SIXTH DIVISION
January 29, 2016

No. 1-15-2544

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

IN THE INTEREST OF C.P., a Minor	)	Appeal from the
	)	Circuit Court of
Minor-Respondent-Appellee	)	Cook County.
	)	
(The People of the State of Illinois	)	
	)	
Petitioner-Appellee,	)	
	)	
v.	)	No. 11 JA 353
	)	
Takisha D.,	)	Honorable
	)	Richard Stevens,
Respondent-Appellant).	)	Judge Presiding.

PRESIDING JUSTICE ROCHFORD delivered the judgment of the court.
Justices Hoffman and Delort concurred in the judgment.

ORDER

¶ 1 *Held*: We affirmed the termination of respondent's parental rights where the trial court's findings after the fitness and best interests hearings were not against the manifest weight of the evidence.

¶ 2 Respondent, Takisha D., appeals an order terminating the parental rights of her son, C.P. The trial court found respondent to be unfit for failing to maintain a reasonable degree of responsibility for C.P.'s welfare (750 ILCS 50/1(D)(b) (West 2012)), failing to make reasonable progress toward C.P.'s return during the time frames alleged (750 ILCS 50/1(D)(m) (West 2012)), and for being habitually addicted to marijuana for the year prior to the commencement of

the unfitness proceeding. 750 ILCS 50/1(D)(k) (West 2012). The trial court then found it would be in C.P.'s best interests for respondent's parental rights to be terminated. Respondent argues that the court's findings were against the manifest weight of the evidence and that the termination of her parental rights was not in C.P.'s best interest. We affirm.

BACKGROUND

¶ 3 C.P. was born on October 10, 2009. Respondent is his mother and Reginald P. is his putative father. During her pregnancy, respondent tested positive for cannabis on July 28, 2009, and August 27, 2009. She tested positive again at C.P.'s birth.

¶ 4 The State filed a petition for adjudication of wardship on May 26, 2011, alleging C.P. lived in an environment injurious to his welfare and was abused because his parents created a substantial risk of physical injury. The facts supporting these counts were that: respondent had four previous indicated reports for inadequate supervision, medical neglect and substantial risk of physical injury/environment injurious to health/welfare; Reginald P. had two previous indicated reports; the parents have another child in the custody of the Department of Children and Family Services (DCFS) with findings of abuse and neglect having been entered; respondent tested positive for illegal substances on three occasions since April 1, 2011; and there is a history of domestic violence between the parents. The petition was amended on August 17, 2011, to add that respondent pleaded guilty to child endangerment on October 4, 2010, as to C.P.'s sibling, and that respondent tested positive for cannabis at C.P.'s birth.

¶ 5 On October 31, 2011, the trial court adjudicated C.P. neglected due to an injurious environment and abused due to a substantial risk of physical injury. The basis for the neglect finding was that there was domestic violence perpetrated by Reginald P. against respondent and

cannabis use by respondent. The basis for the abuse finding was the domestic violence perpetrated by Reginald P.

¶ 6 The trial court held a dispositional hearing on November 15, 2011, and found that respondent and Reginald P. had been unable to care for, protect, or discipline C.P. The trial court adjudged C.P. a ward of the court and appointed the DCFS guardianship administrator as C.P.'s guardian.

¶ 7 On May 14, 2014, the State filed a termination of parental rights petition. The petition alleged that respondent was unfit for failing to: maintain a reasonable degree of interest, concern or responsibility as to C.P.'s welfare; make reasonable efforts to correct the conditions which were the basis for C.P.'s removal; and/or to make reasonable progress towards C.P.'s return within nine months after adjudication of neglect or abuse and/or within any nine month period after adjudication. The petition made the same allegations against Reginald P. as well as additional allegations against him not relevant here.

¶ 8 On September 17, 2014, the State amended the petition to include an allegation that respondent had been habitually drunk or addicted to drugs for at least one year immediately prior to the commencement of the unfitness proceeding. The petition also alleged it was in C.P.'s best interest to have a guardian appointed to consent to his adoption.

¶ 9 The trial court entered a default order against Reginald P. The cause proceeded to a fitness hearing for respondent.

