FOURTH DIVISION
January 28, 2016

Nos. 1-15-1878 and 1-15-1904 (cons.)

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

In re K.K.,	)	Appeal from the
	)	Circuit Court of
Minor-Respondent-Appellee,	)	Cook County.
	)	
	)	No. 10 JA 912
	)	
(People of the State of Illinois, Petitioner-Appellee v.	)	Honorable
F.B. and N.K., Respondents-Appellants).	)	Andrea M. Buford,
	)	Judge Presiding.

JUSTICE ELLIS delivered the judgment of the court.
Presiding Justice McBride and Justice Howse concurred in the judgment.

ORDER

¶ 1 *Held*: Trial court's findings that both father and mother were unfit because they had failed to make reasonable progress toward return of child were not against manifest weight of evidence. Trial court's finding that child's best interests were served by termination of mother's parental rights was not against manifest weight of evidence.

¶ 2 In this consolidated appeal, respondents F.B. (Ms. B.) and N.K. (Mr. K.), appeal the trial court's determination that they were unfit for failing to make reasonable progress toward the return of their minor child, K.K. Ms. B. also appeals the trial court's decision that K.K.'s best interests would be served by the termination of her parental rights.

¶ 3 We affirm the trial court's finding of unfitness as to Ms. B., because the State proved by clear and convincing evidence that she failed to make reasonable progress toward the return of K.K. While the evidence showed that Ms. B. had complied with the necessary services, she had failed to make reasonable progress toward K.K.'s return home.

¶ 4 We also affirm the trial court's finding of unfitness as to Mr. K., because the State proved by clear and convincing evidence that he failed to make reasonable progress toward the return of K.K.

¶ 5 We affirm the trial court's finding that it was in K.K.'s best interests for Ms. B.'s parental rights to be terminated. Mr. K. does not challenge the trial court's finding that it was in K.K.'s best interests for Mr. K.'s parental rights to be terminated. Thus, we affirm the judgment of the circuit court in all respects.

¶ 6 At the outset, we note that this case is designated as "accelerated" pursuant to Illinois Supreme Court Rule 311 (eff. Feb. 26, 2010) because it involves a matter affecting the best interests of a child. Rule 311 states in relevant part that, "[e]xcept for good cause shown, the appellate court shall issue its decision within 150 days after the filing of the notice of appeal." Ill. S. Ct. R. 311(a)(5) (eff. Feb. 26, 2010). In this case, Ms. B. filed her notice of appeal on June 29, 2015; Mr. K. filed his notice of appeal on July 6, 2015. On August 18, 2015, we granted the Cook County Public Guardian's motion to consolidate the two appeals and the due date for our decision was designated as December 23, 2015. Ms. B. requested an extension of time to file her brief until September 30, 2015, which we granted. We therefore granted an extension of time to the State and the Cook County Public Guardian (public guardian) until October 21, 2015, in which to file their appellee briefs. On October 20, 2015, the public guardian requested an extension of time to file its brief until November 16, 2015, which we granted. On October 21,

2015, the State also filed a motion for an extension of time to file its brief until November 16, 2015, which we granted. The State did not file its brief on November 16, 2015 but we later allowed its motion to file its brief *instanter*. The State's brief was filed on December 1, 2015. Respondents' briefs were due on December 15, 2015 but neither had filed a brief by that date. On December 23, 2015, Ms. B. filed a motion for leave to file her reply brief *instanter*. We granted the motion on December 29, 2015. Thus, this consolidated case was not ready for disposition until after the original due date. In light of these circumstances, there is good cause to issue this decision after the 150-day deadline. We now turn to the merits of this appeal.

¶ 7 I. BACKGROUND

¶ 8 The Department of Children and Family Services (DCFS) became involved in this case in 2010 after a call to its child abuse hotline. At the time, K.K. was living with respondents and was exposed to ongoing domestic violence in the home.

¶ 9 On August 8, 2010, Ms. B. took an overdose of her prescribed anti-depressant medication because of the stressful living situation she was in with Mr. K. and the paternal grandmother. Ms. B. was hospitalized overnight and K.K. was left in the care of Mr. K.

¶ 10 Also in August 2010, Mr. K. pleaded guilty to a charge of domestic battery for striking the maternal grandmother. After the incident, during which K.K. was present, the maternal grandmother took out an order of protection against Mr. K.

¶ 11 On September 3, 2010, Mr. K. pleaded guilty to a charge of domestic battery against Ms. B. After the incident, during which K.K. was present, Ms. B. took out a plenary order of protection for herself and K.K.

¶ 12 After receiving the telephone call on its child abuse hotline, DCFS launched its investigation and learned of the extensive domestic violence between respondents that had occurred in front of K.K. DCFS took protective custody of K.K. on October 8, 2010.

¶ 13 On October 12, 2010, the State filed a petition for the adjudication of wardship and a motion for temporary custody of K.K. The court took temporary custody of K.K. that same day. At the State's request, the trial court adjudicated K.K. a ward of the court in November 2010. K.K. was placed into a foster home. The public guardian was appointed to represent K.K.

¶ 14 On April 11, 2011, at adjudication, the parties stipulated to the domestic violence. The court made a finding of neglect due to an injurious environment for K.K. and adjudged him a ward of the court. The DCFS guardianship administrator was named K.K.'s guardian. K.K. was placed with the maternal grandmother.

¶ 15 On December 5, 2011, K.K. was removed from the maternal grandmother's home after Child Link, the assigned agency, learned that she had a boyfriend with a murder conviction living in the home with K.K. The agency also suspected that Ms. B. was living in the home with K.K, when she instead was supposed to be living with her stepfather. K.K. was placed in a traditional, non-relative home where he remained.

¶ 16 In August 2013, the permanency goal for K.K. was changed from return home to termination of parental rights.

¶ 17 On March 28, 2014, the State filed petitions seeking to terminate the parental rights of Ms. B. and Mr. K. The State contended that they were unfit to have a child, and that it was in the best interests of K.K. that he be adopted by the foster parents with whom he was residing. The petition contained two grounds and alleged that the parents were unfit in that: (1) they failed to maintain a reasonable degree of interest, concern or responsibility as to K.K.'s welfare (see 750

ILCS 50/1(D)(b)(West 2014)); and (2) they failed to make reasonable efforts to correct the conditions that were the basis for the removal of K.K. from them and/or failed to make reasonable progress toward the return of K.K. to them within nine months after the adjudication of neglect or abuse under the Juvenile Court Act [705 ILCS 405/2-29 (West 2014)], or after an adjudication of dependency under the Juvenile Court Act, and/or within any nine-month period after such finding (see 750 ILCS 50/1(D)(m)(West 2014)). On February 27, 2015, the State filed its required pleading specifying that the nine-month periods it relied on were: (1) the initial nine-month period following the adjudication; (2) January 12, 2012 to October 12, 2012; (3) October 13, 2012 to July 13, 2013; and (4) June 28, 2013 to March 28, 2014.

¶ 18 A proceeding to terminate a party's parental rights under the Juvenile Court Act of 1987 (705 ILCS 405/1-1 *et seq.* (West 2014)) occurs in two stages. First, the State must establish that the parent is "unfit to have a child" under one or more of the grounds in the Adoption Act. *In re D.T.*, 212 Ill. 2d 347, 352 (2004); see 750 ILCS 50/1(D) (West 2014) (setting out bases for finding of unfitness). At the unfitness hearing, the State bears the burden of proving, by clear and convincing evidence, that the parent is unfit to have a child. See *In re D.W.*, 214 Ill. 2d 289, 315 (2005); *In re D.T.*, 212 Ill. 2d at 352-53. The reason for this heightened burden of proof is rooted in the notion that "the right of parents to control the upbringing of their children is a fundamental constitutional right." *D.W.*, 214 Ill. 2d at 310; see also *In re Shauntae P.*, 2012 IL App (1st) 112280, ¶ 88 ("Because the termination of parental rights constitutes a complete severance of the relationship between the parent and child, proof of parental unfitness must be clear and convincing.").

¶ 19 If the trial court finds the parent to be unfit, the proceedings advance to the second stage, where the court determines whether it is in the best interests of the minor for the parent's rights to

be terminated. *In re D.T.*, 212 Ill. 2d at 352. At the best-interests hearing, the burden of proof is the lower preponderance-of-the-evidence standard. *In re D.W.*, 214 Ill. 2d at 315; *In re D.T.*, 212 Ill. 2d at 366. A lower standard is appropriate because, once the State proves parental unfitness, the focus shifts to the child, and the interests of parent and child diverge. *In re D.W.*, 214 Ill. 2d at 315.

¶ 20 A. Unfitness Hearing

¶ 21 The unfitness hearing began on March 16, 2015. In addition to submitting documentary evidence consisting of various evaluations of both respondents, the State called five witnesses: Brittany McKinnis; Ms. B.; Mr. K.; Helema Townsend; Abigail Lawson-Archer; and Karen Jackson-Hunt. The public guardian called Tracy Bouck and submitted Mr. K.'s therapy reports. Ms. B. presented two witnesses: her mother, Theresa B. and herself. Mr. K. produced no evidence.

