

**NOTICE**

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2015 IL App (4th) 150309-U  
NOS. 4-15-0309, 4-15-0310 cons.  
IN THE APPELLATE COURT

**FILED**  
August 24, 2015  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

OF ILLINOIS

FOURTH DISTRICT

In re: Z.H., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Vermilion County
v.                    (No. 4-15-0309)	)	No. 14JA2
ANGELA GARCIA,	)	
Respondent-Appellant.	)	
_____	)	
In re: Z.H., a Minor,	)	
THE PEOPLE OF THE STATE OF ILLINOIS,	)	
Petitioner-Appellee,	)	
v.                    (No. 4-15-0310)	)	Honorable
ZACHARY HOLT,	)	Claudia S. Anderson,
Respondent-Appellant.	)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.  
Justices Turner and Appleton concurred in the judgment.

**ORDER**

¶ 1     *Held:* The appellate court affirmed the trial court's judgment, which terminated respondents' parental rights.

¶ 2             In January 2015, the State filed a motion to terminate the parental rights of respondents, Angela Garcia and Zachary Holt, as to their minor daughter, Z.H. (born March 27, 2011). In April 2015, following a fitness hearing, the trial court found respondents unfit within the meaning of section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2014)). Following a best-interest hearing held that same day, the court terminated respondents' parental rights.

¶ 3             Respondents appeal, arguing that the trial court's fitness and best-interest determinations were against the manifest weight of the evidence. We disagree and affirm.

¶ 4

## I. BACKGROUND

¶ 5 The following facts were gleaned from the State's pleadings, the reports and service plans on file, and evidence admitted at the various hearings in this case.

### ¶ 6 A. Events Preceding the State's Motion To Terminate Respondents' Parental Rights

¶ 7 In January 2014, the State filed a wardship petition alleging that Z.H. was neglected within the meaning of section 2-3(1) of the Juvenile Court Act of 1987 (Juvenile Act) (705 ILCS 405/2-3(1) (West 2014)) in that her environment was injurious to her welfare due to (1) the presence of methamphetamine-making materials in the home and (2) Garcia's drug use.

¶ 8 At a March 2014 adjudicatory hearing, both Garcia and Holt stipulated to the allegation that Z.H.'s environment was injurious to her welfare due to the presence of methamphetamine-making materials inside the home. Based upon respondents' stipulation, the trial court adjudicated Z.H. neglected.

¶ 9 In May 2014, following a dispositional hearing, the trial court made Z.H. a ward of the court and appointed the Department of Children and Family Services (DCFS) as her guardian. The court's dispositional order also required Garcia and Holt to comply with the terms of their DCFS service plans.

### ¶ 10 B. The State's Motion To Terminate Parental Rights

¶ 11 In January 2015, the State filed a motion to terminate Garcia and Holt's parental rights. The State's motion alleged that Garcia and Holt were unfit within the meaning of section 1(D) of the Adoption Act in that they both failed to (1) maintain a reasonable degree of interest, concern, or responsibility as to Z.H.'s welfare (750 ILCS 50/1(D)(b) (West 2014)); (2) make reasonable efforts to correct the conditions that were the basis for the removal of Z.H. within nine months after the adjudication of neglect (750 ILCS 50/1(D)(m)(i) (West 2014)); and (3) make

reasonable progress toward the return of Z.H. within nine months after the adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2014)).

¶ 12 The State alleged in its motion that the relevant nine-month period was March 20, 2014, to December 20, 2014.

¶ 13 *1. The April 2015 Fitness Hearing*

¶ 14 The parties presented the following pertinent evidence at the April 2015 fitness hearing on the State's motion to terminate Garcia and Holt's parental rights.

¶ 15 a. Client-Service Plans and Criminal Cases

¶ 16 At the beginning of the hearing, without objection, the trial court admitted Garcia and Holt's February, August, and December 2014 DCFS service plans. The service plans revealed that in December 2013, DCFS received a hotline tip alleging that Garcia's home in Danville—which she shared with Z.H. and her other minor child, L.S.—was being used to manufacture methamphetamine. Garcia consented to a police search of her home. In the bedroom in which Z.H. was sleeping, police found a blender containing pseudoephedrine pills, a scale, salt used to make methamphetamine, and a roll of aluminum foil. In an attached garage, police located a methamphetamine lab. Following the search of the home, Vincent took protective custody of Z.H. and L.S. Garcia was arrested and charged with felony possession of methamphetamine (Vermilion County case No. 14-CF-3). At that time, Holt was serving a three-year sentence in the Illinois Department of Corrections (DOC) for obstruction of justice (Vermilion County case No. 10-CF-288). (As the trial court did at the fitness hearing in this case, we have taken judicial notice of Garcia and Holt's various Vermilion County criminal cases, which are matters of public record.)