¶ 10 At the fitness hearing, the State called Tyesha Dortch, an employee of Lutheran Child and Family Services, who testified that respondent's case "came into the system" in 2011 due to a domestic violence incident between respondent and Reginald P. and, also, because of respondent's marijuana use. Ms. Dortch completed an integrated assessment of respondent and

recommended that she receive drug treatment, domestic violence counseling, and individual therapy, as well as attend parenting and anger management classes.

¶ 11 Ms. Dortch explained that respondent began drug treatment at Gateway (she did not testify to the date), but did not complete the program there. Respondent then went to Association House for drug treatment, but was "unsuccessful with that program [for] the first four rounds in 2011." From 2011 to 2014, respondent enrolled in multiple drug treatment programs, which she did not successfully complete because she was testing positive for marijuana use. Ms. Dortch specifically testified that respondent tested positive for marijuana in March 2012; April 2012; June 11, 2012; and September 19, 2012.

¶ 12 Ms. Dortch made service plans for respondent and told her she needed to engage in the recommended services in order to eventually be reunited with C.P. Ms. Dortch said that with the exception of a single service plan in May 2013, respondent received "unsatisfactory" ratings because she did not make satisfactory progress in the parenting classes, individual therapy, and domestic violence counseling, and because she tested positive for marijuana.

¶ 13 Respondent was diagnosed with depression disorder not otherwise specified (NOS), alcohol dependence, and borderline personality disorder. She first began receiving psychiatric treatment at Association House in 2011, and was prescribed medication, but she was inconsistent in taking the medication from 2011 to 2014.

¶ 14 Respondent successfully completed an inpatient drug treatment program at Haymarket Center (Haymarket) in 2014. She, also, successfully completed parenting classes and domestic violence classes at Haymarket in 2014.

¶ 15 After successfully completing the inpatient drug treatment program at Haymarket in 2014, respondent successfully completed an outpatient program at Association House.

¶ 16 Ms. Dortch testified that despite successfully completing drug treatment programs at Haymarket and Association House in 2014, respondent still tested positive for marijuana from January 2013 through June 2014.

¶ 17 During the time Ms. Dortch was on the case (from April 2011 to March 2015), she never recommended that C.P. be returned to respondent. Given respondent's continued substance abuse, Ms. Dortch was worried about C.P.'s safety should he be returned to respondent.

¶ 18 The trial court admitted into evidence People's exhibit number 13, which contained 12 random urine screens from December 28, 2011, through May 10, 2013. All 12 urine drops tested positive for marijuana.

¶ 19 The trial court admitted into evidence a transcript of respondent's testimony at a court hearing on September 17, 2014. Respondent testified she entered Haymarket on April 29, 2014, because she was using marijuana. Respondent admitted smoking marijuana daily from April 29, 2013, to April 29, 2014. Respondent completed her inpatient services at Haymarket on June 19, 2014, and then she completed an outpatient substance abuse treatment program at A Safe Haven. She takes medication for depression.

¶ 20 Mark Williams, a certified substance abuse and anger management counselor at Association House, testified respondent was in treatment at Association House from October 2011 to September 2012; June 2013 to May 2014; and June 2014 to March 2015. Respondent initially came to Association House "with some ambivalence" but, over time, she became more receptive to treatment. She completed a parenting class in May 2012.

¶ 21 Mr. Williams testified that during her first treatment period at Association House, from October 2011 to September 2012, respondent "regularly" tested positive for marijuana. Over

time, though her THC[1] numbers went down, she gave one clean urine drop and, so, Mr. Williams rated her as successfully completing the program. However, even in September 2012, respondent still was dropping positive for marijuana.

¶ 22 Respondent returned to Association House in June 2013 because she was using marijuana "regularly." From June 2013 to May 2014, respondent was tested twice a month for drugs, and her urine drops regularly tested positive for marijuana. During this second treatment period, respondent was transferred to an inpatient facility because she needed a higher level of care. Respondent did *not* successfully complete this second treatment program at Association House.

¶ 23 Respondent successfully completed the third treatment program at Association House in March 2015. Mr. Williams stated that respondent is "starting to get the importance of not using drugs and alcohol," and has made progress in her drug treatment.

