NOTICE

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2015 IL App (4th) 150304-U

FILED

September 18, 2015 Carla Bender 4th District Appellate Court, IL

NOS. 4-15-0304, 4-15-0305, 4-15-0306, 4-15-0307 cons.

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

 Appeal from Circuit Court of Macon County No. 13JA23
) No. 13JA23))))))
) No. 13JA24)))))
 No. 13JA24 No. 13JA24 Honorable Thomas E. Little, Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court. Justices Turner and Steigmann concurred in the judgment.

ORDER

- ¶ 1 Held: (1) The trial court did not err in finding respondent parents unfit.
 - (2) The trial court did not err in terminating respondent parents' parental rights.
- ¶ 2 Respondent parents, Heidi Sanchez and Rosalino Sanchez, appeal the orders finding them unfit parents and terminating their parental rights to Ro. S. (born February 5, 2007) and Re. S. (born January 16, 2008). Respondents argue the orders are against the manifest weight of the evidence. We affirm.

¶ 3 I. BACKGROUND

- Respondents share two children: Ro. S. and Re. S. Heidi has three other minor children: Jos. A., Jon. A., and M.A. Respondents' parental rights to Re. S. and Ro. S. is the issue in this appeal.
- In February 2013, the State petitioned for adjudication of wardship. The record contains only the petition filed on behalf of Re. S. This petition alleges two counts of abuse and one of neglect. Specifically, the State alleged, in 2012, a Macon County warrant was issued on Rosalino for sexually abusing M.A., who was under 13 at the time. While the warrant was pending, Heidi, in November and December 2012, took Re. S., Ro. S., and M.A. to Missouri to visit Rosalino. During this visit, Rosalino sexually abused M.A. As a result of this abuse, criminal charges were pending in Missouri against Rosalino for sexual abuse and against Heidi for endangering the life and safety of a child. Pursuant to stipulation, the minor children were found neglected and placed with the Department of Children and Family Services (DCFS).
- In March 2013, Heidi committed the offense of permitting sexual abuse of a child, Jos. A., aged 13 years (720 ILCS 5/11-9.1A (West 2012)). The information alleged Heidi "had actual knowledge and permitted an act of sexual abuse on Jos.[]A. in that [Heidi] video recorded

the sexual abuse." The video, made during a birthday party for Jos. A., shows an adult dancing provocatively on Jos. A.'s lap. Heidi was arrested for this offense in May 2014, after she sent a copy of the video to M.A. In August 2014, Heidi pleaded guilty. Heidi was sentenced to 30 months' sex-offender probation.

- In November 2014, the State petitioned for findings of unfitness and the termination of respondents' parental rights. The State alleged the following: (1) respondent parents failed to maintain a reasonable degree of interest, concern, or responsibility as to the children's welfare (750 ILCS 50/1(D)(b) (West 2012)); (2) Heidi is depraved in that she was convicted of permitting sexual abuse of a child, her developmentally disabled son, who is not subject to this appeal (750 ILCS 50/1(D)(i) (West 2012)); (3) Rosalino is depraved based on his sexual abuse of M.A. (750 ILCS 50/1(D)(i) (West 2012)); (4) respondents failed to make reasonable efforts to correct the conditions that were the basis of the children's removal (750 ILCS 50/1(D)(m)(i) (West 2012)); (5) respondents failed to make reasonable progress toward the children's return during two nine-month periods after the neglect adjudication (April 29, 2013, to January 29, 2014, and January 29, 2014, to October 29, 2014) (750 ILCS 50/1(D)(m)(ii), (iii) (West 2012)); (6) Heidi is unable to discharge her parental responsibilities due to mental illness (750 ILCS 50/1(D)(p) (West 2012)).
- The fitness hearing began in January 2015. Lori McKenzie, a clinical psychologist, testified regarding her interview and testing of Heidi. According to Dr. McKenzie, Heidi did not appear to have problems with her intellectual functioning. Her reading level was adequate for parenting. Heidi had experienced trauma similar to her children's experiences beginning at a young age. The trauma pervaded her life.