¶ 17 The DCFS service plans also required Garcia and Holt to complete certain goals

targeted at (1) domestic violence, (2) substance-abuse treatment, (3) financial stability, (4) counseling, (5) parenting, and (6) housing. Their service plans also generally required them to cooperate with DCFS.

¶ 18 b. Kristen Larkin's Testimony

¶ 19 Kristen Larkin, a caseworker with the Center for Youth and Family Solutions (a DCFS contractor), testified that she was Z.H.'s caseworker from March 2014 until September 2014.

¶ 20 Holt had been incarcerated in DOC during Larkin's entire term as caseworker. Holt had no visits with Z.H. during that time. Because of his incarceration, Holt's service plan required him to complete his services through inmate programs at DOC. During his incarceration, Holt participated in the following inmate services at Southwestern Illinois Correctional Center: (1) substance-abuse treatment, (2) the Twelve-Step Program, (3) the Fatherhood Initiative, (4) Family/Interpersonal relationships, (5) Inside-Out Dad, (6) Incarcerated Dads, and (7) anger management. In September 2014, Holt was released from DOC. About that same time, Larkin transferred the case to a new caseworker, Ebony Winters. Larkin arranged multiple appointments for Holt to meet with Winters to complete an integrated assessment. However, Holt did not attend those appointments.

¶ 21 During Larkin's time as caseworker, Garcia consistently attended visits with Z.H. Garcia completed a domestic-violence program and parenting classes, but she failed to complete substance-abuse treatment or individual counseling. Garcia's attendance at substance-abuse treatment and individual counseling began to drop off during May and June of 2014. Garcia also lost her job at a Mexican restaurant sometime during the summer of 2014. In August 2014, Garcia was arrested and charged with several felony counts related to methamphetamine manufac-

turing (Vermilion County case No. 14-CF-397). Those charges were in addition to Garcia's existing felony methamphetamine possession charge in Vermilion County case No. 14-CF-3, to which she pleaded guilty in September 2014. Garcia's paramour at the time of her second arrest was Donnie Hayes, who had multiple previous criminal charges relating to methamphetamine.

¶ 22 c. Melinda Dolan's Testimony

¶ 23 Melinda Dolan, a caseworker with the Center for Youth and Family Solutions, testified that she had been Z.H.'s caseworker since November 2014. (Winters served as Z.H.'s caseworker for only two months from September 2014 to November 2014.)

¶ 24 Garcia was released from jail on bond on November 5, 2014. The next day, she met with Dolan to discuss resuming substance-abuse and individual-counseling services. Although Garcia reengaged in substance-abuse treatment, she failed to resume individual counseling. During the Christmas season, Garcia secured temporary employment at a Christmas-themed children's attraction at the local mall. For a period following her release from jail, Garcia lived in her mother's house, which Dolan deemed unsafe for Z.H. because Garcia's mother had a criminal history. At the time of the April 2015 fitness hearing, Garcia was living with Hayes' mother in a home that had allegedly been used to manufacture methamphetamine. Dolan acknowledged that Garcia had not failed any drug tests administered by DCFS during the case.

¶ 25 Although Holt was allowed weekly visits with Z.H. following his September 2014 release from DOC, he only attended one visit. Holt was arrested in January 2015 and charged with methamphetamine possession in Vermilion County case No. 15-CF-22. Holt pleaded guilty to that charge in March 2015 and was sentenced to two years in DOC. (DOC's website indicates that Holt's projected parole date is January 11, 2016.) Dolan testified that she had not spoken with Holt since September 2014.

¶ 26

d. Rachel Lloyd's Testimony

¶ 27 Rachel Lloyd, an addiction counselor at Prairie Center Health Systems, testified that in April 2014, she conducted a substance-abuse assessment of Garcia. Lloyd diagnosed Garcia with cannabis and amphetamine dependency. Lloyd placed Garcia in an "intensive outpatient treatment" program, which called for 10 hours of treatment per week. However, Garcia was unable to complete the substance-abuse treatment program due to her August 2014 arrest and incarceration. Lloyd closed Garcia's case in September 2014.

¶ 28 After being released on bond, Garcia resumed treatment with Lloyd in December 2014. However, she soon stopped attending sessions after she began her temporary job at the mall. As of the April 2015 fitness hearing, Garcia had not completed substance-abuse treatment.

¶ 29

e. Amy Farrow's Testimony

¶ 30 Amy Farrow, a therapist at the Center for Youth and Family Solutions, testified that she began weekly therapy sessions with Garcia in May 2014. Of the 16 scheduled sessions, Garcia skipped 4 sessions and called to reschedule another session. Garcia's progress and effort were inconsistent throughout her counseling. Garcia failed to complete counseling due to her August 2014 arrest. Although she was released on bond in November 2014, Garcia did not contact Farrow to reengage in counseling services until March 27, 2015, approximately five days before the fitness hearing. Farrow scheduled a counseling session for March 30, 2015, but Garcia neither attended nor called Farrow to explain her absence.