¶ 24 Rosie Miles, a counselor at Haymarket, testified that respondent attended Haymarket from April 2014 to June 2014 for inpatient services due to her addiction to marijuana. During that time, respondent completed parenting classes and was given random urine screens and Breathalyzer tests, but she never tested positive for drugs or alcohol. Ms. Miles successfully discharged respondent from Haymarket in June 2014.

¶ 25 Heather Gomez testified she is a program manager for the DCFS Recovery Home Program at A Safe Haven. This program provides services and assistance to birth parents for family reunification.

¶ 26 Respondent was accepted and screened on June 19, 2014, and the application evaluation stated that her drug of choice was marijuana. Respondent reported she had been in three

[1] THC is the chemical responsible for marijuana's psychological effects.

treatment programs, and that her longest period of clean time was one year. Respondent also reported that her last date of usage was April 26, 2014.

¶ 27 During her time at A Safe Haven, respondent performed urine drops twice a month, but never tested positive for drugs. However, on September 27, 2014, respondent took a Breathalyzer test which revealed her blood-alcohol concentration was 0.08. In response, respondent admitted she had two drinks of vodka. On February 15, 2015, respondent took another Breathalyzer test which revealed her blood-alcohol concentration was 0.19.

¶ 28 Ms. Gomez tried to meet with respondent on February 16, 2015, but respondent was not present when Ms. Gomez arrived for work. Respondent was discharged unsuccessfully on February 17, 2015. The discharge papers from February 17, 2015, state that respondent had relapsed, refused to go to treatment detox services, left the facility, and never returned.

¶ 29 Following all the evidence, the trial court found respondent unfit. The cause proceeded to a best interests hearing.

¶ 30 Kena C. testified she had been the foster parent for five-year-old C.P. since 2011. Ms. C. also has an 11-year-old daughter who gets along with C.P. like a sister. Ms. C. has a four-bedroom home, and C.P. has his own bedroom.

¶ 31 C.P. calls Ms. C. "mom." C.P. sees Ms. C.'s parents about twice a week and calls them "grandma and granddad." C.P. has attended several of Ms. C.'s family functions since 2011 and has contact with her extended family in the area, including aunts, cousins, and uncles.

¶ 32 C.P. will be going to kindergarten and did well in junior kindergarten. C.P. has sickle cell anemia, which requires him to take penicillin twice a day and see a doctor every six months. Ms. C. is confident she can take care of C.P., even with his illness.

¶ 33 Even if respondent's parental rights were terminated, Ms. C. would allow respondent and C.P. to visit with each other because she wants them to have a relationship. Ms. C. wants to adopt C.P. because she loves him.

¶ 34 On cross-examination, Ms. C. testified that, until last Christmas (2014), she and respondent arranged respondent's visits with C.P and that they were taking place twice per month. Ms. C. no longer has respondent's phone number, but respondent still has Ms. C.'s phone number. However, respondent has not tried to contact her to set up a visit since Christmas 2014.

¶ 35 Samantha Sanders testified she has been C.P.'s caseworker since June 2014. Ms. Sanders has observed a bond between C.P. and Ms. C. C.P. appears to be "very happy and comfortable," and he gets along well with Ms. C.'s daughter. In July 2015, C.P. told Ms. Sanders he wanted to live with Ms. C., whom he called "mommy."

¶ 36 Ms. Sanders has visited the foster home, and found it to be safe and appropriate. Ms. Sanders describes the foster home as a "family environment," where both children are treated the same.

¶ 37 Ms. Sanders testified that a staffing had taken place with her supervisor, and the agency was recommending that respondent's parental rights be terminated. The basis for the recommendation was that C.P. had been in the system for four years and needed to have "permanency." Ms. Sanders stated it would be in C.P.'s best interests if he was adopted by Ms. C.

¶ 38 Respondent testified that the relationship between herself and Ms. C. was "fair" but had deteriorated since Christmas 2014. Respondent has tried to contact Ms. C. since Christmas 2014 and called her five times and sent her texts, but Ms. C. has not responded. Ms. C. does not allow

respondent to call and speak with C.P. on the phone. Respondent does not think she will have any future relationship with C.P., given that Ms. C. has not communicated with her.

