

NOTICE

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2015 IL App (5th) 140565-U

NO. 5-14-0565

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

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).

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<i>In re</i> T.P., J.D.M., and A.M., Minors	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Jasper County.
	)	
Petitioner-Appellee,	)	
	)	
v.	)	No. 11-JA-6
	)	
Jason A.M.,	)	Honorable
	)	Michael D. McHaney,
Respondent-Appellant).	)	Judge, presiding.

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JUSTICE CHAPMAN delivered the judgment of the court.  
Presiding Justice Cates and Justice Goldenhersh concurred in the judgment.

**ORDER**

¶ 1 *Held:* Where the trial court's orders finding that Jason A.M. is an unfit parent and terminating his parental rights were not contrary to the manifest weight of the evidence, we affirm.

¶ 2 The respondent, Jason A.M. (Jason), appeals from the trial court's orders finding that he was an unfit parent and terminating his parental rights. He contends that the trial court's fitness order must be overturned because the court did not include factual findings. Jason also contends that the best interests of his son, J.D.M., did not warrant termination of his parental rights. We affirm both orders.

¶ 3

## FACTS

¶ 4 On April 26, 2011, the Jasper County State's Attorney's office filed a petition for adjudication of wardship of three minors: T.P., J.D.M., and A.M. The petition alleged that the three minors were neglected because they were in an "environment \*\*\* injurious to [their] welfare." 705 ILCS 405/2-3(1)(b) (West 2008). More specifically, the State alleged that two of the minors, J.D.M. and A.M., were allowed to leave their home without supervision and wander onto a street. On the date of the incident, J.D.M. was 2 years and 9 months old, and A.M. was 1 year and 10 months old. T.P. is a male child and was born on August 4, 2006. J.D.M. is a male child born on July 11, 2008. A.M. is a female child born on May 31, 2009. Jason is the biological father of J.D.M. and A.M. Jason is not T.P.'s father, but all three children have the same mother.

¶ 5 Although this case involved three minors at the trial court level, this appeal only involves J.D.M. and the termination of Jason's parental rights. Because the procedural history involving these three minors is connected, there are occasional references in this order to the other two children and to their mother.

¶ 6

## Shelter Care Hearing

¶ 7 The shelter care hearing was held on April 26, 2011. Sergeant Jeremy Haycraft, Department of Children and Family Services (DCFS) employee Dennis Carie, and the mother testified.

¶ 8 Sergeant Haycraft testified that on April 3, 2011, the Newton police department responded to a 911 call about two small children standing alone on a state highway (the main road that runs through Newton). Sergeant Jeremy Haycraft traveled to the scene.

A.M. and J.D.M. were with witnesses to the occurrence, and both children were only wearing diapers and t-shirts. Sandy Degand was the first person who saw the two children and made the 911 call. Degand told Sergeant Haycraft that she saw the two children in the path of an oncoming semi tractor-trailer. She walked out onto the roadway, stopped the truck, and moved the two children to the side of the road. Sergeant Haycraft testified that another person who had been driving behind Degand confirmed Degand's story.

¶ 9 Sergeant Haycraft testified that he brought the two children to the police station. Although he did not know the identity of the parents, he believed that the parents were likely the same parents involved in a recent similar incident.

¶ 10 Sergeant Haycraft testified that Jason called the police station to ask if his children were there. He told Sergeant Haycraft that he believed that the biological mother was watching the children, as she was asleep on the sofa. He explained that he had been out late the night before and was asleep in a back bedroom. Sergeant Haycraft testified that he told Jason that he could not pick up his children, because he had already contacted DCFS. Sergeant Haycraft testified that DCFS placement worker William Flowers took J.D.M. and A.M. into protective custody and placed them in a Salem foster home.

¶ 11 Dennis Carie, a DCFS investigator, testified that he met with the minors at the Newton police station. Both parents were present. Jason informed Carie that he was out late drinking with his friends and was asleep at the time the children left. The mother told Carie that she was sleeping on the sofa and never heard Jason come home. Carie asked the mother to list the prescription medication she was taking, which included

medication for anxiety and depression, as well as muscle relaxants and a narcotic for pain management. Carie testified that he was concerned that these medications could have prevented the mother from waking up when the children left the home.

