2016 IL App (2d) 151230-U
No. 2-15-1230
Order filed May 12, 2016

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re TRISTEN F.-J.,	)	Appeal from the Circuit Court
	)	of Winnebago County.
a Minor.	)	
	)	
	)	No. 13-JA-540
	)	
(The People of the State of Illinois,	)	Honorable
Petitioner-Appellee, v. Charles M.,	)	Francis M. Martinez,
Respondent-Appellant).	)	Judge, Presiding.

JUSTICE BURKE delivered the judgment of the court.
Justices Jorgensen and Birkett concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's finding that respondent was unfit because he failed to maintain a reasonable degree of interest, concern, or responsibility toward his son's welfare was not against the manifest weight of the evidence; affirmed.

¶ 2 Respondent, Charles M., the natural father of the minor, Tristen F-J.[1], appeals from the order of the circuit court of Winnebago County terminating his parental rights, after finding

[1] The State notes that the minor's name is referred to as "Tristan" throughout the record, but his name is spelled "Tristen" on his birth certificate. We will therefore refer to the minor with his legally given name.

respondent unfit for failing to maintain a reasonable degree of interest, concern, or responsibility as to the minor's welfare (see 750 ILCS 50/1(D)(b) (West 2012)), and that it was in the minor's best interest that respondent's parental rights be terminated. Respondent contests the unfitness determination but not the best interests ruling. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On November 20, 2013, a neglect petition was filed against Sharonda F., alleging that she neglected her son Tristen, who was born on April 27, 2011, in that Sharonda, *inter alia*, engaged in domestic violence in the presence of the minor; left him without supervision for an unreasonable period of time without regard for his mental or physical health, safety, or welfare; and did not provide the proper or necessary support, education, or medical or other remedial care recognized under State law necessary for Tristen's well-being, or other care necessary for his well-being, including adequate food, clothing, and shelter. At the time, Sheronda was the only parent named on the petition. The father was listed on the petition as "Charles unknown."

¶ 5 At a shelter care hearing held on November 20, 2013, Sharonda testified that Tristen's father was named Charles and that he was from Chicago. She explained that she did not know his last name or his date of birth. The trial court granted the Department of Children and Family Services (DCFS) temporary custody of the minor following argument.

¶ 6 On January 9 and 16, 2014, the State served respondent by filing a publication notice in Winnebago County regarding the pending proceedings. On February 5, 2014, Sharonda factually stipulated to count 1 of the neglect petition (domestic violence), and the court entered an order of adjudication. The court also transferred guardianship and custody to DCFS.

¶ 7 At a permanency review hearing held on January 12, 2015, Laura McCoy, a caseworker with the Youth Service Bureau, testified that during the last week of December 2014, Sharonda

told her that she had lived with Tristen and respondent in Chicago but left Chicago with Tristen and did not tell respondent where she was going, and she did not have respondent's contact information. Sharonda told her that all other social media contacts were blocked because respondent's family was angry with her for leaving with Tristen. However, Sharonda was able to reconnect with respondent through respondent's sister. McCoy believed it was through social media that Sharonda reconnected with respondent. McCoy stated that she spoke to respondent and he told her that he did not know that Tristen was in foster care and that he did not know that Sharonda was unstable. However, he was aware that Sharonda had Tristen and he never tried to contact them.

¶ 8 McCoy further testified that respondent indicated that he wanted to undergo services to have Tristen in his care. She told respondent that he first needed to take a paternity test and come to court because this case had been open for some time. She scheduled a paternity test for respondent in Chicago for January 15, 2015.

¶ 9 McCoy recommended that the permanency goal for Tristen be changed to substitute care pending termination of parental rights. Respondent's recent appearance did not change McCoy's recommendation that respondent had not made reasonable efforts, given the fact that respondent was aware that he was Tristen's father, had no involvement with the case, and had shown no interest in Tristen's life over the last year.

¶ 10 The trial court found that the placement was necessary and proper for Tristen and that DCFS had made reasonable efforts for reunification. The court further found that efforts on the part of the newly named respondent were not reasonable based upon his lack of investment until recently. The court set the goal to substitute care pending termination of parental rights.

¶ 11 On January 15, 2015, a hearing was held where an attorney was appointed to represent respondent. Respondent was not present for the hearing. He showed up after the hearing.