¶ 39 Respondent testified she has a bond with C.P. and that her prior visits with him have gone well. C.P. likes to sit with her and calls her "mom." C.P. cries when it is time to leave.

¶ 40 Following all the evidence, the trial court found the State met its burden of showing, by a preponderance of the evidence that it was in C.P.'s best interests to terminate respondent's parental rights and to give the DCFS guardian the right to consent to C.P.'s adoption.

¶ 41 Respondent appeals. Mr. P is not a party to the appeal.

¶ 42 First, respondent contends the trial court erred in finding her unfit. The trial court goes through a two-step process when presented with a petition to terminate parental rights. *In re S.K.B.*, 2015 IL App (1st) 151249, ¶ 25. First, the State must prove by clear and convincing evidence that the parent is "unfit" as that term is defined in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2012)). See *In re Davon H.*, 2015 IL App (1st) 150926, ¶ 64. If the court finds the parent is unfit, then it must consider whether it is in the best interests of the child that parental rights be terminated, which the State must prove by the preponderance of the evidence. *Id.*

¶ 43 The trial court found respondent was unfit to parent C.P. for failing to maintain a reasonable degree of responsibility for C.P's welfare (750 ILCS 50/1(D)(b) (West 2012)), failing to make reasonable progress toward C.P.'s return during the alleged time frames (750 ILCS 50/1(D)(m) (West 2012)), and for being habitually addicted to marijuana for a year prior to the commencement of the unfitness proceeding. 750 ILCS 50/1(D)(k) (West 2012). If properly proven by clear and convincing evidence, any one of those grounds is sufficient for a finding of unfitness. *In re Davon H.*, 2015 IL App (1st) 150926, ¶ 68. When, as here, a respondent

challenges the sufficiency of the evidence, we will reverse the trial court's finding of unfitness only if it is against the manifest weight of the evidence. *Id*. A finding is against the manifest weight of the evidence where the opposite conclusion is clearly evident. *In re S.K.B.*, 2015 IL App (1st) 151249, ¶ 28. "In child custody cases, even deeper deference is given to the trial judge than under the familiar manifest weight of the evidence standard because of the delicacy and difficulty of the cases." *Id*.

¶ 44 First, we address the trial court's finding that respondent was unfit for failing to make reasonable progress toward C.P.'s return under section 1(D)(m) of the Adoption Act. Section 1(D)(m) provides that a parent may be found unfit where she fails to make reasonable progress toward the return of her child during any nine-month period following the adjudication of a neglected or abused minor. 750 ILCS 50/1(D)(m) (West 2016). "[R]easonable progress is judged by an objective standard based upon the amount of progress measured from the conditions existing at the time custody was taken from the parent. At a minimum, reasonable progress requires measurable or demonstrable movement toward the goal of reunification. The benchmark for measuring a parent's progress 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 that gave rise to the removal of the child and other conditions which later became known and would prevent the court from returning custody of the child to the parent. Reasonable progress exists when the trial court can conclude that it will be able to order the child returned to parental custody in the near future." [Internal citations omitted.] *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1067 (2006).

¶ 45 The State pleaded the following nine-month periods under section 1(D)(m): November 1, 2011 through August 1, 2012; August 1, 2012 through May 1, 2013; May 1, 2013 through

March 1, 2014; March 1, 2014 through December 1, 2014; and August 21, 2014 through May 21, 2015.

¶ 46 November 1, 2011, Through August 1, 2012

¶ 47 During the time period of November 1, 2011, through August 1, 2012, respondent's case worker, Ms. Dortch, prepared a client service plan. Pursuant to the plan, respondent was required to follow any service recommendations made by the assessment, notify the agency of any problems with her substance abuse treatment, attend a substance abuse assessment at Association House, remain in contact with her substance abuse counselor, and attend random urine drops. Respondent was rated as unsatisfactory in all of these areas as of November 8, 2011.

¶ 48 Over the next nine months, responded tested positive for marijuana nine times. Respondent missed 11 urine drops between January 12, 2012, and April 23, 2012.

¶ 49 On May 8, 2012, Ms. Dortch again found respondent made unsatisfactory progress towards following recommended services, attending random urine drops, remaining in contact with her substance abuse counselor, and notifying the agency of any problems with her substance abuse treatment.