¶ 12 Carie testified that J.D.M. is an active boy—one who will continuously get out and get into things. He testified that he did not believe that it was in the best interests of the children that they be returned to their parents. He also indicated that it was of immediate and urgent necessity that DCFS place the children in foster care.

¶ 13 The mother testified that the evening prior to the morning the children left the home unattended she was very ill. She had a high fever and was in excruciating pain. She denied taking any of her prescription medications. She was sleeping on and off that day on the sofa. She testified that Jason came to the home earlier that day to watch the children so that she could sleep.

¶ 14 After the hearing, the court ruled that based upon the testimony, there was probable cause to believe that the minors were neglected. The court also found that it was a matter of immediate and urgent necessity for the children's safety and protection that they be placed in shelter care.

¶ 15 Dispositional Hearing

¶ 16 The next hearing took place on September 13, 2011. Jason and the mother of J.D.M. and A.M. were present and stipulated to an agreed adjudication and order of disposition. The parents agreed that reasonable efforts were made to prevent the removal of their two children from the home, that they were unsuccessful in complying with the DCFS recommended services, and that it was in the minors' best interests to be removed

from their custody. The court admonished the parents to cooperate with DCFS and the service plans. The permanency goal was to reunite the minors with their parents within 12 months.

¶ 17 DCFS Reports and Permanency Hearings

¶ 18 In October 2011, DCFS employee William Flowers prepared an evaluation report regarding Jason and the minors. Jason made satisfactory progress on cooperating with DCFS and following court recommendations and in completing his paternity test. Jason made unsatisfactory progress on the following goals:

1. attending parenting classes;
2. locating and maintaining a stable residence;
3. attending substance abuse counseling;
4. testing negative for drugs on random testing;
5. complying with orders and recommendations on his criminal charges;
6. attending and complying with weekly supervised visitation with the children;
7. seeking and maintaining full-time employment;
8. attending and cooperating with mental health evaluations, counseling sessions, and recommendations; and
9. cooperating with the mother of his children.

¶ 19 William Flowers prepared the next evaluation report on February 22, 2012, detailing the extent of Jason's compliance and J.D.M.'s progress. On June 14, 2011,

Jason was sentenced to two years of probation for theft. On October 27, 2011, he was sentenced to 24 months in the Illinois Department of Corrections for forgery. Jason missed numerous visitation opportunities because of his incarceration. However, even before Jason went to prison, he failed to show up for many other visits. Since the last evaluation report, Jason attempted suicide. Jason tested positive on several random drug tests between June and October 2011. He did not complete mandated substance abuse and mental health counseling. Jason's projected parole date was October 13, 2012. J.D.M. was in a traditional foster home, working with developmental experts. J.D.M. had made great improvements in all areas of development. J.D.M. exhibited a longer attention span and a better understanding of complex skills. His language and speech skills had also shown dramatic improvement.

¶ 20 The court entered a permanency order on February 28, 2012, finding that the appropriate permanency goal remained the same—to return the children home within 12 months. Guardianship of the minors remained with DCFS.

¶ 21 The next evaluation report was prepared in anticipation of the scheduled May 24, 2012, permanency hearing. While there was no change to Jason's progress towards the DCFS goals, there was a major change with J.D.M. J.D.M.'s foster parents informed DCFS that he attempted to suffocate his younger sister and was experiencing auditory and visual hallucinations. DCFS removed him from his traditional foster home and placed him in Harsha Behavioral Center in Terre Haute, Indiana. While hospitalized, J.D.M. was diagnosed with both reactive attachment disorder and psychosis.

¶ 22 Jason did not appear in court on May 24, 2012, for the permanency hearing. The

court's permanency order contained the identical permanency goal to return the children home within 12 months.

