated there were concerns about Gloria's financial situation, and that Gloria did not follow through with her proof of income or references. Another concern expressed in the report referred to Gloria's lack of a relationship with the three minors due to her minimal contact with them.

¶ 40 Regarding father's living arrangements, Koerperich said father told her he was renting the home for himself since March of 2014, but he had other people living there with him and he

refused to sign a release to allow her to contact the landlord. Father also failed to provide Koerperich with a copy of a lease agreement for that residence. Koerperich stated she had physically been inside that house, but she did not know whether it was actually father's residence or that of another woman who also lived there. Koerperich noted all of the photos on the wall in that residence were of the woman and her children, and there were no photos of father. Koerperich questioned whether that was father's residence or he was just staying there with another person.

¶ 41 At the close of the evidence, the court explained that it considered all of the best interests factors listed under section 1-3(4.05) of the Juvenile Court Act of 1987 (Act). 705 ILCS 405/1-3(4.05) (West 2012). Specifically, the court stated it considered the minor's physical safety and welfare; his development of his identity; his background and community ties, such as family culture and religion; his sense of attachment, including where the minor feels love, a sense of security, familiarity, continuity, and the least disruptive placement; the minor's wishes; and the minor's long-term goals. The court also factored in the minor's need for permanence, including the need for stability and continuity regarding his relationships with his parental figures, siblings, and other relatives.

¶ 42 Regarding father, the court found father expressed a willingness and desire to regain custody of the minor. However, the court found father lacked the ability to ever become more stable and provide a permanent placement for this minor. The court found the foster parents had a "genuine commitment to all three of the children," and provided an acceptable long-term placement option for this minor together with his siblings through adoption.

¶ 43 Although the court found that the paternal aunt or grandmother expressed a desire to provide a potential home for Z.J.S., the court found it was in the best interests of the minor to

terminate father’s parental rights and allow for the minor to be adopted. The court entered a written order at the close of the best interests hearing on August 11, 2014. After the court denied father’s motion for reconsideration of that order, father filed a timely appeal.

¶ 44

#### ANALYSIS

¶ 45

On appeal, father first argues that the trial court erred in finding that the State proved by clear and convincing evidence that father was an unfit parent. Next, father claims the trial court erred in finding that it was in the best interests of the minor to terminate his parental rights. The State contends both of the trial court’s findings were not against the manifest weight of the evidence.

¶ 46

Proceedings on a petition for termination of parental rights involve a two-step, bifurcated approach where the court first conducts a fitness hearing (705 ILCS 405/2-29 (West 2012); 750 ILCS 50/1(D) (West 2012)) and, if the trial court adjudicates the parent unfit based on the content of the petition to terminate parental rights, the court then must conduct a dispositional or “best interests” hearing where the court considers whether it is in the best interests of the child that parental rights be terminated. 705 ILCS 405/2-29 (2) (West 2012); *In re D.F.*, 201 Ill. 2d 476, 494-95 (2002). In the instant case, father is challenging both the court’s unfitness and best interests rulings.

¶ 47

#### I. Finding of Unfitness

¶ 48

On review, we determine whether a trial court’s finding of a parent’s unfitness was against the manifest weight of the evidence. *D.F.*, 201 Ill. 2d at 498. A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident or the finding is unreasonable, arbitrary, or not based on the evidence presented. *Id.* Under this standard, we give deference to the trial court’s decision since it is in “the best position to observe the conduct

and demeanor of the parties and the witnesses and has a degree of familiarity with the evidence.”  
*Id.* at 498-99.

¶ 49 In the case at bar, the trial court found father unfit on the ground that father failed to make reasonable progress toward the return of the child to his care during the nine-month period following an adjudication of neglect, from June 26, 2012, through March 26, 2013, pursuant to section 1(D)(m)(ii) of the Adoption Act. 750 ILCS 50/1(D)(m)(ii) (West 2012). Our supreme court has held “the benchmark for measuring a parent’s ‘progress toward the return of the child’ \* \* \* encompasses the parent’s compliance with the service plans and the court’s directives, in light of the condition which gave rise to the removal of the child, and in light of other conditions which later become known and which would prevent the court from returning custody of the child to the parent.” *In re C.N.*, 196 Ill. 2d 181, 216-17 (2001).

¶ 50 In the instant case, Z.J.S. was placed in protective custody upon his release from the hospital after his birth and the State filed a neglect petition based on both father’s and mother’s inability to provide an environment that was not injurious to the minor’s welfare. This allegation was based, in part, on the fact that both father and mother had another child under the guardianship of DCFS, in case No. 11-JA-11, *In re Am.S.*, in which there was a pending petition to terminate their parental rights based on failure to make reasonable progress toward the return of that child to their care.<sup>5</sup> The service plan in place for father, regarding Z.J.S., mirrored the earlier service plan for Am.S., and father had not made reasonable progress toward having Am.S. returned to his care.<sup>6</sup> Our supreme court has held that a trial court’s earlier finding of neglect

---

<sup>5</sup> Mother had a petition to terminate her rights to a third child, with a different father, in case No. 10-JA-98, *In re A.S.* This is another sibling placed in the adoptive foster home with Z.J.S.





preferences of the person available to care for the child. *Id.* At this phase, we apply the manifest weight of the evidence standard when reviewing a trial court's determination regarding the best interests of the child. *B.B.*, 386 Ill. App. 3d at 697.

¶ 54 Here, the trial court expressly stated it considered these statutory factors when reaching its decision regarding the best interests of the minor. Based on father's history regarding Z.J.S. and Am.S., the court found father lacked the ability to ever become stable and provide a permanent placement for this minor. The record showed that father had not maintained a stable residence throughout the course of these proceedings, had not attended counseling at Monarch as requested, had not completed his domestic violence counseling in a timely manner as requested, and medical records showed he had not remained compliant with his medication for schizophrenia as required. Although the record showed father had regularly attended supervised visits and did well during the visits, the minor had never lived with father during the first two-and-one-half years of his life.

¶ 55 The evidence further demonstrated that the foster parents had a commitment to all three of the children, Z.J.S. and his two siblings, and provided an acceptable long-term placement option for these children through adoption. The record shows that this minor had bonded with his foster parents and his siblings, was doing well in foster care, and the foster parents were able to provide for all of his needs. Based on the record, the trial court's best interests finding was not against the manifest weight of the evidence.

¶ 56 After careful review of the record, we conclude the court's findings were supported by the record. Therefore, the court's decision finding father unfit and finding it was in the best interests of Z.J.S. to terminate father's rights were not against the manifest weight of the evidence.

¶ 57

## CONCLUSION

¶ 58

For the foregoing reasons, we affirm the trial court decision.

¶ 59

Affirmed.