- ¶ 9 Dr. McKenzie testified Heidi initially took action upon learning M.A. had been abused by Rosalino, but then she went to great lengths to avoid being detected by authorities when she took Rosalino's children and M.A. to meet with him. Dr. McKenzie also reported concern over an event that occurred at Jos. A.'s birthday party. Heidi videotaped an incident where she encouraged a 19-year-old woman to dance provocatively with Jos. A, who was developmentally disabled. Heidi denied videotaping this incident, but explained "it was a cultural thing." Dr. McKenzie opined it would not be safe for the children to be returned to her in nine months, believing successful treatment for Heidi after the trauma she suffered would take at least several years.
- In the sincidents that have occurred." Dr. McKenzie diagnosed Heidi with post-traumatic stress disorder and other unspecified personality disorders with mixed personality features.
- Amanda Beasley-Ricks, a foster-care supervisor through Webster-Cantrell Hall (Wester-Cantrell), testified she was the supervisor for the case since it opened. Visitation had to be adjusted because Heidi allowed unapproved visitors to accompany her during visits. In May 2014, Heidi was arrested. Heidi had not completed parenting classes. When Heidi was arrested, she was required to attend a sex-offender class. For this, Heidi was referred to Heritage Behavioral Health Center (Heritage).
- ¶ 12 According to Beasley-Ricks, Heidi's progress on the first two service plans,

covering February 2013 to February 2014, was satisfactory. From February to August 2014, however, Heidi's progress was rated unsatisfactory. The overall problem during this time period was Heidi's May 2014 arrest, which led to more services. Heidi's progress on the August 2014 service plan was not complete. The foster parent had to acquire an order of protection against Heidi.

- ¶ 13 Beasley-Ricks opined Heidi would be unable to correct the conditions within a reasonably short period of time. Visitation had not occurred since April 2014 due to Heidi's failure to comply without involving other people and because, due to her legal situation, Heidi may not be around her children. Beasley-Ricks believed Heidi was compliant with her probation. Beasley-Ricks had no contact with Rosalino.
- Melanie Ishmael, an adoption/foster-care caseworker at Webster-Cantrell, testified she was the caseworker since November 2013. As of February 2015, Heidi had five parenting sessions remaining. The 16-week parenting course began in May 2013, and Heidi had not completed it. Although individual therapy was completed, family therapy had just begun with M.A. when Heidi was arrested. Because of Heidi's conviction, family therapy was not an option due to the probation conditions. As of February 2014, return home was the goal.
- According to Ishmael, Heidi and Rosalino remained married. Because of Rosalino's imprisonment, Heidi had difficulties in completing service of the dissolution proceedings. Heidi had spoken to Ishmael about reuniting with Rosalino after he received the help he needed, but then, at other times, she insisted she would not go back to him. At the beginning of the case, Heidi acquired an order of protection against Rosalino.
- ¶ 16 Ishmael testified Rosalino was provided with service plans, but he had not

attempted to contact her. He had not completed any services. Rosalino was in federal custody.

- Regarding Heidi's arrest, Ishmael testified she received a copy of the video and turned it over to the police. Heidi indicated the recorded events occurred in 2013, but the arrest occurred in May 2014. The two older sons, Jos. A. and Jon. A, were not taken into DCFS care at the same time Re. S. and Ro. S. were taken into custody. This decision was made before Ishmael became the caseworker. She understood, however, because they were older, they were not at risk of harm.
- Arika Campbell, a case aide, testified there were two-hour weekly visits as of August 2013, when she began working with the family. The last visit between Heidi and Re. S. and Ro. S. occurred at the end of April 2014. Visits stopped due to the conditions of Heidi's probation. Heidi regularly attended the visits and they went "pretty well." At times, Campbell had to remind Heidi there was no smoking around the children. The children were excited to see Heidi.
- ¶ 19 The State submitted into evidence a copy of Rosalino's conviction for the aggravated criminal sexual abuse of M.A. (720 ILCS 5/11-1.60 (West 2012)). Rosalino entered a negotiated plea, by which four counts of aggravated criminal sexual assault were dismissed. For his offense, Rosalino was sentenced to five years' imprisonment.
- ¶ 20 Stacy Parton testified on Heidi's behalf. Parton, a therapist and program manager for Heritage, testified she had a master's degree in clinical psychology. Heidi was a client. Since September 2014, Parton and Heidi met weekly. Parton believed Heidi sought therapy on her own. Parton had not been contacted by Webster-Cantrell. Parton helped Heidi deal with the symptoms from trauma. Heidi was doing very well in treatment; she consistently kept