¶ 12 Although respondent arrived for the first scheduled paternity testing on January 15, the building was shut down due to a plumbing leak. The second paternity testing was rescheduled for January 22 at another location. The morning of the 22nd, respondent asked if it could be rescheduled. Paternity testing was rescheduled for February 11, 2015, but respondent woke up late and missed the appointment. He asked that the testing be rescheduled later in the day due to his work schedule.

¶ 13 On March 9, the State filed a motion for termination of parental rights and the power to consent to adoption. As to respondent, the State alleged that he had failed to maintain a reasonable degree of interest, concern, or responsibility as to Tristen's welfare. The trial court asked respondent why he had not taken the paternity test, and he responded that he worked nights, "so usually when [he] get[s] off, if it's scheduled *** around 9:00 a.m. or something *** [he] be trying to make it home and get a nap." The court then ordered respondent to comply with the paternity testing or he would be held in contempt of court.

¶ 14 The record indicates that the laboratory tested respondent on March 10, 2015. On March 26, the results of the paternity testing indicated that respondent was Tristen's father. On April 8, Sharonda signed consents for adoption.

¶ 15 An unfitness hearing also began as to respondent on April 8. At the hearing, McCoy testified that she had supervised the case since November 2013. McCoy testified that in November 2013, a "putative father registry check" and a "diligent search" were done to find "Charles unknown." She explained that a putative father registry is a registration for any fathers who wished to be listed in the event that somebody was searching for them. McCoy stated that

she contacted the putative father registry at the beginning of the case to place Sharonda into the system to let anyone know that DCFS was searching for Tristen's father or to see if anyone had registered for Tristen.

¶ 16 McCoy further testified that she contacted respondent by phone and explained how she was involved in Tristen's case. Respondent did not know that Tristen was in foster care. Respondent told her that Tristen and Sharonda had lived with him and his mother for a short period of time after Tristen was born. Respondent told her that he was aware that Tristen was his child or alleged to be his child, and that Sharonda left with Tristen and lived in Chicago, and then they left Chicago at some point. Respondent told McCoy that he was aware that Sharonda had some mental health issues.

¶ 17 Respondent told McCoy that he had no contact with Tristen after he left because Sharonda blocked him from all contact through social media and he did not have any way to reach her. McCoy stated that respondent did not indicate to her that he made any other effort to contact Sharonda, such as calling the police or filing a legal action to establish paternity.

¶ 18 Because paternity had not yet been established and termination was pending, McCoy did not want to introduce Tristen to respondent through visitation. Although visitation had not been set up, respondent did not do anything else for Tristen, such as send him cards, gifts, or letters. Respondent also had not inquired as to Tristen's welfare. Nor had he asked how Tristen was doing medically or developmentally. Tristen was almost four years old at the time of the hearing and was attending school and daycare.

¶ 19 McCoy testified on cross-examination that she did not allow for visitation because a "return home" goal was not the plan anymore and the agency's plan regarding visitation might have been different if the goal had been to "return home." In response to whether she believed

that Sharonda was intentionally frustrating respondent's attempts to find Sharonda and Tristen, McCoy stated that, based on her conversation with Sharonda, Sharonda only told her that she had been living with respondent and respondent's mother, that Sharonda left, and that Sharonda did not stay in contact with respondent. Sharonda told McCoy that the last half of December 2014 was the first time, since Sharonda left with Tristen for Rockford, that respondent had direct contact with Tristen.

¶ 20 Prior to adjournment for a second hearing date, the court ruled that visitation was to take place, but there was to be no disclosure to Tristen as to the biological relationship between respondent and Tristen.

¶ 21 The unfitness hearing resumed on June 22, 2015. McCoy restated that Sharonda did not say anything about respondent attempting to contact her or Tristen. When asked why the agency did not want visitation set up until the paternity test, McCoy explained that, at the time, the goal for Tristen was not to return home and respondent had not been involved in the case since its inception. Furthermore, Tristen had no relationship with respondent and was unaware of respondent. Until the agency knew that respondent was the father or that he was going through the process of determining that he was the father, the agency did not want to establish a father-son relationship.

¶ 22 McCoy stated that respondent began visitation with Tristen on April 8, 2015. Respondent had attended two scheduled visits and did not bring anything for Tristen or give him a gift for his birthday.

¶ 23 Respondent testified at the unfitness hearing that he was 23 years old, lived with his mother and sister, and was currently unemployed. He met Sharonda in the summer of 2013. Respondent did not have a "relationship" with her, but shortly after they had intercourse,

Sharonda told him that she was pregnant. He and Sharonda got into an argument after she told him about the pregnancy, and she was gone the remainder of the pregnancy. Sharonda returned and moved in with respondent, his mother, and his sister two weeks after Tristen was born, and they lived together until Tristen was about five or six months old.