¶ 23 The next evaluation report was dated August 3, 2012. William Flowers reported that Jason had made no progress with the DCFS goals. Jason was still in prison. J.D.M. was released from the Indiana mental health center. Flowers reported that medical providers believed that J.D.M.'s reactive attachment disorder was a result of the circumstances that led to his DCFS placement and the result of his separation from his family. DCFS returned J.D.M. to his foster family. J.D.M. was under the care of both a psychiatrist and a counselor.

¶ 24 DCFS prepared another evaluation report on November 14, 2012. During his incarceration, Jason completed a parenting course and also participated in a seminar called "Transforming Incarcerated Dads." Jason was released from prison on September 14, 2012. Since Jason's parole, he had maintained a consistent visitation schedule. Jason had been employed for the past month. The minor, J.D.M., was hospitalized again after continued psychotic occurrences and threats to kill his foster family. J.D.M. was placed in a shelter care facility in Springfield. DCFS had concerns about the accuracy of the claims made by J.D.M.'s foster family because no one but the foster family witnessed these behaviors. DCFS moved J.D.M. to a new foster home in late October 2012. Since the last DCFS evaluation report, J.D.M. was also diagnosed with attention deficit hyperactivity disorder (ADHD). DCFS recommended the permanency goal of returning the children home within 12 months.

¶ 25 In February 2013, the State filed a motion to temporarily suspend visitation. Both

parents were arrested for credit card fraud and had been in custody since January 25, 2013. The jail allowed visitation, but only for 15 minutes. The State argued that continued visitation while the parents were in jail would be unduly burdensome on the foster parents because of the distances involved. The State also argued that continued visitation would not be in the children's best interests because the environment at the jail could disturb the children. The court granted the motion on March 7, 2013.

¶ 26 On April 15, 2013, the State filed a motion to terminate the parental rights of Jason and the mother. The State alleged that Jason was an unfit parent of J.D.M. and A.M. for the following reasons:

- a. he failed to maintain a reasonable degree of interest, concern, or responsibility for the welfare of the children;
- b. he failed to protect the children from injurious conditions within their environment;
- c. he failed to make reasonable efforts to correct the conditions that were the basis for the removal of the children;
- d. he failed to make reasonable progress towards the return of the children within nine months after they were adjudicated as neglected; and
- e. he failed to make reasonable progress towards the return of the children within any period of nine months after the first nine months from the date the court adjudicated them as neglected.

750 ILCS 50/1 (West 2008). The State asked the court to enter an order terminating Jason's parental rights to J.D.M. and A.M., maintaining guardianship with DCFS, and



vesting DCFS with the power to consent to adoption. In support of the motions, the State attached a copy of DCFS's most recent service plan dated April 2, 2013, which outlined Jason's unsatisfactory progress with his intervention goals.

¶ 27 On November 15, 2013, Jason and the mother surrendered their parental rights to A.M. The parents did not surrender their parental rights to J.D.M.

¶ 28 **Permanency Report**

¶ 29 DCFS created a permanency report in May 2014. J.D.M.'s caseworker, Tiffanie Ramsey, detailed his treatment since DCFS moved him to a specialized foster home in November 2013. DCFS's decision to move J.D.M. to a different foster home resulted from behavioral problems he displayed while in his former foster placement. J.D.M. had a very good relationship with his current foster mother, and he referred to her as "Mom." J.D.M. was under the care of a counselor and a psychiatrist. He was on medication that his foster mother monitored. His foster mother qualified as a specialized foster parent—meaning that she had received extra trauma-based training to handle J.D.M.'s behavioral problems. J.D.M. was suspended from school because of behavioral outbursts. J.D.M.'s foster mother and the school officials were creating an individualized education program appropriate for his needs. J.D.M. shows respect for his foster mother and her family, and has informed DCFS that he feels safe and happy in this home. Tiffanie and J.D.M. discussed the possibility of permanently living with his current foster mother, and he told her that he wants to stay with his foster "Mom." The foster mother has signed a commitment form indicating her willingness to adopt J.D.M. if the court terminates his parents' parental rights.

¶ 31 The court held a fitness hearing on August 7, 2014, to determine if Jason and the mother were unfit parents.