appointments. Parton diagnosed Heidi with post-traumatic stress disorder. Parton did not observe behaviors that indicated a diagnosis of antisocial personality disorder, antisocial traits.

- According to Parton, she and Heidi discussed the circumstances that led to her guilty plea. Parton acknowledged she had not been trained in evaluating sex offenders, but she observed Heidi did not display characteristics of a sex offender. Parton opined Heidi was someone who had been sexually victimized. Heidi exhibited "much empathy towards her children." Heidi was expressive of her emotions. She missed her children and spoke of hope the children were safe and well.
- ¶ 22 Tim Moore, a licensed clinical professional counselor, testified he was Heidi's therapist when she was a client of Webster-Cantrell. Moore performed an intake assessment of Heidi in June 2013. The last time Moore saw her as a client of Webster-Cantrell was April 30, 2014. Moore visited with Heidi, at her request, on September 15, 2014. Moore offered Heidi four additional *pro bono* visits to help Heidi handle the trial court's decision.
- In their Webster-Cantrell meetings, Moore and Heidi "worked very hard" on eliminating the impact of a lifetime of trauma. The two were able to reduce a lot of the irrational negative thinking Heidi had of herself. Regarding Heidi's progress, Moore testified he believed they were very successful in dealing with her issues. The two worked on setting boundaries and developing emotional and behavioral self-regulation skills. Heidi's ability to recognize the difference between what is morally right and wrong had greatly improved. When asked if Heidi was able to realize the impact of sexual abuse on her children, Moore responded he thought "that understanding of the impact increased the more we unpacked her own trauma and the more she was able to recognize what it had done to her." Moore thought, with psychological services and

support, Heidi could be successful. Moore could not, however, provide a timeline when Heidi could parent her children successfully. Moore was not comfortable with Heidi receiving her children as of the date of his testimony.

- Heidi testified regarding parenting classes. Heidi missed approximately five or six classes. She missed one of the classes after her mother died in July 2013. Parenting classes occurred over 16 weeks. To make up the classes she missed, she would have had to wait the 16-week period to attend the classes that were missed. Heidi explained, after 16 weeks passed, she missed the same class she missed for her mother's funeral after falling down stairs and going to the hospital. This set completion of the parenting course back another 16 weeks. Heidi had two remaining classes to complete, but, because of her May 4, 2014, arrest, she was not allowed to finish them.
- Heidi testified she attended counseling at Growing Strong to work on setting boundaries. Heidi requested another counselor after the Growing Strong counselor gave improper advice. That counselor told Heidi she would be fine if her husband received treatment as it appeared he was not a sex offender but was attracted to her daughter. This counselor also told Heidi the family could live happily ever after if they completed individual and family counseling. Heidi spoke to someone at Webster-Cantrell about getting a new counselor and the problems she experienced. Heidi was told not to worry about the situation, as she would not be rated unsatisfactory. After the State took M.A., Re. S., and Ro. S., the State did not take Jos. A. or Jon. A. into care. The two boys resided with Heidi until the Friday before Heidi's May 2014 arrest. Jon. A. moved next door with his father. Jos. A. moved in with his grandmother.
- ¶ 26 Heidi and Rosalino remained married due to problems arising from her sex-

offender status. Rosalino was not a United States citizen. He was to be released in August 2015, and Heidi hoped he would be in federal custody.