¶ 24 Respondent did not get a paternity test during that time because Tristen looked "just like" him. Respondent tried once to put his name on Tristen's birth certificate, but Sharonda did not sign the necessary documents. Respondent stated that he got everything Tristen needed. He purchased a bed, diapers, and clothes for Tristen.

¶ 25 Respondent stated that Sharonda told him she was going to her grandmother's house for a few days. When she returned, he and Sharonda argued and Sharonda left without Tristen. Sharonda returned with her aunt and Sharonda asked respondent to give her Tristen. Respondent would not give him to her because he was sleeping, so Sharonda called the police. The first officers told Sharonda that it appeared that she did not have a stable place to go. Sharonda left and returned with another officer, who told respondent that he had to give Tristen to Sharonda because she was the legal guardian.

¶ 26 Respondent thought Sharonda was going to her grandmother's house. A few days later, he tried to reach out to Sharonda and went to her grandmother's house twice a week to locate her. Respondent testified that "they" kept saying that Sharonda was not there. One time, Sharonda did come to the door, but they began arguing so respondent left. Respondent did not call the police.

¶ 27 Respondent stated that, whenever Sharonda would call him for support, he provided food, clothing, and diapers for Tristen. This occurred from the time Tristen was 5 months old until he was about 14 months old. Respondent explained that Sharonda would contact him because she

had his number, but her number would not show up on his phone. Sharonda would either meet respondent by his house for the items or he would drop them off at Sharonda's grandmother's house. Respondent last had contact with Tristen when he was over a year old.

¶ 28 Respondent did not do anything else to contact Sharonda or to try to obtain custody of Tristen, even though there were opportunities where he could have done so. He did not take a paternity test, file any court action, or call the police. Respondent testified that he had called "Fathers' Rights," but his mother told him to get himself "in order" and then they would start taking the necessary steps to obtain custody of Tristen. Respondent knew that an attorney would have helped him get visitation and custody of Tristen, but he did not hire one.

¶ 29 During cross-examination, respondent stated that Sharonda had a different phone every two to three months. He knew that she often moved from place to place. Respondent explained that, from the time Sharonda first left his home to the time she moved to Rockford, he had phone contact from Sharonda every so often, but her phone number came through as a private number. The prosecutor asked respondent how he knew that Sharonda had changed her cell phone if the number came through as a private number and he responded that he "wouldn't know."

¶ 30 During re-direct, respondent stated that he knew Sharonda was moving based on her grandmother. Respondent also clarified that he dropped off items for Tristen at the maternal grandmother's house once and would meet Sharonda down the street from his house to give her items when she called. He did this three or four times during the nine-month period Sharonda and Tristen stayed at the maternal grandmother's house.

¶ 31 Respondent's mother, Latany Williams, testified that respondent would take care of Tristen, with her help, and all of the child's needs were met during the time Tristen was living with her and respondent. When Tristen was five months old, Williams argued with Sharonda,

and Williams asked her to leave her house, and leave Tristen with her and respondent. Sharonda told them that she was going back to the maternal grandmother's house. After Sharonda took Tristen with her, Williams saw respondent make several attempts to get in touch with Sharonda and Tristen. Williams explained that she and respondent would go to the grandmother's house to try and visit, but there was always a conflict. Sharonda always would argue with them, she would not let them in the house to see Tristen, or Sharonda would make "smart remarks" under her breath, and Sharonda acted like this throughout the nine-month period she and Tristen lived at the maternal grandmother's house. This occurred from the time Sharonda left, when Tristen was approximately 5 months old, until Sharonda and a friend of Sharonda's came to William's home with Tristen when Tristen was 14 months old. Respondent and Williams never saw Tristen again after that visit.

¶ 32 On cross-examination, Williams stated that she did not prevent respondent from leaving with Tristen and Sharonda when she asked Sharonda to leave. Williams stated that respondent filled out forms to have his name placed on the birth certificate as the father, but Sharonda said no. Williams stated that respondent tried to arrange for a DNA test a month after Sharonda left, but he did not do anything else after that. Williams stated that, during the nine-month period when Tristen and Sharonda were living with the maternal grandmother, Sharonda did not accept anything that she and respondent offered as support for Tristen. Williams testified that while Tristen was living with her and respondent, she supported Tristen; she "pretty much provided clothes, diapers, wipes—whatever [her] grand baby needed."