¶ 32 DCFS employee William Flowers testified that he became involved in this case in April 2011 when the children were taken into protective custody. He remained on this case, assigned to both parents, until February 2013. He prepared an integrated assessment of the family and established goals for both parents. The goals included obtaining employment and housing, cooperating with the court process, random drug testing, drug counseling, mental health counseling, and parenting classes. Every six months, DCFS conducted an administrative case review to ascertain progress and to set goals. Flowers testified that in the October 2011, April 2012, and October 2012 reviews of the case, DCFS found both parents to have made unsatisfactory progress on the goals. He explained that DCFS made programs and transportation available to the parents. Flowers acknowledged that Jason was incarcerated for a portion of this time, but stated that after he was paroled, he still made no progress on the goals.

¶ 33 Sarah Porter testified that she replaced William Flowers as the parents' caseworker. She began working with the parents in January 2013. She was involved with two administrative case reviews—in April 2013 and in October 2013. In both reviews, DCFS deemed the parents' compliance with all of the service goals to be unsatisfactory. After she took over the case, the service plan and goals remained the same.

¶ 34 The State asked the trial court to take judicial notice of its own orders in this case,

including the four permanency orders entered February 28, 2012, May 24, 2012, November 20, 2012, and June 25, 2013.

¶ 35 Jason testified at the hearing. He pled guilty to forgery and was incarcerated from October 27, 2011, through September 14, 2012. Jason testified that while in prison, he completed a 10-week parenting course and a 16-hour "Transforming Incarcerated Dads" course, both of which helped him to be a better father. He later pled guilty to use of a stolen credit card and was incarcerated from January 25, 2013, through July 25, 2014. After he was paroled, he completed substance abuse and mental health assessments. He claimed that his substance abuse assessment did not suggest or require further treatment. He completed several mental health counseling sessions. While not in prison, he took advantage of visitation opportunities with his son.

¶ 36 The trial court entered its order on August 13, 2014, finding both parents unfit. The court's order stated that both parents "have failed to make either reasonable efforts or reasonable progress toward correcting the conditions that contributed to the removal of [J.D.M.] from their care." The court also indicated that both parents were unfit pursuant to the applicable sections of the Adoption Act pled by the State in its termination motion.

¶ 37 Best Interests Hearing

¶ 38 The court held the best interests hearing on October 16, 2014. Three service providers testified, as did both parents.

¶ 39 Sarah Porter, a DCFS child welfare specialist, testified at the hearing. She explained that she was the DCFS family caseworker assigned to the parents since January 2013. Porter testified that neither parent had made progress on the service plan goals

since the fitness hearing. She testified that the three children were all in different foster homes, but saw each other once per month, and that the foster families initiated additional visitation sessions for the siblings.

¶ 40 Rachel Henson, a family service specialist with Addus Health Care, testified that DCFS assigned her to work with the mother. Although assigned to the mother, Henson also interacted and observed Jason in supervised visitation sessions from the summer of 2011 through November 2013. She testified that visits between J.D.M. and Jason were good.

¶ 41 Tiffanie Ramsey, J.D.M.'s caseworker, testified that he received extra services in keeping with his needs through Camelot Care Center, a private service serving specialized needs children for DCFS. She testified that she became involved in J.D.M.'s case in November 2013. At that time, J.D.M. was living in a shelter—not in a foster home. Ramsey testified that when she first began working with J.D.M., he was extremely hyperactive. He made physical and verbal threats towards staff and towards his foster family. Camelot addressed J.D.M.'s behavioral problems by placing him in a specialized foster home. Ramsey explained that J.D.M. required structure and routine in his life. Through medical intervention, J.D.M. was diagnosed with ADHD.