¶ 31

f. Holt's Testimony

¶ 32 Holt testified that, while he was incarcerated in DOC early in the case, he completed all of the requirements of his DCFS service plan. He also wrote letters to Larkin to inquire about Z.H.'s wellbeing and provided Larkin progress updates. After his initial release from

DOC in September 2014, Holt obtained fulltime employment at a construction company. However, he claimed that his work schedule prevented him from visiting Z.H. or completing any of his remaining service-plan goals.

¶ 33 Following the presentation of argument from the parties, the trial court found Garcia and Holt unfit as alleged in the State's motion to terminate their parental rights.

¶ 34 *2. The Best-Interest Hearing*

¶ 35 At a best-interest hearing held immediately after the fitness hearing, Dolan testified that Z.H.—along with her half-brother, L.S.—had been living in foster care with L.S.'s paternal grandparents since January 2014. Based upon Dolan's observations during her monthly visits to Z.H.'s foster home, Z.H. appeared very bonded to her foster parents, who desired to adopt Z.H. Dolan opined that Z.H.'s foster parents would be able to provide for Z.H.'s needs on a long-term basis, and that it was in Z.H.'s best interest that Garcia and Holt's parental rights be terminated.

¶ 36 Following Dolan's testimony, the trial court found that it was in Z.H.'s best interest to terminate Garcia and Holt's parental rights. (Neither Garcia nor Holt presented evidence at the best-interest hearing.)

¶ 37 These appeals followed, which we have consolidated.

¶ 38 **II. ANALYSIS**

¶ 39 Respondents argue that the trial court's fitness and best-interest determinations were against the manifest weight of the evidence. We disagree.

¶ 40 **A. The Trial Court's Fitness Determination**

¶ 41 *1. The Applicable Statute, Reasonable Progress, and the Standard of Review*

¶ 42 Section 1(D) of the Adoption Act provides, in pertinent part, as follows:

"D. 'Unfit person' means any person whom the court shall find to be unfit to have a child, without regard to the likelihood that the child will be placed for adoption. The grounds of unfitness are any one or more of the following, except that a person shall not be considered an unfit person for the sole reason that the person has relinquished a child in accordance with the Abandoned Newborn Infant Protection Act:

\* \* \*

(m) Failure by a parent \*\*\* (ii) to make reasonable progress toward the return of the child to the parent during any 9-month period following the adjudication of neglected or abused minor under Section 2-3 of the [Juvenile Act]." 750 ILCS 50/1(D)(m)(ii) (West 2014).

¶ 43 In *In re C.N.*, 196 Ill. 2d 181, 216-17, 752 N.E.2d 1030, 1050 (2001), the supreme court discussed the following benchmark for measuring "reasonable progress" under section 1(D)(m) of the Adoption Act:

"[T]he benchmark for measuring a parent's 'progress toward the return of the child' under section 1(D)(m) of the Adoption Act 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."

¶ 44 In *In re L.L.S.*, 218 Ill. App. 3d 444, 461, 577 N.E.2d 1375, 1387 (1991), this court discussed reasonable progress under section 1(D)(m) of the Adoption Act and held as follows:

" 'Reasonable progress' \*\*\* exists when the [trial] court \*\*\* can conclude that \*\*\* the court, in the *near future*, will be able to order the child returned to parental custody. The court will be able to order the child returned to parental custody in the near future because, at that point, the parent *will have fully complied* with the directives previously given to the parent \*\*\*." (Emphases in original.)

¶ 45 The supreme court's discussion in *C.N.* regarding the benchmark for measuring a parent's progress did not alter or call into question this court's holding in *L.L.S.* For cases citing the *L.L.S.* holding approvingly, see *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1067, 859 N.E.2d 123, 137 (2006); *In re Jordan V.*, 347 Ill. App. 3d 1057, 1068, 808 N.E.2d 596, 605 (2004); *In re B.W.*, 309 Ill. App. 3d 493, 499, 721 N.E.2d 1202, 1207 (1999); and *In re K.P.*, 305 Ill. App. 3d 175, 180, 711 N.E.2d 478, 482 (1999).

¶ 46 "The State must prove parental unfitness by clear and convincing evidence, and the trial court's findings must be given great deference because of its superior opportunity to observe the witnesses and evaluate their credibility." *Jordan V.*, 347 Ill. App. 3d at 1067, 808 N.E.2d at 604. A reviewing court will not reverse a trial court's fitness finding unless it is contrary to the manifest weight of the evidence, meaning that the opposite conclusion is clearly evident from a review of the record. *Id.*