¶ 33 Because respondent did not drive, Williams drove her son to the maternal grandmother's house two or three times a week, every week, from the time Tristen was 5 months old to 14 months to try to visit Tristen. It took about 20 minutes to drive from Williams' home to the

maternal grandmother's home. Williams agreed that she was spending a significant amount of time in the car driving back and forth several times a week, for almost 11 months, and that it never occurred to her or her son to call an attorney to be able to see Tristen.

¶ 34 Williams stated that respondent did not place money in a savings account for Tristen's future, and she did not know if respondent provided any gifts for Tristen's first Christmas or first birthday. After she and respondent last saw Tristen, to William's knowledge, respondent did not contact the police or an attorney. He did not place his name on the Putative Father Registry or make any other attempts to locate his son.

¶ 35 At the close of the hearing, the trial court found that respondent was unfit for failing to maintain a reasonable degree of interest, concern, or responsibility as to Tristen's welfare. The court observed that it could only surmise and infer from the orders that Sharonda willfully withheld the identity of respondent, since the evidence at the hearing indicated that she lived with respondent after Tristen's birth. The court also found that, while the relationship between respondent and Sharonda was unclear, no action was taken by respondent to establish paternity. The court noted that the birth certificate was not signed and there was no other action taken. The court then stated:

> "A critical point in these proceedings would [have been] when [respondent's mother] asked [Sharonda] to leave and [Sharonda] and [Tristen] left the home that [respondent] was living in and [Sharonda] and [Tristen] moved into the maternal grandmother's house. The evidence established that [respondent] at [that] point had knowledge of the whereabouts of the child and at [that] point did not move forward to secure his parental rights in any way. The only testimony that I heard that I could recall and that my notes indicate was that [respondent] or perhaps his mother made a phone call

> to an unidentified attorney to inquire as to his rights as a father. I don't believe they spoke to an attorney and they did not follow up with any advice from an attorney or any attempts to serve [Sharonda] at her [grandmother's] house with any legal process to establish his parental rights.
>
> During this time the child was provided from the family of [respondent] but it's unclear whether it's [respondent] or [respondent's] mother. I should say the paternal grandmother would supply various items and diapers and such by delivering them to the maternal grandmother's house. During [that] time, again [respondent] did not—I don't want to use the word aggressively—did not pursue his parental rights and was content to attempt to try to have contact with his son. [Respondent] finally lost touch with [Tristen] after [Sharonda] and [Tristen] moved to Rockford.
>
> The key word in the statute is the word reasonable. If [respondent's] efforts in showing a reasonable degree of interest, concern, and responsibility as to the child's welfare, as the evidence indicated he did show an interest and concern and even some responsibility, but I don't believe that his testimony or the testimony provided in court rose to the level of a reasonable degree of interest."

¶ 36 Following the finding that respondent was unfit, the court held a best-interest hearing. Because respondent does not appeal the determination that the termination of his parental rights was in the child's best interest, we will not set forth the evidence adduced at the best-interest hearing. At the conclusion of the best-interest hearing, the court determined that it was in the best interest of the child to terminate respondent's parental rights.

¶ 37 From the trial court's order finding him to be an unfit parent, respondent appeals. Sharonda is not involved in this appeal.

¶ 38 II. ANALYSIS

¶ 39 On appeal, respondent contends the trial court's finding of unfitness was against the manifest weight of the evidence. Pursuant to the Juvenile Court Act, the involuntary termination of parental rights involves a two-step process. *In re D.F.*, 201 Ill. 2d 476, 494 (2002). First, the State must prove by clear and convincing evidence that the parent is "unfit" as defined by section 1(D) of the Adoption Act. *Id*. at 494-95 (citing 750 ILCS 50/1(D) (West 2012)). Assuming the parent is found unfit, the circuit court must then consider whether it is in the best interest of the child to terminate parental rights. *Id*. at 495. As noted above, respondent does not challenge the court's determination that termination of his parental rights was in Tristen's best interests. Consequently, we review only the trial court's determination that respondent was unfit.

¶ 40 On appellate review, this court "will not disturb a finding of unfitness unless it is contrary to the manifest weight of the evidence." *In re Konstantinos H.*, 387 Ill. App. 3d 192, 203 (2008). A determination will be found to be against the manifest weight of the evidence only if the opposite conclusion is clearly evident or the determination is unreasonable, arbitrary, or not based on the evidence presented. *In re D.F.*, 201 Ill. 2d at 498. We give great deference to the trial court's finding of unfitness, defer to the trial court's factual findings and credibility assessments, and will not re-weigh the evidence anew on appeal. *In re April C.*, 345 Ill. App. 3d 872, 889 (2004).