¶ 42 Within the year of J.D.M.'s specialized foster placement, Ramsey testified that he was greatly improved. She explained that he is polite, speaks directly to her, looks her in the eyes when they are speaking, and can now stay seated when he is in school. Ramsey testified that the bond between J.D.M. and his foster mother is very strong. J.D.M. gets along well with his foster brother. Ramsey testified that in her opinion, it was in J.D.M.'s

best interests to remain in this foster home and to continue to receive the specialized services through her company. She indicated that the foster mother loves J.D.M. and is very interested in adopting him. Ramsey also testified that at one time, J.D.M. was diagnosed with reactive attachment disorder, but that his therapist and psychiatrist have now ruled that diagnosis out. She explained that J.D.M. has shown so much progress in attaching and bonding with his foster mother that the diagnosis is no longer appropriate. Ramsey testified that J.D.M. would most likely require continued counseling and psychiatric services, which he will receive through the State. Without the services, Ramsey believes that J.D.M. could relapse into behavioral problems.

¶ 43 Jason asked the court not to terminate his parental rights. At the time of the best interests hearing, he was living with his sister in Vincennes, Indiana. Jason was unemployed at the time of the hearing. He had a job, but lost it because he missed too many days of work. He hoped to get a job with a local Denny's restaurant until he could secure better employment. He testified that he had visitation with J.D.M. once per week for two hours and that he loved spending this time with his son.

¶ 44 At the conclusion of the hearing, the court took the matter under advisement. In a written order filed October 23, 2014, the court found that the State established that the best interests of J.D.M. warranted termination of his parents' rights. The court modified the permanency goal to substitute care pending adoption.

¶ 45 Jason appeals from the court's orders at the fitness hearing and at the best interests hearing. He alleges that the trial judge committed reversible error by not making any written findings of fact in his order. He also argues that the trial court erred in finding

that termination of his parental rights was in J.D.M.'s best interests. We have thoroughly reviewed the record and the arguments on appeal. We disagree with Jason's arguments and affirm the judgments of the court.

¶ 46

#### LAW AND ANALYSIS

¶ 47 The Juvenile Court Act of 1987 sets forth a two-step process that the court must follow before terminating parental rights. *In re M.A.*, 325 Ill. App. 3d 387, 390, 757 N.E.2d 613, 617 (2001) (citing 705 ILCS 405/2-29(2) (West 1998)). The first step requires that the court hold an evidentiary hearing to determine if the parent is unfit. *Id.* The second step requires that the court hold an evidentiary hearing on the minor's best interests. *Id.*

¶ 48

#### Fitness

¶ 49 We give great deference to a trial court's finding that a parent is "unfit." *In re M.A.*, 325 Ill. App. 3d at 390, 757 N.E.2d at 617. To reverse a finding of unfitness, the trial court's conclusion must be contrary to the manifest weight of the evidence. *Id.* A finding is contrary to the manifest weight of the evidence if the opposite result is evident after reviewing the record. *Id.* Because the trial judge saw and heard the witnesses, the appellate court will not reweigh the evidence or reassess the witnesses' credibility. *Id.* at 391, 757 N.E.2d at 617.

¶ 50 A parent is considered an "unfit" parent if he fails "to make either a reasonable effort to correct the conditions that led to the child's removal or reasonable progress toward the child's return within nine months after an adjudication of neglect." *Id.* A parent is also "unfit" if he fails "to make reasonable progress toward the return of the

child to the parent during any 9-month period after the end of the initial 9-month period following the adjudication of neglected \*\*\* minor." 750 ILCS 50/1(D)(m)(iii) (West 2008). These statutory bases for finding that a parent is unfit are distinct and require separate analyses. *In re M.A.*, 325 Ill. App. 3d at 391, 757 N.E.2d at 617. To rule that a parent is unfit, the trial court must consider all evidence and conclude that the State has met its burden of proof by clear and convincing evidence. *Id.*; *In re Adoption of Syck*, 138 Ill. 2d 255, 273-74, 562 N.E.2d 174, 182 (1990); 705 ILCS 405/2-29(4) (West 2008).