¶ 50 August 1, 2012, Through May 1, 2013

¶ 51 During the time period of August 1, 2012, through May 1, 2013, respondent tested positive for marijuana in samples collected on September 19, 2012, and February 25, 2013. Respondent entered the Haymarket inpatient program on January 2, 2013 but, according to Ms. Dortch, she was still "dropping positive for cannabis" during 2013, and she did not complete the program in 2013. In May 2013, the trial court granted Lutheran Child and Family Services the discretion to allow unsupervised visits between respondent and C.P., however, Ms. Dortch

testified that respondent was never granted those unsupervised visits because she never had a long enough period of clean drug tests for the agency to work toward that goal.

¶ 52 May 1, 2013 Through March 1, 2014

¶ 53 During the time period of May 1, 2013, through March 1, 2014, respondent tested positive for marijuana on May 10, 2013. Respondent testified she used marijuana daily from April 29, 2013, to April 29, 2014. Mr. Williams testified that respondent was in treatment at Association House from June 2013 to May 2014, was tested twice a month for drugs, and that she regularly tested positive for marijuana. Respondent did not successfully complete treatment at Association House during this time period.

¶ 54 August 21, 2014 Through May 21, 2015

¶ 55 During the time period of August 21, 2014, through May 21, 2015, respondent tested positive for alcohol while at A Safe Haven, registering a blood-alcohol content of 0.08 on September 27, 2014, and she admitted to consuming two cups of vodka. Respondent tested positive for alcohol again while at A Safe Haven on February 15, 2015, registering a blood-alcohol content of 0.19. Respondent was unsuccessfully discharged from A Safe Haven on February 17, 2015, finding that she had relapsed, refused to go to treatment detox services, had left the facility, and had never returned.

¶ 56 CONCLUSION

¶ 57 These facts, which have been recited for the relevant nine-month time periods, support the trial court's findings that, during each of those periods, respondent failed to make reasonable progress toward reunification with C.P., as respondent consistently failed to comply with service plans and the court's directives by continuing to regularly use marijuana and/or alcohol even though her substance abuse was one of the reasons for C.P.'s removal.

¶ 58 Respondent points to some contrary evidence, specifically, Mr. Williams' testimony that her THC levels were decreasing from June 2013 to May 2014, indicating a decrease in marijuana use during that time. Respondent also points to her successful completion of parenting and anger management classes, as well as her successful completion of inpatient drug treatment at Haymarket in 2014, and of a subsequent outpatient program at Association House. Respondent also points to her consistent visitations with C.P. with no incidents and no reports of her being under the influence of marijuana or alcohol during any of those visits.

¶ 59 The trial court heard all the evidence, including respondent's testimony (contrary to Mr. Williams) that she smoked marijuana daily from April 29, 2013, to April 29, 2014, as well as Ms. Dortch's testimony that, despite successfully completing drug treatment programs at Haymarket and Association House in 2014, respondent was still testing positive for marijuana from January 2013 through June 2014. The trial court also heard other evidence, recited above, concerning respondent's continued relapses and drug usage during the pertinent nine-month periods. Given the great deference accorded the trial court in child custody cases (*In re S.K.B.*, 2015 IL App (1st) 151249, ¶ 28), we cannot say its finding of lack of reasonable progress was against the manifest weight of the evidence.

¶ 60 Respondent argues that the trial court's findings during the permanency hearings of November 15, 2011; June 11, 2012; January 9, 2013; and June 5, 2013; that she was making "substantial progress," were contrary to the court's later finding that she was not making "reasonable progress" within the context of the termination proceedings. The trial court's findings of "substantial progress" during the permanency hearings were made pursuant to section 2-28 of the Juvenile Court Act of 1987 (705 ILCS 405/2-28 (West 2016)). Section 2-28 provides that, at a permanency hearing, the trial court shall determine the future status of the child, and

may set the goal of returning the child to the parent within one year, "where the progress of the parent or parents is substantial." *Id*. In contrast, the trial court's later finding of lack of "reasonable progress" was made under section 1(D)(m) of the Adoption Act (750 ILCS 50/1(D)(m) (West 2016)), which provides that a parent may be found unfit to have a child when she fails to make reasonable progress toward the child's return during any nine-month period following the adjudication of neglected or abused minor under section 2-3 of the Juvenile Court Act of 1987.