¶ 41 Respondent maintains that he was actively involved in parenting Tristen for the first five or six months of Tristen's life, and that he attempted to provide everything that Tristen needed even after Tristen moved into the maternal grandmother's house, but Sharonda and her family thwarted his attempts to contact, visit, and support Tristen. Respondent further asserts that his failure to file a paternity test and to assert his legal rights does not mean that his conduct was

unreasonable under his circumstances. Respondent believes that the trial court placed too much emphasis on the fact that he did not take legal action to assert his parental rights before the juvenile proceeding was filed. Respondent argues the trial court appeared to make a "bright-line rule" that any parent who does not file a paternity action to assert his parental rights is unfit for failing to maintain a reasonable degree of interest, concern, or responsibility as to his child's welfare, regardless of the parent's age, income, or other circumstances.

¶ 42 In the case at bar, the trial court held that respondent was unfit as to Tristen pursuant to section 1(D)(b) for "[f]ailure to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare." 750 ILCS 50/1(D)(b) (West 2012). Because subsection (b) is phrased in the disjunctive, "any of the three elements may be considered on its own as a basis for unfitness: the failure to maintain a reasonable degree of interest or concern or responsibility as to the child's welfare." *In re C.E.*, 406 Ill. App. 3d 97, 108 (2010). A parent's interest, concern, or responsibility toward the minor must be objectively reasonable, and the trial court should consider the parent's reasonable efforts along with any circumstances that may have made it difficult for the parent to show interest in or visit the minor. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1064 (2006); *In re Jaron Z.*, 348 Ill. App. 3d 239, 259-60 (2004).

¶ 43 When considering if a parent is unfit under this section, a court must examine the parent's conduct in the context of the parent's circumstances; relevant circumstances include, *i.e.*, difficulty in obtaining transportation, the parent's poverty, statements made by others to discourage visitation, and whether the parent's lack of contact with the child can be attributed to a need to cope with personal problems rather than indifference towards the child. 750 ILCS 50/1 (D)(b) (West 2012*); In re C.E.*, 406 Ill. App. 3d at 109. If personal visits with the child are somehow impractical, letters, telephone calls, and gifts to the child or those caring for the child

may demonstrate a reasonable degree of concern, interest, and responsibility, depending on the content, tone, and frequency of those contacts under the circumstances, for purposes of determining whether a parent is unfit within the meaning of the section 1(D)(b). *In re Adoption of Syck*, 138 Ill. 2d 255, 279 (1990).

¶ 44 Even extreme circumstances that impede the parent's ability to develop a relationship with the child do not excuse a complete lack of communication or interest in the child. *In re A.S.B.*, 293 Ill. App. 3d 836, 843-44 (1997) (law imposes unequivocal and substantial burden on parents to demonstrate reasonable degree of interest, concern, or responsibility for their children). Each case concerning parental unfitness is *sui generis*, requiring close analysis of its individual facts. *In re C.E.*, 406 Ill. App. 3d at 108.

¶ 45 We find respondent's arguments baseless. The evidence established that respondent knew of Tristen's whereabouts from the time he was 2 weeks old until he was 14 months old. Respondent knew that he had no legal standing to prevent Sharonda from taking Tristen. Not once during this time period did he contact any authority to assert his paternal rights. Respondent did not contact the police, an attorney, or file any court documents to establish paternity or seek custody or visitation. Nor did he put any money aside for Tristen. Moreover, from October 2011 to June 2012, when respondent did not know where Tristen was, respondent did not contact any services, such as DCFS, to attempt to find out where he was located or register with the Putative Father Registry. Then, when DCFS informed respondent about Tristen, he did not ask how he was doing medically, developmentally, or even ask about his welfare. Respondent did not send cards, gifts, letters, or send support of any kind. Respondent did not need Sharonda or her family's cooperation to establish his paternity and to exercise his rights as Tristen's father; this burden was respondent's.

¶ 46 Respondent cites several cases in support of his argument that a parent is not unfit where the non-custodial parent's efforts have been thwarted and/or the child's whereabouts have been concealed by a parent. We have reviewed the cases and find them distinguishable.