¶ 51 The bases for a finding of unfitness pursuant to section 1(D)(m) mandate that the parents make either reasonable efforts or reasonable progress. These terms have different meanings. The requirement that the parent makes reasonable efforts to correct the conditions that led to the child's removal is a subjective standard. Reasonable effort "is associated with the goal of correcting the conditions that caused the removal of the child and focuses on the amount of effort reasonable for the particular parent." *In re M.A.*, 325 Ill. App. 3d at 391, 757 N.E.2d at 617 (citing *In re J.A.*, 316 Ill. App. 3d 533, 565, 736 N.E.2d 678, 688-89 (2000)). The requirement that the parent makes reasonable progress towards return of the child within nine months of the finding of neglect or within any other nine months after the initial nine months is an objective standard. *Id.* (citing *In re J.A.*, 316 Ill. App. 3d at 564, 736 N.E.2d at 688).

¶ 52 The trial court only needs to find one ground of unfitness. *In re J.P.*, 261 Ill. App. 3d 165, 174, 633 N.E.2d 27, 34 (1994). Proof of any one of the grounds for declaring a parent unfit is sufficient to support a finding of unfitness. *In re C.L.T.*, 302 Ill. App. 3d 770, 772, 706 N.E.2d 123, 125 (1999).

¶ 53 Jason argues that we must reverse the trial court's fitness finding because the court failed to make specific factual findings supporting its conclusion. The State argues that Jason has forfeited this issue for failing to object to the lack of findings in the trial court. *In re G.W.*, 357 Ill. App. 3d 1058, 1061, 830 N.E.2d 850, 854 (2005). Jason argues that parental rights are substantial and asks us to consider this matter under the plain error doctrine. *Id.* at 1062, 830 N.E.2d at 854. We will address Jason's claimed error because termination of his parental rights affects his interests in the care, custody, and management of his child—fundamental interests that deserve protection. *Id.*

¶ 54 We turn to Jason's argument that the trial court's fitness ruling did not include specific factual findings and, therefore, must be reversed. Jason cites *In re G.W.* in support of his position. We find *In re G.W.* to be distinguishable because the appellate court reversed for a different reason. Jason cites no statute or other case requiring the trial court to set forth specific factual findings. We have not found support for Jason's claim that such a requirement exists. While we acknowledge that specific factual findings would be helpful and could be important depending upon each case's individual facts and circumstances, there is no law mandating specific findings of fact.

¶ 55 Jason correctly states that *In re G.W.* involves a trial court's fitness order that lacked factual findings. The appellate court was concerned about the lack of written or verbal factual findings in light of the fact that the judge heard testimony from 10 witnesses over the course of nine months. *In re G.W.*, 357 Ill. App. 3d at 1060, 830 N.E.2d at 853. With no findings, the court noted that appellate review is difficult and admonished trial courts "to pay particular attention to making findings of fact so that



meaningful review of the ultimate curtailment of parental rights is given." *Id.* However, the lack of factual findings is not the reason that the appellate court reversed the judgment. *Id.* at 1061, 830 N.E.2d at 854. The court reversed the trial court's fitness finding because the court seemed confused about whether it was ruling upon a fitness determination or the best interests of the minor. *Id.* at 1060-61, 830 N.E.2d at 853-54. The court based its fitness determination upon the wrong standard—the best interests of the minor. *Id.* Furthermore, in announcing the court's ruling on the record, the judge terminated the parent's rights instead of ruling upon the parent's fitness. *Id.*

¶ 56 While we do not agree with Jason's argument that omitting factual findings warrants reversal, we must review the trial court's order finding that he was an unfit parent. Jason claims that the trial court found him unfit on five different grounds. Although the State alleged five different grounds in its termination motion, the court expressly found that Jason "failed to make either reasonable efforts or reasonable progress toward correcting the conditions that contributed to the removal of [J.D.M.] from [his] care." As we stated earlier in this order, it is not necessary to conclude that a parent is unfit on more than one basis. *In re C.L.T.*, 302 Ill. App. 3d at 772, 706 N.E.2d at 125.

¶ 57 We review the evidence at this hearing to determine if the court's conclusion that Jason was unfit is contrary to the manifest weight of the evidence. *In re M.A.*, 325 Ill. App. 3d at 390, 757 N.E.2d at 617. The fitness hearing took place in one day. The trial court heard all of the witnesses and took judicial notice of the evaluation reports and permanency orders within the court file.