¶ 22 Although the State presented evidence in support of both grounds of unfitness alleged in the petition, we shall focus only on the evidence related to the trial court's finding of unfitness based on respondents' failure to make reasonable progress.

¶ 23 1. Testimony in State's Case

¶ 24 *a. Brittany McKinnis*

¶ 25 Brittany McKinnis, a case worker from Child Link, was assigned K.K.'s case in August 2011. She testified that K.K.'s case came to the attention of DCFS as a result of the domestic violence between Ms. B. and Mr. K. The goal at that time was for K.K. to return home. K.K. had been placed with Ms. B.'s mother, Theresa B. Ms. B., who supposedly was living across the hall with her stepfather in the same apartment building, was allowed multiple weekly supervised visits.

¶ 26 Ms. McKinnis testified that the placement became no longer viable, prompting a move in which K.K. was placed in a traditional, non-relative home. Child Link had learned that Theresa B. had a boyfriend with a murder conviction living in the home with K.K. Also, based on a court-ordered unannounced visit, the agency also suspected that Ms. B. was living in the home with K.K. On December 5, 2011, Ms. McKinnis and her supervisor, Lilia Reyes went to remove K.K. Based on Ms. B.'s "very inappropriate behavior in the past," the two called for a police escort.

¶ 27 Ms. McKinnis described the specific incidents involving Ms. B. that caused her to believe the police escort was warranted. These incidents included Ms. B. accusing Ms. McKinnis of having sexual relations with Mr. K because they "looked very cozy." Ms. B. further said she would deny everything Ms. McKinnis said, calling Ms. McKinnis a "bitch." Ms. McKinnis also testified that Ms. B. had "googled" her name at the time, "Brittany Johnson." Ms. B. told her that she had "found out a whole lot about" her. Mistakenly believing that Ms. McKinnis was a former gymnast who had been injured, Ms. B. accused her of being "bitter" due to her "failing gymnastics career." Ms. McKinnis also testified that there were several instances where Ms. B. believed Ms. McKinnis could not have children and would continually ask her if there was something wrong with her uterus, noting that she herself could have "tons of babies" while making a stomach motion. On the day they came to remove K.K., Ms. B. lunged toward Ms. McKinnis telling her that she was "this big" when she was pregnant, while "making a motion on her stomach with her arms." Ms. B. was "bouncing around the room" repeatedly saying "I can have babies" in a "sing-songy voice." Ms. McKinnis also testified that Ms. B. admitted to calling a suicide hotline and having suicidal ideations. Additionally, Ms. B. had lied about her psychiatrist taking her off all anti-anxiety medications before admitting she had taken herself off

the medication, believing she could control her anxiety without it. On several occasions, Ms. B. accused Ms. McKinnis of wanting to adopt K.K. herself.

¶ 28 On the day K.K. was removed, Ms. McKinnis testified that she did not observe any discomfort on K.K.'s part until Ms. B. "knelt down on the ground grabbing [him] and rocking him back and forth while sobbing."

¶ 29 Ms. McKinnis testified that she tried to work with Ms. B. on December 6, 2011, in writing a letter of recommendation for her to receive low-income housing, but she refused to cooperate. Ms. McKinnis was taken off K.K.'s case due to Ms. B.'s inappropriate behavior and hostility towards her. At a transition staffing on December 12, 2011, involving Ms. McKinnis, Ms. B., and the new caseworker, Lindsay North, Ms. B. was upset at what they were telling her, stormed out of her chair and said she was going to call the media. Ms. McKinnis testified that Ms. B., while sitting in her chair was again making the stomach motion and as she walked out of the room was screaming, "I can have babies." The transition staffing had to be cut short.

¶ 30 Before Ms. McKinnis left, she made a referral for both parents to have a parenting capacity assessment with the Juvenile Protection Association. Ms. B's referral was based on Ms. McKinnis's concerns regarding Ms. B.'s mental health and erratic behavior and its impact on her ability to parent K.K. Mr. K.'s referral was based on his minimizing of his actions in bringing K.K.'s case to DCFS's attention and for blaming Ms. B. for the aggression between the two of them.

¶ 31 On cross-examination, Ms. McKinnis testified that, during her time on the case, the permanency goal for K.K. in the service plan was "return home within five months." She also testified that the plan indicated that Ms. B. had started parent coaching, was seeking an individual therapist and had successfully completed therapeutic parenting, and that visitation had

been increased. Although there was no mention of Ms. B.'s inappropriate behavior in the service plan, Ms. McKinnis testified that she chose not to include it, because it was outlined in the court report, which was the agency's means of informing the court.

¶ 32 The court report, admitted into evidence and contained in the record, notes that Ms. B. does not appear to be mentally stable and outlines the inappropriate behavior that Ms. McKinnis testified to during the hearing. The report also notes that Ms. B. suffers from depressive disorder and bipolar disorder. The agency and service providers felt it was unsafe for K.K. to have unsupervised visits with Ms. B.

¶ 33 As to Mr. K., the court report noted that he suffered from bipolar disorder and impulse control disorder. He was making progress in individual therapy and had completed a domestic violence class. The agency expressed concerns that Mr. K. had difficulty taking responsibility for his actions and did not have a source of income. The recommendations included a change to the permanency goal to return home in 12 months, instead of 5 months, to allow the parents more time to make significant progress in services.

¶ 34 Ms. McKinnis further testified that Ms. B. consistently participated, and made efforts, in services. Nonetheless, Ms. McKinnis did not see any positive changes in Ms. B. to indicate that she was actually making progress.

¶ 35 Regarding, Mr. K., Ms. McKinnis testified that he was uninvolved but became more involved during her service of the case. Although he was making efforts, Ms. McKinnis saw no changes in his behavior that would indicate he was internalizing what he learned or making progress.

¶ 36 *b. Ms. B.*

¶ 37 The State called Ms. B. as its next witness. She described the relationship she had with Mr. K. as physically and emotionally abusive. She no longer has a personal relationship with Mr. K., other than their parenting relationship. She testified that she had completed a domestic violence training program in January 2011. She completed a six-week anger management service in May 2011. She also completed parenting classes in January 2011. She was later referred to parenting coaching which she completed in October 2012.

¶ 38 Ms. B. testified that she was in individual therapy and was going to have therapy for the rest of her life. She denied having trouble controlling her emotions in front of K.K. She testified that she did not get angry or frustrated in front of him but admitted crying in front of him. She testified that she had been diagnosed with bipolar disorder and post traumatic stress disorder and was being evaluated for borderline personality disorder. She testified that she had been on multiple medications during this case. She insisted that she had consistently taken her prescribed medications. She denied discontinuing, against doctor's orders, the medication that was prescribed for her anxiety.

¶ 39 Ms. B. also denied lunging at Ms. McKinnis on the day they came to remove K.K. from Theresa B.'s house. She denied "googling" Brittany Johnson's name. She admitted that, on November 21, 2011, she accused Ms. McKinnis of having sexual relations with Mr. K., and that Ms. McKinnis's working relationship with Mr. K. was smoother than the one with her. Ms. B. admitted that she made these accusations in the courtroom, and that she made them after she had successfully completed her various services that included individual therapy, domestic violence training, parenting, and anger management.

¶ 40 Ms. B. testified that she was given unsupervised visits with K.K. periodically between December 2011 and August 2013 when they were suspended by the agency. She testified that

she was not told the reason they were suspended. She could not recall the last time she had been allowed unsupervised contact with K.K. Nor could she recall how many times her unsupervised visits had been suspended prior to August 2013, the date when K.K.'s permanency goal was changed from return home to termination of parental rights.

¶ 41 Ms. B. also conceded that part of her service plan was to complete vocational training and secure gainful employment, and that she requested that she hold off on that service because she was dealing with a lot of things at that point and felt overwhelmed. She also admitted that she chose not to take the vocational training for her own personal reasons. Ms. B. testified that she had a monthly disability income from Social Security due to her mental health diagnosis.

¶ 42 *c. Mr. K.*

¶ 43 The State next called Mr. K. to testify. He stated that he and Ms. B. could not get along, but that K.K. was never abused or neglected. Mr. K. testified that he was not fully aware of how K.K. was brought to the attention of the court and DCFS. He stated that he had terminated his relationship with Ms. B.

¶ 44 Mr. K. testified that there was no major physical violence between Ms. B. and him, and that he would defend himself by pushing her away when she came at him with closed fists. He testified that following an incident in January 2011, he went to jail for a month. Mr. K. testified that he completed domestic violence services which were required as part of his probation after pleading guilty.

¶ 45 As to parenting classes, Mr. K. was unable to complete them on his first two attempts due to reasons beyond his control, but he completed them in March 2011. He completed two parenting evaluations: one in the fall of 2011 and one in the summer of 2012.