- Regarding the events that led to the order of protection, Heidi testified she was in the town where her children resided with their foster mother to visit her adult daughter. While there, they were driving to rummage sales. At some point, Heidi drove down a street where the foster mother's truck was parked. Heidi drove past them as they entered the truck. Heidi called the foster mother to apologize for the accidental contact and informed her probation officer of the incident as well.
- ¶ 28 According to Heidi, the terms of her probation required her to visit with her probation officer in her home every two weeks and to attend sex-offender therapy with Dave Metcalfe every other week. Heidi was compliant with both. Regarding visits with the children, Heidi testified to the following:

"The understanding that I have is as long as I am at the—they're going on like a—kind of like a scale of how well they think I'm doing, and if I'm doing well enough, and they feel like I'm safe enough to have supervised visits with my children, that they'll allow it, but they only go every six months to review the cases. The last week of March [2015] will be my first review, and it's a possibility they could allow it, and there is a possibility they could say wait another six months for another review."

¶ 29 Heidi believed the visits with her children went very well. Heidi testified regarding the testimony of the unapproved visitors. Heidi testified the date was July 4, 2013.

Heidi took her 20-year-old daughter, who was approved to the visit, as well as her 4-year-old nephew the daughter was baby-sitting. The 4-year-old was the unapproved visitor. The other incident occurred later that month before Heidi knew anyone was upset about the earlier event. Heidi and her stepdaughter and her girlfriend wanted to see Ros. A. and Rey. A. Heidi's plan was to meet the foster mother and the two children at the restaurant, while the stepdaughter and girlfriend sat elsewhere during the visit. According to Heidi, the foster mother invited the two women to dine with Heidi and her children.

- Heidi testified, if Rosalino was not deported and she had the children, she would move away or "hide at a Dove shelter or something." Her intent would be to keep the children safe. On cross-examination, Heidi testified she was not grappling with the fact she was convicted of permitting sexual abuse of a child. During sex-offender treatment, she was upset with the fact the 19-year-old person who danced inappropriately with her child received only 50 hours of community service. Heidi believed her own sentence should not have been minimized, but the offender's sentence should have been maximized.
- ¶ 31 Heidi introduced into evidence a July 2014 sex-offender evaluation authored by Terry D. Campbell, a licensed sex-offender evaluator. Campbell interviewed Heidi at the Macon County jail. He opined Heidi presented a low risk to commit another sex offense. Campbell found no evidence of a propensity to sexually harm anyone and concluded Heidi did not appear to present a risk of harm to her children. Campbell did not recommend sex-offender treatment, but he recommended continued mental-health treatment to address her issues.
- ¶ 32 At the close of evidence, the trial court found Dr. McKenzie credible and her testimony convincing. The court emphasized Dr. McKenzie's conclusion the trauma Heidi

suffered as a child lessened Heidi's ability to recognize the trauma to her own children. The court also highlighted the conditions of Heidi's probation, which required she not initiate or establish contact with any child, including relatives, without prior written approval from the probation officer and treatment provider. The court found the State proved Heidi and Rosalino unfit by clear and convincing evidence on all grounds.

- In April 2015, the best-interests hearing was held. Ishmael testified the children were placed together in foster care and had been in the same home since February 2013. The children were doing excellent. They had no issues and exhibited no behavioral problems. The children were very bonded to the foster mother and enjoyed being there. Each had their own room. Ishmael did not believe Heidi could make enough progress to allow the children to be returned to her. Heidi spoke to the sex-offender counselor, Metcalfe, who reported Heidi was close to completing her treatment, but he would not recommend visitation. Ishmael also emphasized the order of protection that was in place until November 2016. As for Rosalino, Ishmael believed he was due to be released in August 2015, but she was uncertain. Rosalino had been in federal custody, but she did not know if he would receive federal prison time or be deported. Rosalino would have to start services from the beginning.
- According to Ishmael, Heidi had not seen her children since April 2014. Ishmael agreed a court could modify the order of protection to allow visits but stated Heidi had not completed parenting classes. Ishmael acknowledged Webster-Cantrell could not provide those services for Heidi due to her sex-offender status but testified she could complete that service elsewhere. When asked about Heidi's options, Ishmael testified there were a few other options, but Heidi might have the same problem due to her sex-offender status. A class was planned at

DCFS, but it was not held due to an insufficient number of people.