¶ 58 When the children were adjudicated as neglected minors, DCFS evaluated the situation and established numerous goals for Jason. These goals were related to the conditions that resulted in DCFS removing the children from the home. Jason needed to obtain appropriate housing. He needed to obtain and maintain employment. Jason needed to take parenting classes. He needed to have substance abuse counseling and to comply with random drug and alcohol testing. Jason agreed to address any mental health issues. Participation in visitation was another goal. Finally, DCFS required Jason to cooperate with all of its recommendations and to follow through on all court-mandated actions.

¶ 59 From the time that the children were adjudicated as neglected minors on September 13, 2011, until the fitness hearing on August 7, 2014, Jason's accomplishment of the DCFS-mandated goals was rated unsatisfactory. He had not found suitable housing, nor did he have a reliable means of financial support. He testified at the hearing that he completed a substance abuse assessment and that the counselor recommended no further treatment. The record in this case, however, reflects a long-standing history of drug usage. The mother testified at the fitness hearing that Jason frequently used drugs. Jason testified that he refused one drug test during the three years his children were in the custody of DCFS. He completed four to five mental health counseling sessions. However, the record also reflects that Jason attempted suicide and received treatment in a hospital. The severity of Jason's mental health issues would suggest that four to five counseling sessions was insufficient and that DCFS was correct in concluding that Jason's mental health compliance was unsatisfactory. While under DCFS scrutiny for

efforts at reunification with his children, he committed the crimes of forgery and use of a stolen credit card, and courts sentenced him to two terms of imprisonment. While visitation was difficult because Jason spent more than 28 months in prison during the 3 years he had visitation privileges, even when Jason was out of prison, he failed to use all visitation opportunities. Although Jason took parenting classes while in prison, he made no additional progress. While completion of these classes was an encouraging step, the classes alone were insufficient to ensure that Jason was fully capable to resume parenting his children.

¶ 60 We also note that this incident in April 2011 was not the first time Jason and the children were the subjects of DCFS incident reports. In fact, he and the mother have been working with DCFS since 2008. A large number of these documents were in the court file. The earlier DCFS incidents involved inadequate supervision, keeping an environment injurious to the health and welfare of the children, and medical neglect. We find that one of these incidents is factually significant. In November 2010, J.D.M. left the home and was found standing next to a road. According to the police officer who responded, this incident was the third time that the police received calls about J.D.M. being alone outside of his home. DCFS created a detailed safety plan to ensure that this would not occur in the future, and conducted several home visits. DCFS closed this case prior to the events in this case when both J.D.M. and A.M. were found outside of the home and in the road.

¶ 61 We reference this past history because Jason knew how the DCFS program worked. Jason's DCFS experience serves to highlight his knowledge about the necessity

of compliance. Yet, in three years, Jason did not complete even one DCFS goal. Jason knew that J.D.M. left the home unsupervised on three past occasions and was aware that lack of supervision of his children was a problem. Jason knew about the safety plan to ensure that this would not happen again, and yet he left the children unattended.

¶ 62 The standard is whether Jason made reasonable efforts to correct the conditions that led to his son's removal. That standard requires the trial court to make a subjective determination. *In re M.F.*, 304 Ill. App. 3d 236, 238-38, 710 N.E.2d 519, 522 (1999). The reasonableness of the progress is objectively connected to the amount of advancement made by the parent towards the goal of reunification. *In re V.O.*, 284 Ill. App. 3d 686, 690, 673 N.E.2d 439, 442 (1996). DCFS completed five administrative reviews of Jason's goals and progress from the time the children were removed from the home until the court changed the permanency goal from reunification. Jason's progress was rated "unsatisfactory" on all goals in all five administrative reviews.

¶ 63 Overall, we conclude that the trial court had sufficient reasons to conclude that Jason failed to take appropriate steps to correct the problems which led to the removal of his child. The court's finding that Jason is unfit is not against the manifest weight of the evidence.