¶ 46 Mr. K. testified that he had a mental health diagnosis of bipolar NOS ("not otherwise specified"), which he stated was the weakest form in the spectrum of bipolar disorder. Mr. K. began individual therapy, but several appointments had to be rescheduled; he made 12 of the 22 appointments. He had to discontinue the therapy, because it interfered with his work schedule. He testified that he was on call 24 hours a day, 7 days a week and provided security for a friend's trucking company on out-of-state trips. He stated that the agency deemed his vocational training satisfactory.

¶ 47 Mr. K. had biweekly visits with K.K. but testified that he was never given the chance to have unsupervised visits.

¶ 48 *d. Helema Townsend*

¶ 49 The State called Helema Townsend as its next witness. Ms. Townsend was the Child Link supervisor on K.K.'s case beginning in October 2010. She testified that she served as a liaison between the parent and caseworker at times but, overall, her responsibility was to ensure that the caseworker was doing an adequate job servicing clients. She supervised the case from 2010 to 2011 and again from the summer of 2012 until early 2013.

¶ 50 Ms. Townsend stated that the case originated because Mr. K. was keeping K.K. from Ms. B., and because Mr. K. and K.K. were living in filth. After K.K. was taken into protective custody, Ms. B. and Mr. K. were assessed for services as part of the integrated assessment and social history for the family (IA), which was admitted into evidence.

¶ 51 Ms. Townsend testified that during the first period, September 2010 to August 2011, she observed between five to seven supervised visits between K.K. and Ms. B. and received reports from the caseworker and case aide who observed those visits. Ms. Townsend was unable to recommend that Ms. B.'s supervised visits with K.K. be changed to unsupervised, because Ms.

B. was consistently unable to regulate her emotions as it related to parenting K.K. Ms. B. was unable to accept any form of constructive criticism or advice from the professionals involved in the case.

¶ 52 Ms. Townsend also observed two or three supervised visits between K.K. and Mr. K. between September 2010 and August 2011. She also received reports from the caseworker and case aides who supervised these visits. Ms. Townsend described Mr. K. as extremely rigid in his parenting approach. He was unable and unwilling to accept any form of criticism, advice, or recommendations from the professionals involved. Ms. Townsend was unable to recommend that the supervised visits with K.K. be changed to unsupervised.

¶ 53 Ms. Townsend was again assigned to supervise the case in the summer of 2012 until February 2013. She again had the opportunity to observe Ms. B. with K.K. Ms. Townsend testified that, based on her observations, Ms. B. had made no progress towards controlling her emotions or her anxiety or accepting constructive criticism. Ms. B. was able to verbally express what she needed to do, but she could not accomplish it. Although Ms. B. had completed a number of services, cooperated with everything the agency asked her to do, and could clearly articulate what she needed to do as a parent, the problem was that she could not put those words into action. Ms. Townsend testified that Ms. B. was sometimes just completely unable to regulate her emotions, and she would generally freeze up in certain situations that involved her having K.K. Ms. Townsend was concerned for K.K.'s well-being because of the risk posed by Ms. B.'s inability to regulate her emotions to make sound decisions involving the safety of the child.

¶ 54 Ms. Townsend also observed Mr. K.'s visits with K.K. during the period of the summer of 2012 to February 2013. The same concerns were present that she had had during the initial period of 2010 to 2011. She observed no demonstrable progress in his ability to be flexible in his

parenting. Ms. Townsend testified that she was concerned for K.K.'s well-being because of Mr. K.'s inflexibility and rigidity; Mr. K. was unwilling to accept any recommendations or advice as to how his background affected his parenting with K.K. Ms. Townsend agreed that no visits were terminated early, and that Mr. K. engaged in activities with K.K. such as teaching him how to read, write, and color pictures. Ms. Townsend also testified that Mr. K. was residing in a one-bedroom apartment with his mother, and that this factor was the reason K.K. could not have unsupervised visits with Mr. K.

¶ 55 Ms. Townsend testified regarding K.K.'s special needs. K.K. is diagnosed with autism and, although she did not know where on the spectrum of the disorder K.K fell, it required increased supervision, communication with all of his service providers, the ability to follow the recommendations and communicate effectively with his service providers, and multiple doctor appointments with his primary care doctor. She referenced the mental health conditions related to K.K.'s disability and the required increased daycare services.[1]

¶ 56 K.K.'s special needs were discussed with each parent in separate family team meetings. At the forefront of these meetings was the requirement of understanding K.K.'s special needs, as well as the details of the services and the quality of care that K.K. needed. Ms. Townsend said that she discussed these special needs with Mr. K., but he had never verbalized an understanding to her as to KK.'s disability and the care he needs because of his diagnosis. Ms. Townsend also acknowledged that the Juvenile Protective Association "Multidisciplinary Parenting Competency Evaluation" had recommended that, for four to six weeks, there be half supervised visits with Ms. B. and, if things went well, some unsupervised visits and a transition to all unsupervised visits. Ms. Townsend testified that Child Link was unable to transition to fully unsupervised

[1] K.K. was re-evaluated in late 2014 and diagnosed with full autism in early 2015.

visits for Ms. B., because she was unable to regulate her emotions. In fact, Child Link was also never able to recommend that Ms. B. leave her apartment with K.K.

¶ 57 K.K. had global developmental delays. K.K. needed intensive services which included occupational therapy, physical therapy, speech therapy, and play therapy. He required very careful supervision. Although separate meetings were held with each parent after December 4, 2012, to discuss the results of K.K.'s global assessment, Ms. Townsend testified that neither parent was willing to accept that their son had any special needs.

¶ 58 Also, as a result of K.K.'s special needs that required the assistance of a specialized foster parent in a specialized home, a meeting was held in January 2013 with Ms. Townsend, the caseworker, K.K.'s guardian *ad litem*, K.K.'s therapist, Mr. K., Ms. B., and Ms. B.'s attorney. Ms. Townsend testified as to some concerning statements made by each parent during that meeting. Ms. B. stated that she did not believe that K.K. had special needs, and that the only problem K.K. had was the result of his not being in her care and custody. Mr. K. stated that he believed that all of K.K.'s special needs stemmed from the fact that he was born in the month of March.[2]

¶ 59 Due to K.K.'s special needs, the case was transferred from Child Link in early February 2013, and Ms. Townsend's supervision of K.K.'s case ended. At that point, she was unable to recommend to the court that either parent be granted unsupervised visits.

¶ 60 Ms. Townsend acknowledged that the goal was for K.K. to return home and her agency was providing the necessary services for that goal. She also testified that Ms. B. was consistently cooperating in the services, but that Mr. K.'s cooperation was inconsistent.

¶ 61 *e. Abigail Lawson-Archer*

[2] K.K. was born on May 14, 2010.

¶ 62 The State next called Abigail Lawson-Archer, a supervisor with Easter Seals. K.K.'s case was transferred to that agency in March 2013. At the time, both parents were having supervised visits with K.K. Ms. Lawson-Archer supervised the caseworker, Karen Jackson-Hunt. Ms. Lawson-Archer occasionally supervised the visits between Ms. B. and K.K.

¶ 63 She testified in detail regarding her visit to Ms. B. on July 12, 2013. Ms. Lawson-Archer brought K.K. to Ms. B.'s apartment. She greeted Ms. B., who immediately took her to the pantry to show her that she had food. Ms. B. had a child-size table for K.K. After he was seated, Ms. B. went to get him some snacks. Ms. Lawson-Archer told Ms. B. that she had bought appropriate snacks except for a pack of cookies. Ms. Lawson-Archer asked if she had something a little bit more healthy, and Ms. B. brought K.K. applesauce, telling Ms. Lawson-Archer that K.K. liked it.

¶ 64 Ms. Lawson-Archer testified that she had received a call that day from the therapist. She further testified that she had received information suggesting that Ms. B. might not be compliant with her medications. Thus, during the visit, Ms. Lawson-Archer needed to find out if Ms. B. was compliant with her medications. She asked Ms. B. if she could see her bottles of medication, and when Ms. Lawson-Archer noticed the medication bottles on the table in the kitchen area, she picked one up. She was aware that Ms. B. was prescribed medication for several mental health diagnoses. She testified that the bottles, which contained psychotropic medication, were on the table in open reach and accessible to K.K. Ms. Lawson-Archer noted that the date on the bottle was from April to May. She asked Ms. B. if she had any more current medication. Ms. B. took the bottles, went into her bedroom, and closed the door.

¶ 65 K.K. went to the door and knocked. He then started banging on the door, crying and screaming. Ms. Lawson-Archer told Ms. B. she needed to come out of the room and take care of K.K. Ms. B. stayed in the room for two or three minutes before coming out. When Ms. Lawson-

Archer tried to discuss her concern that the prescriptions were dated April and May, Ms. B. claimed it was her current medication. Ms. B. also told Ms. Lawson-Archer that she had no right to ask about her medication, that she was not her psychiatrist. Ms. B. started speaking louder, and K.K. became upset. Ms. Lawson-Archer testified that, prior to that visit, she had explained to Ms. B. that part of the service plan was for her to make sure Ms. B. was compliant with her psychiatric medication. Ms. Lawson-Archer explained to Ms. B. that she needed to address her medications because it was a concern if she were in fact not being compliant.