- Ishmael testified there were no visits between Heidi and her children due to the order of protection. The foster mother, at Webster-Cantrell's recommendation, secured the order after Heidi was seen in the town where the foster parent resided. Before that time, Heidi had indicated to staff "that if she felt like her rights were terminated, she couldn't promise what she would do." Heidi was within two to three months of completing sex-offender treatment. Other services that Heidi had yet to complete included psychotherapy, which Heidi was undergoing, as well as parenting and family therapy. Family therapy stopped due to Heidi's incarceration.
- ¶ 36 Ishmael recommended the termination of respondents' parental rights. Ishmael reported the children adjusted well to their foster parent, who was willing to provide the children permanency.
- Parton testified on Heidi's behalf. Parton, Heidi's counselor, testified the two met weekly since September 2014. Heidi made "excellent progress." She was very cooperative and demonstrated "vast improvement in coping skills and resolving trauma triggers." Heidi wanted to continue with counseling to build coping skills and work on maintaining her progress. Parton opined Heidi was "perfectly capable of parenting her children appropriately." Heidi was "very forthcoming about past mistakes" and learned "much better parenting and coping skills." Parton believed Heidi "would do very well if the children were returned to her care."
- ¶ 38 Parton acknowledged she had not seen Heidi interact with her younger children.

 Parton also did not specialize in treating sex offenders.
- ¶ 39 Heidi testified she had completed all but two of the parenting classes before her arrest in May 2014. Heidi planned to continue therapy with Parton. She believed it in the best

interests of Re. S. and Ro. S. the children be returned to her. In Heidi's care, the children would be close to their siblings.

- ¶ 40 The trial court found the termination of parental rights in the best interests of the children and granted the State's petitions. These consolidated appeals followed.
- ¶ 41 II. ANALYSIS
- ¶ 42 A. Parental Fitness
- The first step in termination proceedings is to examine parental fitness. A trial court will find a parent "unfit" if the State proves, by clear and convincing evidence, a ground listed in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2012)). *In re A.L.*, 409 Ill. App. 3d 492, 500, 949 N.E.2d 1123, 1129 (2011). On appeal, this court gives great deference to the decision of the trial court as it, during a hearing on fitness, viewed witnesses and observed their demeanor. *Id.* This court will not reverse a finding on parental fitness unless the finding is against the manifest weight of the evidence. *In re T.A.*, 359 Ill. App. 3d 953, 960, 835 N.E.2d 908, 913 (2005). A finding is against the manifest weight of the evidence if "the correctness of the opposite conclusion is clearly evident from a review of the evidence." *Id.*
- ¶ 44 In this case, the trial court found respondent parents unfit on multiple grounds listed in section 1(D). We begin by examining the decision respondent parents were unfit as they failed to make reasonable progress toward the return of their children in the nine-month period of January 29, 2014, to October 29, 2014 (see 750 ILCS 50/1(D)(m)(iii) (West 2012)).
- ¶ 45 The question of whether a parent's progress toward the return of the children is reasonable is judged under an objective standard. *In re Jordan V.*, 347 Ill. App. 3d 1057, 1067, 808 N.E.2d 596, 605 (2004). A court, to find progress reasonable, must conclude the parent has

made measurable or demonstrable movement toward the goal of returning the child to his or her custody. See *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1067, 859 N.E.2d 123, 137 (2006). This can be found only when a court may conclude the child will, in the near future, be able to be returned to the parent's custody because the parent will have complied fully with the court's directives. *A.L.*, 409 Ill. App. 3d at 500, 949 N.E.2d at 1129.