¶ 61 In finding respondent unfit under section 1(D)(m) of the Adoption Act for failing to make reasonable progress toward C.P.'s return, the trial court explained that such a finding was not contrary to the earlier findings of substantial progress during the permanency hearings made under section 2-28 of the Juvenile Court Act of 1987. The trial court explained:

> "Those permanency hearings *** have a different burden of proof. They have relaxed evidentiary standards. It's not at all the same finding. They're saying 'substantial progress' which doesn't really relate to a finding of 'reasonable progress' under paragraph m. And the reason I make findings of 'substantial progress' under section 2-28 *** is to recognize if a parent is participating in the services and typically it's because at that point in the case the court believes it's in the best interests of the child that the goal remains 'return home within 12 months.' Section 2-28 specifically says *** the court can't enter that goal until [it] find[s] that the parents made substantial progress so I want to give the parents more time to show that they can have the child returned to them and so I make that finding; but I just say that only because otherwise it would look like a contradictory finding for the court to find today that there wasn't reasonable progress [when] I found at

certain times there was substantial progress; but it's really a matter of semantics where these are completely unrelated findings. "

¶ 62 Respondent argues that the trial court's explanation is unavailing and that, after finding she made "substantial progress" for purposes of permanency hearings held under section 2-28 of the Juvenile Court Act of 1987, it was foreclosed from later finding her unfit for lack of "reasonable progress" under section 1(D)(m) of the Adoption Act. Respondent cites no authority in support of her argument and, therefore, has forfeited review thereof. Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013).

¶ 63 Respondent also argues she should not be found unfit for using marijuana, given the trend to decriminalize low-level marijuana possession, and to allow for the use of medical marijuana. Respondent has forfeited review by failing to cite any authority supporting her argument. *Id*. Further, we note that respondent did not, as allowed under Illinois law, use marijuana for approved medicinal purposes or only on sporadic occasions. Rather, the evidence indicated continued, habitual, daily use which was one of the conditions giving rise to C.P.'s removal. The trial court's finding of respondent's unfitness under section 1(D)(m) for lack of reasonable progress was not against the manifest weight of the evidence.

¶ 64 Next, we address the trial court's finding that respondent was unfit under section 1(D)(k) of the Adoption Act. A parent is unfit under section 1(D)(k) if she exhibits an addiction to drugs for at least one year immediately prior to the commencement of the unfitness proceeding. 750 ILCS 50/1(k) (West 2016). The parties agree that the relevant time period here is May 14, 2013, through May 14, 2014.

¶ 65 " 'Addiction to drugs' under section 1(D)(k) means the inability or unwillingness to refrain from the use of drugs where frequent indulgence has caused an habitual craving,

manifested by an ongoing pattern of drug use. As with habitual drunkenness, evidence of indulgence without intermission is not necessary to prove drug addiction. It is sufficient to show that a person has demonstrated an inability to control his or her habitual craving." *In re Precious W.*, 333 Ill. App. 3d 893, 899 (2002).

¶ 66 The evidence at the fitness hearing (recited earlier in this order) demonstrates respondent's addiction to drugs during the relevant time period. The trial court's finding that respondent was unfit under section 1(D)(k) was not against the manifest weight of the evidence.

¶ 67 Respondent contends that *In re J.J.*, 201 Ill. 2d 236 (2002), compels a different result. In *In re J.J.*, our supreme court held that the State failed to prove, by clear and convincing evidence, that the mother was habitually drunk for the requisite one-year period. *Id*. at 252. Only two witnesses offered evidence on this issue. *Id*. at 247. One was the mother, who admitted she drank alcohol during the five months prior to the filing of the termination petition, but provided no specific evidence of her alcohol consumption during this period. *Id*. The other witness was a case worker, who had no first-hand knowledge of the mother's alcohol consumption during the one-year period, but who testified to the contents of agency records indicating that the mother received two unsatisfactory service plan ratings during the one-year period due to her failure to abstain from alcohol and to continue her treatment program. *Id*. at 247-48.