¶ 66 Ms. B. refused to let Ms. Archer-Lawson see the bottles and became very agitated and angry, threatening to call the police or her attorney. Ms. B. also said she tried to call her therapist and called her mother. Ms. B. opened the front door for Ms. Lawson-Archer to leave, but K.K. left the apartment. Ms. B. did not go after K.K. but continued to stay on the telephone, attempting to call various persons.

¶ 67 Ms. Lawson-Archer went and got K.K.—who had gone down to the second level—and brought him back. Ms. B. went to the back door and said she had to open the door for the police, who were coming to remove Ms. Lawson-Archer from the apartment.

¶ 68 Ms. Lawson-Archer testified that, after she asked Ms. B. for the medication, Ms. B. had no interaction whatsoever with K.K. Ms. Lawson-Archer was concerned about Ms. B.'s behavior, which indicated to her that she was not compliant with her medications. She testified that Ms. B. was very anxious, very overstimulated, and easily angered. She noted that Ms. B.'s behavior escalated very quickly, and she was not able to be redirected, even if it involved K.K. When Ms. B. became irate, she was not being responsive to K.K.'s needs and was more concerned with whether her own needs were being met.

¶ 69 Ms. Lawson-Archer had only seen Ms. B's troubling behavior in the home that one time, but she had received reports from workers who had informed her of Ms. B.'s behavior in the community that had been troubling. Ms. Lawson-Archer testified that the supervised visits were not cancelled, because they were trying to maintain the relationship between K.K. and his mother as long as the visits were safe.

¶ 70 Since the July 2013 visit, Ms. Lawson-Archer had not seen any positive progress in Ms. B.'s emotional stability or her ability to regulate her anxiety. She testified that Ms. B. was letting her emotions overrule her ability to provide for K.K.'s needs. She said that Ms. B.'s focus was on how she was being presented to the agency and not primarily on K.K.'s needs. Ms. Lawson-Archer's concern about Ms. B.'s ability to parent K.K. was based on these observations of Ms. B.'s behavior, which had been consistent throughout the case.

¶ 71 Ms. B. was informed that the agency was in agreement that the goal should change to termination of parental rights. Visits were reduced to once a month.

¶ 72 *f. Karen Jackson-Hunt*

¶ 73 The State's final witness was Karen Jackson-Hunt, a caseworker from Easter Seals. Ms. Jackson-Hunt observed the weekly visits between Ms. B. and K.K. from March 2013, when they were partially unsupervised, until July 2013, when they became completely supervised. Ms. Jackson-Hunt noted that Ms. B.'s behavior was consistent, in that her anxiety would increase whenever a situation arose that she could not control. Ms. B. would do a lot of talking and try to talk through it, but Ms. Jackson-Hunt usually would have to intervene to remedy the situation.

¶ 74 Based on Ms. B.'s behavior during home visits, Ms. Jackson-Hunt had concerns about Ms. B.'s ability to parent a special needs child. The visits were brought into the community to allow her to better assess Ms. B.'s ability. Ms. Jackson-Hunt testified that Ms. B. failed to

understand, and was never able to meet, K.K.'s special needs. She also testified to numerous examples of Ms. B.'s interactions with K.K. during the community visits and testified that, during all of the community visits, there was some type of struggle.

¶ 75 Ms. Jackson-Hunt testified that when K.K. was not confined to a stroller, he would do a lot of running. She explained that K.K. has a lack of boundary skills and no understanding of the surrounding dangers when in public. Although she explained to Ms. B. that she had to hold tightly onto K.K.'s wrist while in the community, Ms. B. was reluctant to do so for fear of hurting him. Ms. Jackson-Hunt had to explain to Ms. B. that getting hit by a car would be worse than hurting his wrist. Ms. Jackson-Hunt had also observed K.K. breaking free of Ms. B. and running around in a parking lot. She testified that she had to step in, pick him up and put him in the car. Ms. B. was able to then observe Ms. Jackson-Hunt being firm, yet gentle, with K.K. as she explained to him that he could not do that.

¶ 76 Ms. Jackson-Hunt described another incident during a community visit to a Target store during which K.K. climbed out of the shopping cart and ran up an escalator, and Ms. B. had to chase him.

¶ 77 Ms. Jackson-Hunt testified that it was typical for Ms. B. to attempt to redirect K.K. and for him to ignore her. Ms. B.'s inability to control the situation resulted in K.K. doing whatever he wanted. During the June 18, 2013 visit, K.K. was hitting Ms. B., who was telling him to stop. K.K. would not stop, and Ms. B. started crying. Ms. Jackson-Hunt explained that it took Ms. B. about a half-hour to get back on track with having a visit, but soon after she regained her composure, K.K. began hitting her again. She was unable to stop him, and Ms. Jackson-Hunt had to intervene once more. Ms. B. appeared to be overwhelmed, as she did whenever a situation got out of control.

¶ 78 Ms. Jackson-Hunt was aware that the evaluation by the Juvenile Protective Association had recommended half supervised, half unsupervised visits for Ms. B. But Ms. Jackson-Hunt was never able to transition to a fully unsupervised day visit, due to Ms. B.'s consistent dysregulation and her inability to keep K.K. safe, given his special needs.

¶ 79 Ms. Jackson-Hunt stated that K.K. had been diagnosed with global developmental delays called pervasive developmental disorder. She testified that it was on the autism spectrum. K.K. had recently—in early 2015— been diagnosed with full autism following a re-evaluation performed in late 2014. She had received the report a week before trial and had not discussed the report with either Ms. B. or Mr. K.

¶ 80 Ms. Jackson-Hunt also testified that, as to Mr. K., she was never able to recommend that his visits be unsupervised. She had concerns that Mr. K. did not understand K.K.'s special needs. She testified that he did not want K.K. to wear glasses, and he wanted K.K. to do things that he was unable to do.

¶ 81 2. Documentary Evidence in State's Case

¶ 82 In addition to the earlier referenced court report and integrated assessment, the State also introduced numerous documents as evidence at the unfitness hearing. These included the August 2011 evaluations for both respondents from the Cook County Juvenile Court Clinic (CCJCC), which resulted from a court order, and the August 2012 Juvenile Protective Association (JPA) "Multidisciplinary Parenting Competency Evaluation" for both Ms. B. and Mr. K., generated as a result of the referral by Ms. McKinnis.

¶ 83 The CCJCC evaluation of Ms. B., prepared by a psychologist, contained a section describing the risk factors suggesting she "would be unable to adequately care for, parent, and protect" K.K. The evaluation identified Ms. B.'s mental health status and emotional stability as

her primary risk factor. The second major risk factor was her relationship with Mr. K., their history of domestic violence, and her resulting symptoms of post-traumatic stress disorder. Ms. B.'s unstable living situation was listed as another risk factor. The evaluation included several recommendations and concluded that, at that point, the likelihood that Ms. B. would be able to adequately care for, parent and protect K.K. during unsupervised visits was moderate to high, as long as the recommendations were followed and the initial unsupervised visits were limited in time. The psychologist's primary concerns, *i.e.*, Ms. B.'s emotional stability and contact with Mr. K., could be or had been addressed through interventions. The psychologist noted that Ms. B., through her order of protection against Mr. K. and her immediate police reports after incidents with Mr. K., had shown the ability to take seriously any contact with Mr. K. He further noted that Ms. B. had said she would continue to avoid contact or call the police if future incidents occurred. With continued psychiatric and therapeutic monitoring, interventions, psychoeducation related to parenting and her mental health, and continued compliance and progress in services, the psychologist opined that Ms. B. "should be better able to cope with her mental health difficulties, day to day stressors, and more effectively parent [K.K.] and maintain his safety."

¶ 84 The JPA evaluation of Ms. B. was similar to the CCJCC evaluation. Although Ms. B. was noted as having some assets that mitigated the risk of maltreatment of K.K., she also had risk factors that increased the risk of maltreatment. These risk factors included Ms. B.'s history of mental illness characterized by a labile affect and interpersonal reactivity manifesting in outbursts and difficulty maintaining caregiving relationships. Ms. B. had been observed having such outbursts in front of K.K. She also presented with anxiety in parenting K.K., particularly when setting limits. Ms. B. had demonstrated poor judgment in determining if caregivers were suitable for K.K.

¶ 85 The CCJCC evaluation of Mr. K. noted that his risk factors included his: history of domestic violence; mental health status; mood instability; grandiose views of himself; lack of employment or motivation to obtain a job; defensiveness in responding to all psychological measures administered to him; and fixation on Ms. B's faults and her mental health difficulties. Mr. K. also had poor insight into his level of anger and potential for aggression.