- We begin with the finding Rosalino failed to make reasonable progress and find no error. The testimony shows Rosalino, who was imprisoned during this time period, had been served with copies of the service plans but made no effort to comply with those plans. He had not contacted Webster-Hall. The trial court properly found Rosalino unfit.
- As to Heidi, our conclusion is the same. In the time period of January 29, 2014, to May 2014, the evidence shows Heidi was progressing. Webster-Cantrell rated her progress in February 2014 as satisfactory. Heidi was attending counseling, parenting classes, and visits. However, as of May 2014, all progress stopped as a result of Heidi's conduct toward another of her children. From May 2014 to October 29, 2014, there was no movement toward the goal of returning the children home. During that time period, Heidi entered sex-offender probation, which led to new hurdles to her children's return. Heidi had not visited with Re. S. and Ro. S. She had not completed parenting classes. In addition, the record shows the guardian *ad litem*, on October 2, 2014, petitioned for an order of protection due to allegations Heidi "had inadvertent contact" with Re. S. and Ro. S. An emergency order was entered. Given these facts, we cannot find the trial court improperly concluded progress was unreasonable.
- ¶ 48 Regarding the other grounds for parental unfitness for Heidi, the issue is more complicated. Testimony shows Heidi, from the February 2013 date she committed the offense

until May 2014, was making satisfactory progress according to Webster-Cantrell, despite the missed parenting classes. In addition, an agency decided Heidi could sufficiently parent two of her other minor children, whom they left in her care upon taking custody of Re. S. and Ro. S. Testimony from Heidi's counselors shows she was making great strides in her counseling, and one testified the children would be safe if they were returned to her. In addition, a licensed sex-offender evaluator concluded in July 2014 Heidi was at low risk for reoffending and did not need sex-offender treatment.

- We need not determine if the trial court erred in finding Heidi unfit on these other grounds. The State need only prove one statutory ground to establish unfitness. *In re Donald A.G.*, 221 Ill. 2d 234, 244, 850 N.E.2d 172, 177 (2006). Because we affirmed on the ground Heidi failed to make reasonable progress toward the children's return in the months of January 29, 2014, to October 29, 2014 (750 ILCS 50/1(D)(m)(iii) (West 2012)), the finding of unfitness stands.
- ¶ 50 B. The Best Interests of the Children
- At the best-interests hearing, the trial court shifts its focus from parental fitness to the children's interests in securing "a stable, loving home life." *In re D.T.*, 212 Ill. 2d 347, 364, 818 N.E.2d 1214, 1227 (2004). When determining the children's best interests, a trial court should consider the children's safety and welfare, the development of the children's identity, the children's background, the uniqueness of each child and family, and the preferences of individuals available to care for the child. 705 ILCS 405/1-3(4.05) (West 2012). At this stage, the desire of a parent in maintaining a relationship with his or her children yields to the children's interests. *D.T.*, 212 Ill. 2d at 364, 818 N.E.2d at 1227. Parental rights may be terminated only if

the trial court concludes the State proved, by a preponderance of the evidence, the termination is in the children's best interests. *Id.* at 366, 818 N.E.2d at 1228. We will not overturn a decision terminating parental rights unless the trial court's decision is against the manifest weight of the evidence. *T.A.*, 359 Ill. App. 3d at 961, 835 N.E.2d at 914.

- ¶ 52 Respondent parents argue the trial court erred in finding the children's best interests necessitated the termination of their parental rights. Respondent parents argue Heidi was actively engaged in services and the children needed to grow up with the parents who were fighting for them.
- We find the trial court's decision on best interests is not against the manifest weight of the evidence. The young children had no contact with their father since their removal in February 2013 and no contact with their mother since April 2014. While Heidi continues to work on counseling and satisfying her treatment goals, the record supports the conclusion Heidi remains far from being able to provide the children with a stable home. In contrast, the children were together and happy and healthy in their foster placement, where they resided for over two years. The children were excelling in school. They were bonded to their foster mother, who offered them permanency.
- ¶ 54 III. CONCLUSION
- ¶ 55 We affirm the trial court's judgment.
- ¶ 56 Affirmed.