¶ 68 Our supreme court held that, to establish the mother's habitual drunkenness, the State must show she had a fixed habit of drinking to excess, such that she suffered significant impairment in her ability to supervise and parent her children due to the consumption of alcohol, and that she used alcohol so frequently as to show an inability to control the need or craving for it. *Id*. at 251. Our supreme court found that the two witnesses' testimony regarding the mother's consumption of some unidentified amount of alcohol did not meet the State's burden of proving

she drank "to excess" where there was no showing how the mother's fitness to parent her children was impaired by her drinking during the critical year. *Id*. In so holding, our supreme court noted that "any evidence of even one incident when the mother was observed to be under the influence of alcohol during the entire year in question is conspicuously absent." *Id*. Our supreme court further noted that the State failed to present any evidence of how often the mother drank any amount of alcohol during the year in question, and thereby failed to prove she drank frequently enough to constitute a "fixed habit" or to exhibit an uncontrollable craving for alcohol. *Id*. at 252.

¶ 69 In contrast to *In re J.J.*, where there was no evidence of the frequency of the mother's alcohol consumption, or the amount of alcohol consumed, respondent admitted in her testimony that she smoked marijuana daily during the year in question, specifically, from April 29, 2013, to April 29, 2014, during which time her urine drops regularly tested positive for marijuana and she was unsuccessful in completing a treatment program at Association House. Unlike in *In re J.J.*, the State here met its burden of proving, by clear and convincing evidence, that respondent's drug use was habitual and excessive during the relevant period.

¶ 70 Next, we address the termination of respondent's parental rights.

¶ 71 After a finding of parental unfitness, the focus shifts to the child, and the trial court must determine whether it is in the child's best interests that parental rights be terminated with custody awarded to another suitable person, which the State must prove by a preponderance of the evidence. *In re S.K.B.*, 2015 IL App (1st) 151249, ¶ 48; *In re Davon H.*, 2015 IL App (1st) 150926, ¶ 64.

¶ 72 Under the Juvenile Court Act of 1987, whenever a best interests determination is required, the following factors shall be considered: the physical safety and welfare of the child,

including food, shelter, health, and clothing; the development of the child's identity; the child's background and ties, including familial, cultural, and religious; the child's sense of attachments, including where the child actually feels love, attachment, and a sense of being valued; the child's sense of security; the child's sense of familiarity; continuity of affection for the child; the least disruptive placement alternative for the child; the child's wishes and long-term goals; the child's community ties, including church, school, and friends; the child's need for permanence which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives; the uniqueness of every family and child; the risks attendant to entering and being in substitute care; and the preferences of the persons available to care for the child. 705 ILCS 405/1-3(4.05) (West 2016).

¶ 73 The court may also consider the nature and length of the child's relationship with his present caretaker and the effect that a change in placement would have upon his emotional and psychological well-being. *In re Davon H.*, 2015 IL App (1st) 150926, ¶ 78.

¶ 74 While all these factors must be considered, no factor is dispositive. *In re S.K.B.*, 2015 IL App (1st) 151249, ¶ 48. We will not reverse the trial court's termination judgment unless it is against the manifest weight of the evidence. *Id.*

¶ 75 Earlier in this order, we set forth the evidence presented at the best interests hearing. That evidence showed: a bond and sense of attachment between C.P. and his foster mother (Ms. C) and her daughter, with whom he has lived since 2011; that C.P. is physically safe and well-cared for by Ms. C. and she sees that he gets the proper treatment for his medical condition; C.P. is doing well in school, interacts with Ms. C.'s extended family and calls her parents "grandma" and "granddad," and wants to remain living with Ms. C. and her daughter; Ms. C. wants to adopt

C.P. because she loves him; and the case worker thinks it would be in C.P.'s best interests if he was adopted by Ms. C. as he needs "permanency."

¶ 76 Given all this testimony, we cannot say the trial court's termination judgment was against the manifest weight of the evidence.

¶ 77 For the foregoing reasons, we affirm the circuit court. As a result of our disposition of this case, we need not address the other arguments on appeal.

¶ 78 Affirmed.