¶ 64 Best Interests

¶ 65 Termination of a parent's rights is a drastic measure because a parent has a superior right to raise his own children. *In re Adoption of Syck*, 138 Ill. 2d at 274-75, 562 N.E.2d at 184. Once a parent has been determined to be unfit, "the parent's rights must yield to the child's best interest." *In re Tashika F.*, 333 Ill. App. 3d 165, 170, 775 N.E.2d

304, 307 (2002); *In re J.L.*, 236 Ill. 2d 329, 337-38, 924 N.E.2d 961, 966 (2010). Up until the hearing on the best interests of the child, the interests of both the parent and the child coincide "to the extent that they both 'share a vital interest in preventing erroneous termination of their natural relationship.' " *In re D.T.*, 212 Ill. 2d 347, 363, 818 N.E.2d 1214, 1226 (2004) (quoting *Santosky v. Kramer*, 455 U.S. 745, 760-61 (1982)). The State bears the burden of proof by a preponderance of the evidence that termination of a parent's rights is in the child's best interests. 705 ILCS 405/2-29(2) (West 2008); *In re D.T.*, 212 Ill. 2d 347, 366, 818 N.E.2d 1214, 1228 (2004). On appeal from a best interests determination, we must decide whether the trial court's decision is contrary to the manifest weight of the evidence. *In re S.J.*, 368 Ill. App. 3d 749, 755, 859 N.E.2d 281, 286 (2006).

¶ 66 The factors to be considered in a best interests determination are as follows: the child's physical safety and welfare; the child's background and ties (including family, culture, and religion); the need for permanence, including familiarity, stability, and continuity with parental figures and other relatives; risks related to substitute care; and preferences of the person available to care for the child. 705 ILCS 405/1-3(4.05) (West 2008); *In re Deandre D.*, 405 Ill. App. 3d 945, 953-54, 940 N.E.2d 246, 253-54 (2010). The court may also consider the possibility of adoption. The court is not required to individually consider each and every factor in determining the best interests of the child. *In re Tiffany M.*, 353 Ill. App. 3d 883, 893, 819 N.E.2d 813, 822 (2004).

¶ 67 In reviewing the trial court's ruling and the evidence presented at this hearing, we do not find that the trial court's best interests decision is against the manifest weight of

the evidence. The ruling reflects the court's careful consideration of the relevant factors. The evidence in this case is that J.D.M. has been in various DCFS placements since April 2011. In April 2011, he was two years and nine months old. By the October 2014 best interests hearing, J.D.M. was six years and three months old. DCFS placed J.D.M. with a specialized foster mother in November 2013—approximately one year before the best interests hearing. Prior to that placement, J.D.M. had lived in two different foster homes and a shelter care facility. J.D.M. has special needs. He was diagnosed with attention deficit hyperactivity disorder. He takes prescription medication and needs a very structured environment to manage the condition. He has developed a very strong bond with his foster mother, and she has indicated that she would be willing to adopt J.D.M. if the court terminates parental rights. This bond with his foster mother and her biological son is very important. When J.D.M. began exhibiting violent and defiant behavior, a psychiatrist diagnosed him with reactive attachment disorder. In the one year J.D.M. lived in Springfield with his specialized foster mother, his psychiatrist determined that he no longer suffered from the disorder. He was successful in attachment to his foster mother and his foster brother. His environment had become stable and healthy. Caseworkers describe J.D.M. as happy.

¶ 68 While we do not doubt that Jason loves J.D.M., he cannot provide the stable and healthy environment required. Jason has proven his inability to participate and complete programs recommended by DCFS in order to regain custody of his son. The evidence of Jason's psychiatric and substance abuse issues, coupled with his failure to follow recommended and needed care, reflects his inability to take care of his own needs. Given

these facts, along with Jason's lack of proper housing and employment, we find that he would not be capable of providing adequate and structured care necessary for J.D.M. We conclude that the best interests of J.D.M. warranted the termination of Jason's parental rights.

¶ 69

#### CONCLUSION

¶ 70 For the reasons stated in this order, the judgments of the Jasper County circuit court are affirmed.

¶ 71 Affirmed.