¶ 86 The JPA evaluation of Mr. K. listed several risk factors, including his history of displaying aggressive behaviors in interpersonal relationships and the fact that he continued to justify his aggressive tendencies by blaming others. His personality function was described as including patterns of rigid thinking, grandiosity, and taking on the role of a victim while blaming others. Mr. K. failed to acknowledge the impact on K.K. of witnessing domestic violence. He failed to take responsibility in any way for contributing to the violent history with Ms. B. or DCFS's intervention based on that relationship. Mr. K.'s plan for coordinating visits with Ms. B. was noted to be unsustainable and likely to lead to recurrent aggressive and potentially violent interactions that K.K. would witness. Mr. K. had no stable income, and his living situation was not suitable for K.K. Mr. K.'s minimization of his own mental health and parenting needs indicated that he was not likely to engage in therapeutic services or seek help. The recommendation was that the relationship between Mr. K. and K.K. continue, but that Mr. K. not be the primary caregiver. The evaluation recommended that the visits remain supervised until Mr. K.'s therapist and other service providers documented progress in his rigid thinking, processing his past trauma and its ongoing impact on his relationship with Ms. B, and until Mr. K. demonstrated an understanding of the impact on K.K. of Mr. K.'s negative portrayals of Ms. B.

¶ 87 3. Testimony in Public Guardian's Case

¶ 88 The Public Guardian called one witness in its case, Tracy Bouck. Ms. Bouck was K.K.'s therapist from March 2012 to March 2013. She testified that she was the owner and a counselor at Family Building Blocks, a company that did early intervention for the Department of Human Services. Ms. Bouck worked with children with special needs. She testified that she was a licensed clinical professional counselor, a certified domestic violence counselor, and a child trauma and loss specialist.

¶ 89 Ms. Bouck conducted approximately eight therapeutic sessions with K.K. and Ms. B. between April and November 2012. During those sessions, Ms. Bouck had concerns about Ms. B. being able to meet K.K.'s needs. Ms. B. did not have an understanding of those needs. Ms. Bouck was also concerned about Ms. B.'s way of coping with her emotional dysregulation by stepping away; K.K. required consistent supervision because he had very unpredictable and erratic behavior. Ms. Bouck also stated that Ms. B.'s coping skill of writing and journaling, while helpful to her, took away from her focus on K.K., where her attention needed to be. Ms. Bouck stated that Ms. B. did a very nice job of appeasing K.K., but she tried to engage him in activities that were beyond his ability. Ms. Bouck also testified that Ms. B.'s method of giving up when K.K. would not follow her directions, and letting him do what he wanted to keep him happy and prevent temper tantrums, could lead to safety issues given K.K.'s special needs. She noted that this would also reinforce K.K.'s tendency to be withdrawn and unengaged. K.K. needed structure and a caretaker to reinforce and redirect, and to create the incentive and motivation to keep K.K. engaged.

¶ 90 Ms. Bouck stated that she attended multiple staffing sessions at Child Link; Ms. B. was present at some and Mr. K. was present at one, but by telephone. Ms. Bouck testified that she did

not meet with Mr. K. in person because he had been identified as a perpetrator of domestic violence.

¶ 91 Ms. Bouck described the staffing meeting at Child Link in January 2013, which included Ms. B. as well as Mr. K., who was present by telephone. The purpose of the meeting was to determine if K.K. would be specialized, which would require a level of care beyond that which the early intervention provided.

¶ 92 Ms. Bouck testified that Mr. K. seemed to be very defensive about discussing his son's delays. Mr. K. believed they were just developmental and typical for a two-year old. He saw no behavioral problems or concerns with K.K.'s speech.

¶ 93 Ms. Bouck also met with K.K.'s foster parents. She conducted approximately 25 sessions between March 2012 and May 2012. She testified that they were providing appropriate parenting and were very open to suggestions. Ms. Bouck stated that the foster parents had instinctual parenting strategies that worked well with K.K., and he appeared comfortable in the home.

¶ 94 4. Documentary Evidence in Public Guardian's Case

¶ 95 The public guardian introduced Mr. K's therapy notes into evidence. The reports showed that Mr. K. often cancelled or missed his weekly appointments. He attended approximately half of his appointments.

¶ 96 5. Ms. B.'s Case

¶ 97 Ms. B. presented two witnesses: her mother, Theresa B., and herself.

¶ 98 *a. Theresa B.*

¶ 99 Theresa B. testified that she was K.K.'s caretaker from December 2010 to December 2011. She testified that Ms. B. would visit K.K. three times per week, for two to three hours. The visits were all supervised. She testified that there were no unusual incidents, she did not have to

call off a visit, and Ms. B. and K.K. were bonding. She testified that K.K. was removed from her care, and that one of the reasons was that there had been an allegation that Ms. B. lived with her. Theresa B. denied that her daughter lived with her and stated that Ms. B. lived across the hall with her stepfather.

¶ 100 Theresa B. admitted that her boyfriend at that time had a lengthy criminal history, including a murder conviction, but claimed that she terminated her relationship with him when K.K. was brought into the system. She denied that her boyfriend ever lived with her.

¶ 101 Theresa B. was present on December 5, 2011, the evening that K.K. was removed from her care. She stated that Ms. B., the case worker [Brittany McKinnis], Lydia Reyes, and a police officer were also there. She testified that she had no notice that K.K. was going to be removed from her care. On cross-examination, however, she admitted receiving the 14-day notice and admitted that she had been in court on November 21, 2011, when the 14-day notice and K.K.'s removal from her home were discussed. She further admitted attending a clinical placement review with DCFS to discuss whether K.K. would be removed from her care.

¶ 102 *b. Ms. B.*

¶ 103 Ms. B. testified on her own behalf. She testified that between January 12, 2012, and October 12, 2012, she visited K.K. once a week for about three hours. None of the visits were cut short because of her behavior or K.K.'s behavior. She testified that she would feed K.K. fruit and a sweet snack, and she would bring a book and diapers.

¶ 104 Ms. B. stated that she never missed any visits between January and April 2012. In April, her visits became unsupervised for half the time, she never missed a visit, and they were never called off.

¶ 105 Ms. B. testified about the day in March 2013 when the caseworker, Ms. Lawson-Archer, came to her apartment for the visit with K.K. and asked to see Ms. B.'s medication. She denied refusing to show Ms. Lawson-Archer her medication. She denied waving a knife at Ms. Lawson-Archer.

¶ 106 Ms. B. agreed that K.K. has a lot of special needs but testified that she was only given the initial report regarding those needs. In March 2013, the assigned agency became Easter Seals. Ms. B. testified that no one from Easter Seals, including Ms. Lawson-Archer, ever sat down and talked to her about K.K.'s needs. She denied that K.K.'s therapist [Tracy Bouck] spent time with her, outside of therapy, talking about K.K.'s serious special needs.

¶ 107 Ms. B. was having weekly visits until the permanency goal was changed. Afterwards, Ms. B.'s visits were monthly. She has never missed or called off a visit, but she admitted that, after March 2012, all of the visits were at her apartment, and that K.K. was transported there by the agency.

¶ 108 On cross-examination, Ms. B. also admitted that she had parent-child psychotherapy from January 2013 through August 2013 but stated that K.K.'s special needs did not come up in therapy. Instead, Ms. B. stated that the therapist brought up the agency's behavior towards Ms. B. and discussed how attentive Ms. B. was to K.K.

¶ 109 6. Mr. K.

¶ 110 Mr. K. produced no evidence.

¶ 111 7. Trial Court's Findings and Ruling

¶ 112 After the evidentiary hearing and closing arguments, the trial court found both parents unfit by clear and convincing evidence. As to section 1(D)(b), the trial court found that the State failed to prove that respondents had failed to maintain a reasonable degree of interest, concern or

responsibility as to the child's welfare. But the court found Mr. K to be unfit under section 1(D)(m). The court concluded that, although the State did not meet its burden of showing that Mr. K. failed to make reasonable *efforts,* the State proved that Mr. K. failed to make reasonable *progress* toward the return of his child. The court found that Mr. K., from the start of this case, continued to minimize his role in this case and the reason it was in the system. The court also found that Mr. K. had demonstrated a lack of insight into his conduct in the case and the violence in which he had participated. More troubling to the court was that Mr. K. could not seem to accept that K.K. has special needs and requires a lot of care and treatment.

¶ 113 The court similarly found Ms. B. unfit under section 1(D)(m) for failure to make reasonable progress. The court noted that Ms. B. had a difficult time regulating her emotions and had not been able to verbalize an understanding of the care needed for K.K.'s special needs. The court noted Ms. B.'s participation in the services but found that there was no demonstrative measure showing progress in this case.

¶ 114 With respect to the basis for unfitness—the reasonable-progress finding—the court further specified that the State had met its burden for all four time periods alleged, which included the initial nine-month period following the April 11, 2011 adjudication and the subsequent nine-month periods of January 12, 2012 to October 12, 2012, October 13, 2012 to July 13, 2013, and June 28, 2013 to March 28, 2014.

¶ 115 The trial court proceeded to the second stage in the parental termination, the best-interests hearing. At this hearing, as we have noted above, the State bore the burden of proving by a preponderance of the evidence that it was in the best interests of K.K. to terminate Ms. B.'s and Mr. K.'s parental rights. *In re D.W.*, 214 Ill. 2d at 315; *In re D.T.*, 212 Ill. 2d at 366.

¶ 116 B. Best-Interests Hearing

¶ 117 At the best-interests hearing, the State called Karen Jackson, the case worker from Easter Seals. She testified that K.K. had been placed in the same foster home with Elizabeth and Thomas P. since December 2011. Ms. Jackson visits the home three times each month. There are two parents and K.K. is the only child. Ms. Jackson testified that K.K. is comfortable in the home and is attached to the foster parents. K.K. likes to sit on Ms. P.'s lap and watch cartoons. During one visit, K.K. stubbed his toe and ran directly to Ms. P. and stayed in her arms. Ms. P. was able to calm K.K. down, although it took a while due to K.K.'s developmental issues. Ms. Jackson testified that the foster parents have always responded appropriately when K.K. has hurt himself. They took him to the emergency room when he fell out of the bathtub. When he fell and scraped his knee, they put a bandage and ointment on it. Both times they notified Ms. Jackson.[3]

¶ 118 Ms. Jackson has also observed K.K. with Mr. P.'s mother. She testified that Mr. P.'s mother is very good with K.K., puts together puzzles with him, and that K.K. is attached to her.

¶ 119 Ms. Jackson testified regarding K.K.'s autism and the related behaviors. She said that the foster parents were aware of K.K.'s diagnosis, and she described the appropriate behavior that the Potters engaged in related to the supervision and structure that they provide. There have never been any concerns regarding the care K.K. receives in the foster home.

¶ 120 Ms. Jackson testified that Easter Seals recommended that termination of parental rights would be in the best interests of K.K. because he had progressed developmentally and had been stable while in the foster parents' care. She testified that, although Ms. B. and Mr. K were making efforts, there had been no progress on the level of ensuring that K.K. would be returned home in a safe and appropriate environment. Ms. Jackson believed the foster parents would

[3] Ms. Jackson testified under the name of Ms. Jackson-Hunt during the unfitness hearing.

continue to ensure that all of K.K.'s special needs be identified and met and would ensure that he has a quality life.

¶ 121 The State also called the foster mother, Ms. P., to testify as a witness. She testified that K.K. had lived with her and her husband for three and a half years, since December 5, 2011. She and her husband have three grown children, and it was apparent to the foster parents that K.K. had significant delays. He did not make eye contact, was unable to use utensils, and was unable to go up or down stairs.

¶ 122 Ms. P. testified that K.K. had two evaluations. K.K. was two and a half years old when the first evaluation was done. Afterwards, more therapy was put into place. Four therapists and a case worker were visiting the home every week. K.K.'s second evaluation took place two years later. At that point, K.K. had an Individualized Education Plan (IEP) at school. Ms. P. testified that, after the second evaluation, services did not really change, but the IEP was modified, and the evaluation helped the foster parents' understanding. Ms. P. testified that she keeps in contact with the school and shares information with the teachers. She also testified that the IEP gave her insight into what K.K.'s needs are, how he processes and understands things, and what needs to be in place during school time.

¶ 123 Ms. P. testified that K.K. had made great progress but, as he got older and was no longer in the stroller, more behavioral problems would develop. Thus, they had to be more aware of, and consider, safety issues. She testified that, compared to the other children she had raised, K.K. had more pressing safety issues and that he was not aware of boundaries. To ensure his safety, she and her husband function as a tag team, and both are with K.K. when he is out in the community.

¶ 124 Ms. P. testified that K.K. is very happy, likes to play, run, go to the park, go to the movies, and go to county and state fairs to see animals and go on the rides. He loves swimming and goes to the pool often. She testified that there were many children on her block, and K.K. had made huge improvements in playing with them.

¶ 125 Ms. P. testified that she and her husband want to adopt K.K. Ms. P. also testified that she and her husband had talked to numerous therapists regarding what K.K.'s relationship with Ms. B. should be in the future. She stated that she and her husband did not think K.K. should maintain contact with Ms. B. if her parental rights were terminated. She believed that the situation between K.K. and Ms. B. was a volatile one based on the fact that, after K.K. returned from those visits, he was very withdrawn, very upset, and often sick to his stomach. Ms. P. also stated that she did not think it best for K.K. to have future visits with Mr. K.

¶ 126 The State next called the foster father, Mr. P. He testified that K.K. had become a big part of the family, which included his three children and Mr. P.'s parents, and that K.K. was also well-integrated with the church community and neighborhood. He confirmed that he and his wife wanted to adopt K.K., and that they had told their older children and Mr. P.'s parents who were all involved in K.K.'s life. His friends were also supportive.

¶ 127 Mr. P. testified that the most important thing for K.K. was to have structure in his life. Mr. P. did not think it would be beneficial for K.K. to have further visits with Ms. B. He testified that, every time K.K. goes on a visit, it is a long, stressful day for him. When K.K. comes home, he has to lie in his bed for a while to decompress. Mr. P. testified that K.K. needs regularity in his day. Mr. P. also testified that it did not seem like it would be beneficial for K.K. to have further visits with Mr. K.

¶ 128 After the State and public guardian rested, Ms. B. testified about her visits with K.K. She testified that they went well. She stated that K.K. goes from one activity to the next, and she tries to keep it simple so that the atmosphere stays peaceful. She said it was a better visit because K.K. was not nervous and she was not overwhelmed with anything. Ms. B. testified that K.K. does not want to leave when the visit is over and will throw a tantrum, but she will then tell him that she will see him soon. He is then able to leave. Ms. B. rested her case.

¶ 129 Mr. K. produced no evidence.

¶ 130 After hearing arguments, the court found that it was in K.K.'s best interests to terminate Ms. B.'s and Mr. K.'s parental rights. The court further found that the appropriate goal was adoption. Both respondents appealed.

¶ 131 II. ANALYSIS

¶ 132 Both Mr. K. and Ms. B. challenge the results of the unfitness hearing, which we will address first. Ms. B. additionally challenges the result of the best interests hearing which we will consider separately.

¶ 133 As we have noted previously, a finding of unfitness must be supported by clear and convincing evidence. 705 ILCS 405/2-29(2) (West 2014); *In re J.L.*, 236 Ill. 2d 329, 337 (2010). We must defer to the trial court's finding of unfitness, because that finding involves factual findings and credibility assessments that the trial court is better-equipped to make. *In re Richard H.*, 376 Ill. App. 3d 162, 165 (2007). We do not reweigh the evidence on appeal. *In re J.B.*, 2014 IL App (1st) 140773, ¶ 49. We will not reverse a finding of unfitness unless it is against the manifest weight of the evidence. *In re Richard H.*, 376 Ill. App. 3d at 165. A decision is against the manifest weight of the evidence if the facts clearly demonstrate that the court should have reached the opposite result. *In re N.B.*, 191 Ill. 2d 338, 346 (2000). When reviewing the

sufficiency of the evidence in a termination-of-parental-rights case, each case must be decided based on the particular facts and circumstances presented. *In re G.L.*, 329 Ill. App. 3d 18, 26 (2002).

¶ 134 Because the grounds for unfitness are independent of one another, we will affirm the trial court's judgment if the evidence supports any of the grounds of unfitness found by the trial court. *Richard H.*, 376 Ill. App. 3d at 165; *In re Addison R.*, 2013 IL App (2d) 121318, ¶ 35 (single ground of unfitness is sufficient to support finding of unfitness). Reasonable efforts and reasonable progress are separate and distinct grounds for a finding of unfitness under section 1(D)(m) of the Adoption Act. *In re Jacorey*, 2012 IL App (1st) 113427, ¶ 21. A parent is considered unfit if he or she fails to make *either* (1) a reasonable effort to correct the conditions that led to the child's removal, or (2) reasonable progress toward the child's return home within any nine-month period after the adjudication of neglect. *In re R.L.*, 352 Ill. App. 3d 985, 998 (2004); 750 ILCS 50/1(D)(m)(West 2014).

¶ 135 The trial court here found respondents unfit because they failed to make reasonable progress. The 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. *In re C.N.*, 196 Ill. 2d 181, 216-17 (2001). A failure to make reasonable progress is determined by an objective standard, under which the trial court focuses on the amount of progress toward reunification to be reasonably expected under the particular circumstances. *In re M.I.*, 2015 IL App (3d) 150403, ¶ 13. At a minimum, reasonable progress requires measurable or demonstrable movement toward the goal of reunification. *In re*

Jacorey, 2012 IL App (1st) 113427, ¶ 21. There is reasonable progress "when the trial court can conclude that it will be able to order the child returned to parental custody *in the near future*." (Emphasis added.) *Id*.

¶ 136 A. Finding of Unfitness as to Ms. B.

¶ 137 Ms. B. contends that the State did not prove her unfit by clear and convincing evidence. She primarily places the responsibility for her failure to make reasonable progress with the agencies. She argues that the assigned agencies had no desire to return K.K. to her care and therefore did not fully support her in that effort. In support of her assertions, she refers to the October 2012 service plan and permanency hearing, where the agency recommended a goal change from return home to termination of parental rights, even though the court maintained the goal of return home. She contends this rendered illusory the goal of return home. As the public guardian notes, while this is evidence of a difference of opinion, it is not evidence that the agency was not supporting Ms. B. The agency continued to provide all necessary services.

¶ 138 Ms. B. also argues that she successfully addressed the issue of domestic violence, has engaged in all the services and evaluations requested by the agencies for reunification, and successfully completed her parent coaching. But we have already noted the distinction between "efforts" and "progress." See *In re Jacorey*, 2012 IL App (1st) 113427, ¶ 21; *In re R.L.*, 352 Ill. App. 3d 985, 998 (2004). And, as the public guardian notes, no one is arguing that Ms. B. did not make efforts. The trial court's decision was based on the failure to make "reasonable progress."

¶ 139 Ms. B. also argues that a "review" of her individual "therapy notes supports the conclusion that the court's unfitness finding is not supported by clear and convincing evidence." She then selectively discusses portions of some, but not all, of those notes written by her therapist, Martha Neira. For example, she refers to Ms. Neira's therapy note of June 25, 2012,

which described a DCFS staffing attended by: Ms. B.'s caseworker, Lindsey North; the DCFS supervisor Lilia Reyes; the DCFS attorney; Ms. B.'s attorney; Ms. B.; and Ms. B.'s therapist, Ms. Neira. Ms. B. notes that "it was agreed that [she] had made good progress in learning how to control her emotions, improve her ability to relate to others, and demonstrated good parenting skills." She also refers to selective portions of the notes from eleven other visits between July 12, 2012, and April 5, 2013. But she does not include the remainder of the notes. For example, she omits the November 7, 2012 note, where the therapist states that Ms. B.'s bipolar symptoms are an obstacle to her ability to deal with unexpected and stressful situations. She does not include the November 14, 2012 note that states she had made "some" progress regarding her ability to control her emotions and impulses but "her ability to parent her child is questionable at best." Also omitted is the November 28, 2012 note, stating that she had made "some reasonable progress in her ability to control her mood changes but there is concern as to her ability to provide a healthy environment for her son." Nor does she include the December 12, 2012 note, where the therapist stated that it was "evident that [Ms. B.] doesn't fully understand the seriousness of her son's deficit" and the therapist encouraged Ms. B. to go over her son's medical report. The therapist further noted that Ms. B. "uses denial and finds ways to justify her son's deficits. She oversimplifies and is not open to listen[ing] to different opinions" and "it is not certain if she could manage her emotions during prolonged periods of time and if her son became difficult." Ms. B. also omits the April 24, 2013 note where her therapist noted that Ms. B. had taken a few steps back, and her anxiety was high. Nor does she include the next note where the therapist stated that there were some serious concerns regarding Ms. B.'s ability to care for her son. She also does not include the May 1 or May 2, 2013 notes where the therapist noted that Ms. B. had regressed, and the therapist wondered if she was taking her medications because her

emotional lability had increased and her ability to control her emotions and regulate her behavior had deteriorated.

¶ 140 As we have explained, we do not reweigh the evidence on appeal. *In re J.B.*, 2014 IL App (1st) 140773, ¶ 49. We include the other notes only to point out that Ms. B.'s review of selective therapist notes is misleading and does not support her contention that the trial court's decision was against the manifest weight of the evidence. In fact, the evidence at trial was clear and convincing that Ms. B. had failed to make reasonable progress. Brittany McKinnis made a referral for Ms. B. to have a parenting capacity assessment with the Juvenile Protection Association based on Ms. McKinnis's concerns regarding Ms. B.'s mental health and erratic behavior and its impact on her ability to parent K.K. Ms. McKinnis testified that Ms. B. participated in services, but Ms. McKinnis did not see any positive changes that would indicate Ms. B. was actually making progress.

¶ 141 Likewise, Helema Townsend was unable to recommend that Ms. B.'s supervised visits with K.K. be changed to unsupervised, because Ms. B. was consistently unable to regulate her emotions as it related to parenting K.K., and she was unable to accept any form of constructive criticism or advice from the professionals involved in the case. Ms. Townsend further testified that she observed Ms. B. with K.K. in the summer of 2012 until February 2013, and that Ms. B. had made no progress toward controlling her emotions or her anxiety or accepting constructive criticism. She agreed that Ms. B. had completed a number of services and cooperated with everything the agency had asked her to do. But she believed that, while Ms. B. could articulate what she needed to do, she could not put those words into action. Moreover, Ms. B. was at times completely unable to regulate her emotions, and she would generally freeze up in certain situations that involved K.K. Ms. Townsend further testified that she was concerned for K.K.'s

well-being, due to the risk posed by Ms. B.'s inability to regulate her emotions or make sound decisions involving the safety of the child.

¶ 142 Abigail Lawson-Archer testified that, after the July 2013 visit involving Ms. B.'s erratic behavior and refusal to show her the medication bottles, Ms. Lawson-Archer had not seen any positive progress in Ms. B.'s emotional stability or her ability to regulate her anxiety; she was letting her emotions overrule her ability to provide for K.K.'s needs, and her focus was not primarily on K.K.'s needs. Ms. Lawson-Archer's concern about Ms. B.'s ability to parent K.K. was based on her observations of Ms. B.'s behavior, which had been consistent throughout the case.

¶ 143 Ms. Jackson-Hunt testified that Ms. B. was never able to transition to a fully unsupervised day visit with K.K. due to Ms. B.'s consistent dysregulation and her inability to keep K.K. safe given his special needs. Ms. Bouck testified that she had concerns about Ms. B. being able to meet K.K.'s needs because Ms. B. did not have an understanding of those needs. Ms. Bouck also testified that Ms. B.'s methods of coping with her emotional dysregulation took away from her focus on K.K. and could lead to safety issues given K.K.'s special needs which required consistent supervision. The consistent testimony from each of these witnesses demonstrates that the State proved by clear and convincing evidence that Ms. B. was unfit based on her failure to make reasonable progress towards the return home of K.K.

¶ 144 Ms. B. also contends that the foster parents received more training to deal with K.K.'s special needs, and it is unreasonable and unfair to expect that Ms. B. could have the same level of ability to parent K.K. as the foster parents, considering the great disparity in the amount of services provided. But there was no evidence that the services provided to Ms. B. were deficient, nor was the trial court's determination that Ms. B. was unfit based on a comparison between her

abilities and the foster parents' abilities. Moreover, as the public guardian notes, it made sense that the foster parents received more training to deal with K.K.'s special needs, because they were responsible for his care the majority of the day, every day, while Ms. B. saw him only once a week during supervised visits.

¶ 145 Ms. B. has also noted that K.K.'s diagnosis of autism was made just one week prior to the start of the termination case and contends that "[o]nce the severity of his special needs were determined, it was incumbent on DCFS to provide [Ms. B.] with the services necessary to parent [K.K.]." The public guardian correctly notes that Ms. B. has mental health issues that prevent her from being able to parent. Her mental illness and interpersonal reactivity is detailed in the JPA evaluation. Ms. B. is prone to outbursts and anxiety in front of K.K. She is constantly crying and frustrated. The evidence showed that she is not consistently compliant with her medication. And even when she *is* taking her psychotropic medication, she struggles to maintain a stable mood. If not properly medicated, she is even more likely to become emotionally dysregulated, which makes it difficult for her to make sound decisions. She is unable to establish the stable, consistent environment that K.K. needs. K.K.'s special needs were present throughout the case, and Ms. B. received the necessary services but was unable to parent K.K. due to her own mental health issues. Additional parenting classes would not remedy these problems.

¶ 146 Based on the evidence presented in the unfitness hearing, the trial court's finding that Ms. B. failed to make reasonable progress during each of the relevant time periods was not against the manifest weight of the evidence. The trial court could not conclude that it would be able to order K.K. returned to Ms. B.'s custody in the near future. We cannot say that the opposite conclusion was clearly evident.

¶ 147 B. Finding of Unfitness as to Mr. K.

¶ 148 Mr. K. also challenges the trial court's reasonable-progress finding. He argues that he completed all recommended services, kept appointments with a counselor for weekly therapy, and worked with a psychiatrist. Again, no one is arguing that Mr. K. did not make efforts. The trial court's finding of unfitness was based on Mr. K.'s failure to make reasonable progress.

¶ 149 Similar to Ms. B., Mr. K. contends that he made reasonable progress based on "documents" in the record. But the State presented clear and convincing evidence that Mr. K. was unfit, in that he had failed to make reasonable progress towards K.K.'s return home. Mr. K. was unable to show any measurable progress in his visits with K.K. Those visits were supervised throughout the case, and no caseworker recommended unsupervised visits.

¶ 150 Ms. McKinnis testified that, although Mr. K. was making efforts, she saw no changes in his behavior to indicate that he was internalizing what he learned or making progress. Ms. McKinnis testified that she referred Mr. K. for the parenting capacity assessment with the Juvenile Protection Association based on his minimizing of his actions in bringing K.K.'s case to DCFS's attention and for blaming Ms. B. for the aggression between the two of them. The JPA assessment raised concerns about Mr. K.'s extensive history of displaying aggressive behaviors in interpersonal relationships, and the fact that he continued to justify his aggressive tendencies by blaming others. This lack of insight into his problem put K.K. at risk for future violence and aggression. The JPA evaluation also described Mr. K.'s personality function as including patterns of rigid thinking, grandiosity, and taking on the role of a victim while blaming others. Mr. K. failed to acknowledge the impact on K.K. of witnessing domestic violence. He failed to take responsibility in any way for contributing to the violent history with Ms. B. or DCFS's intervention based on the relationship between Ms. B and him.

¶ 151 Ms. Townsend testified that she observed Mr. K.'s visits with K.K. during the period of the summer of 2012 to February 2013, and the same concerns were present that she had had during the initial period of 2010 to 2011. Ms. Townsend testified that she had observed no demonstrable progress in Mr. K.'s ability to be flexible in his parenting. Ms. Townsend testified that she was concerned for K.K.'s well-being because Mr. K. was unwilling to accept any form of recommendations or advice as to how his background affected his parenting with K.K. Ms. Townsend also testified that Mr. K. was unwilling to accept that his child had special needs, and she had concerns with Mr. K.'s statement that he believed that all of K.K.'s special needs stemmed from the fact that he was born in the month of March (as noted, K.K. was born in May).

¶ 152 Ms. Jackson-Hunt also testified that she had concerns that Mr. K. did not understand K.K.'s special needs. She testified that he did not want K.K. to wear glasses, and he wanted K.K. to do things that he was unable to do. She testified that she was never able to recommend that Mr. K. be granted unsupervised visits.

¶ 153 Ms. Bouck testified that, in her phone conversation with Mr. K., he seemed to be very defensive about discussing K.K.'s delays, nor did he see any behavioral problems, believing them to be merely developmental and typical for a two-year old.

¶ 154 The State proved by clear and convincing evidence that Mr. K. failed to make reasonable progress because there was no measurable or demonstrable movement toward the goal of reunification. *In re Jacorey*, 2012 IL App (1st) 113427, ¶ 21. Also, there was no time when K.K. could have been returned home to Mr. K. "in the near future." *Id.* The trial court's decision finding Mr. K. was unfit was not against the manifest weight of the evidence.

¶ 155 As a final note, we fully recognize that the reason that K.K.'s case initially came into the DCFS system was due to the domestic violence between Ms. B. and Mr. K., but that the trial court's decision that Ms. B. was unfit, and its primary basis for finding Mr. K. unfit, was based on each party's inability to parent K.K. due to his special needs. It is true that Ms. B. and Mr. K. appeared to make some progress on the problem of domestic violence—primarily by ending their relationship—and that there were no further incidents of domestic violence during any of the relevant time periods. We are thus sympathetic to a theme running throughout the briefs filed by the parents that they feel as if they corrected the initial problem and now have lost the rights to their child based on a different reason—that the State moved the goalposts on them, so to speak.

¶ 156 But we cannot agree with the parents' position. First, even if it was not the reason for the State's initial intervention, K.K.'s special needs became apparent once K.K. came into the system, and the State was permitted to, and properly did, investigate that problem once it was discovered. As we have explained, the determination of whether a parent has made reasonable progress toward the return home 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, *as well as other conditions which later become known*. *In re C.N.*, 196 Ill. 2d 181, 216-17 (2001). This standard takes into account "the reality that the condition resulting in removal of the child may not be the only, or the most severe, condition which must be addressed before custody of the child can be returned to the parent." *Id*. at 216. The trial court correctly took into account the evidence of K.K.'s special needs, which became apparent after the case entered the system, and the court properly considered the evidence that neither parent had made reasonable progress in light of K.K.'s special needs.

¶ 157 Moreover, as to Mr. K., though it is true that no further incidents of domestic violence took place after the State's intervention, and though the trial court stated that it was most troubled by Mr. K's inability to accommodate K.K.'s special needs, the trial court did also find that Mr. K. continued to minimize his responsibility for the domestic violence that had occurred.

¶ 158 For all of these reasons, we find no error in the trial court's termination of parental rights as to each parent.

¶ 159 C. Best-Interests Determination

¶ 160 Ms. B. next contends that the trial court erred in determining that it was in K.K.'s best interests to terminate Ms. B.'s parental rights. She argues that K.K. has a strong attachment to her, she has maintained consistent visitation with him throughout the course of these proceedings, and the foster parents indicated that they would not allow continued contact if Ms. B.'s parental rights were terminated.

¶ 161 At a best-interests hearing, the parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life. *In re D.T.*, 212 Ill. 2d at 364. The best interests of the child is the paramount consideration to which no other takes precedence. *In re Austin W.*, 214 Ill. 2d 31, 46 (2005). The State bears the burden of proving that termination of parental rights and adoption is in the child's best interests by a preponderance of the evidence. *In re D.T.*, 212 Ill. 2d at 366. A trial court's best-interests finding will not be disturbed on appeal unless it is against the manifest weight of the evidence. *In re B'yata I.*, 2014 IL App (2d) 130558-B, ¶ 41.

¶ 162 In determining a child's best interests, the trial court must apply the 10 factors in section 1-3(4.05) of the Juvenile Court Act of 1987: (1) the physical safety and welfare of the minor, including food, shelter, health, and clothing; (2) the development of the minor's identity; (3) the

minor's background and ties, including familial, cultural, and religious; (4) the minor's sense of attachments; (5) the minor's wishes and long-term goals; (6) the minor's community ties, including church, school, and friends; (7) the minor's need for permanence, including his or her relationships with parent figures, siblings, and other relatives; (8) the uniqueness of every family and child; (9) the risks attendant to the minor entering and being in substitute care; and (10) the preferences of the persons available to care for the minor. 705 ILCS 405/1-3(4.05) (West 2014). When rendering its decision, however, the trial court "is not required to explicitly mention, word-for-word," these statutory factors. *In re Janira T.*, 368 Ill.App.3d 883, 894 (2006). In addition to these factors, the trial court may consider the nature and length of the child's relationship with his present caretaker and the effect that a change in placement would have on the child's emotional and psychological well-being. *In re Tajannah O.*, 2014 IL App (1st) 133119, ¶ 19. A reviewing court need not rely on any basis used by the trial court in affirming its decision. *Id.*

¶ 163 The trial court here acknowledged that respondents loved their child but noted that the focus was on K.K.'s best interest. The trial court explicitly referenced K.K.'s relationship with the foster parents, noting that he had been in their home since December 2011 when he was an infant. The court further noted that K.K. was attached and bonded to the foster parents, their extended family, their church members and their neighbors. The court found that K.K. had special needs requiring an extremely structured environment, and these needs were being met by the foster family. The court found that Ms. B. has her own emotional and behavioral issues to deal with and could not provide K.K. with the structured environment he needs, expressly noting that K.K. needed somebody to be there supervising him at all times. The court found that the foster parents had prepared themselves to do what was in the best interest of K.K., had strongly advocated for his special needs, and were aware of the pitfalls in protecting his physical safety

and welfare. In terminating the parental rights, the court found that K.K. needed permanence in his young life. We conclude that the trial court's decision to terminate the parental rights was in the best interest of K.K.

¶ 164 Regarding Ms. B.'s argument that the trial court's decision to terminate her parental rights was not in K.K.'s best interest where the foster parents indicated that they would not allow continued contact with Ms. B., we agree with the public guardian that familial ties are a factor that the trial court may consider in making a best interests determination, but it is not the sole or necessarily the determinative factor. See *In re Joshua K.*, 405 Ill. App. 3d 569, 585 (2010).

¶ 165 The trial court heard evidence from the foster parents that, after his visits with Ms. B., K.K. was very withdrawn, very upset, often sick to his stomach, and he had to lie in bed for a while to decompress. It is not unreasonable for the foster parents to want to restrict visits that have such an injurious effect on K.K. Also, we have noted that a trial court may properly determine that any potential trauma a child may face if contact with its biological mother is discontinued is outweighed by the stability and support that the child would unquestionably receive from the foster family. *In re Angela D.*, 2012 IL App (1st) 112887, ¶ 40. Here, the trial court's decision that it would be in K.K.'s best interest to terminate Ms. B.'s parental rights was not against the manifest weight of the evidence.

¶ 166 III. CONCLUSION

¶ 167 For the reasons stated, we affirm the trial court's decision finding both respondents unfit and terminating their parental rights. The findings of unfitness were not against the manifest weight of the evidence. The trial court did not err in concluding that K.K.'s best interests would be served by terminating Ms. B.'s parental rights.

¶ 168 Appeal No. 1-15-1878: Affirmed.

¶ 169 Appeal No. 1-15-1904: Affirmed