¶ 47 For example, *In re Bughdadi*, 120 Ill. App. 3d 236, 238-39 (1983), is distinguishable solely on the basis that it concerns a non-custodial parent's visitation privileges ordered in the judgment for dissolution of marriage. See also *Blakey v. Blakey*, 72 Ill. App. 3d 946, 948 (1979) (reservation of child support and visitation in the divorce decree did not amount to unfitness). Here, respondent was not married to Sharonda, and because respondent never initiated the judicial process, visitation was never established.

¶ 48 Similarly, *In re the Adoption of C.A.P.*, 373 Ill. App. 3d 423 (2007), involved a final judgment of dissolution of marriage granting visitation of the child born during the marriage, and the mother failed to prove that the father lacked interest or concern about the minor. It was undisputed that the father exercised his right to visitation and that the mother wished to make visitation difficult. *Id*. at 431. The court noted that, if the father had been notified of the mother's whereabouts and then failed to act on this information, it could reasonably be viewed as evidence of a lack of serious interest in the child. *Id*. Additionally, however, there was nothing in the record to show that the mother desired or would have accepted any contribution from the father for support of the minor. To the contrary, the father gave the mother a check once, which she ripped up, and gifts for the minor were thrown away by the mother, prompting the father to hold onto any future gifts until he was able to give them to his daughter himself. *Id*. at 431-32. In this case, unlike in *C.A.P.*, although there is evidence that Sharonda made it difficult for respondent to see Tristen, there is nothing in the record to show respondent set aside any other contribution of support for Tristen.

¶ 49 In *Perkins v. Breitbarth*, 99 Ill. App. 3d 135 (1981), unfitness was premised entirely upon the father's failure to provide financial support for his child for a period of over two years. *Id*. at 138. However, the father in *Perkins* was not under a court order to pay support and the child's mother did not request his financial help. *Id*. The Third District Appellate Court also noted that the father had made reasonable efforts to visit his child and that those efforts were frustrated by the mother. Thus, the court held that, given the lack of cooperation from the mother regarding visitation *coupled* with the fact that the father was not under a court order to pay support, the evidence was insufficient to support the trial court's conclusion that the father was unfit. *Id*. Here, respondent did not need the mother's cooperation regarding visitation to establish his paternity and to seek court ordered visitation, and the failure to set aside some support is another factor the court considered in determining whether respondent failed to maintain a reasonable degree of interest or concern or responsibility to support a finding of unfitness.

¶ 50 In *Interest of Overton*, 21 Ill. App. 3d 1014 (1974), we found that the conduct of DCFS "virtually insured" that once the mother was separated from her children she would eventually lose them permanently, and therefore we reversed the finding of the trial court that the mother failed to maintain a reasonable degree of interest, concern, or responsibility as to the children's welfare, as there had not been a clear and convincing case presented showing unfitness on this ground. *Id*. at 1019. In *In re Petition of Doe*, 159 Ill. 2d 347 (1994), the mother executed a consent for her baby to be adopted four days after his birth without telling the father. The mother told the father that their baby had died, and he did not find out otherwise until 57 days later. The trial court ruled that the father's consent was unnecessary because he did not show sufficient interest in the child during the first 30 days of the child's life. The supreme court found that, under the circumstances, the father had no opportunity to discharge any familial duty

because all of his actions were either frustrated or blocked by the mother. *Id*. at 350. Here, unlike in *Overton* and *Doe,* respondent knew of Tristen's existence and did nothing to establish his parental rights.

¶ 51 Respondent last relies on *Peyla v. Martin*, 40 Ill. App. 3d 373 (1976), for the proposition that whether or not a parent pursues legal action to enforce his parental rights is not dispositive of a finding of unfitness. In reversing the trial court's finding of unfitness, the Fifth District Appellate Court noted that the father's efforts to obtain visitation were frustrated by a set of circumstances and admonition of his parole officer. *Id*. at 377. The present case is distinguished by the fact that no State official told respondent not to pursue his legal rights. Rather, it was his own indifference and lack of urgency that prevented him.

¶ 52 In sum, respondent's lack of effort in contacting any authorities to enforce his legal rights, and his inability to put forth more than a minimal amount of effort towards Tristen's well being demonstrates that he did not maintain a reasonable degree of interest, concern, or responsibility for Tristen. When Sharonda frustrated respondent's ability to see Tristen, a reasonable person would have responded with less indifference and a greater sense of urgency than respondent. Respondent's youth, lack of finances, and ignorance of the legal process was no excuse where respondent acknowledged that he made no attempt to establish his paternity. Under these circumstances, the trial court's finding of unfitness was not against the manifest weight of the evidence and the opposite conclusion is not clearly evident; nor is the determination unreasonable, arbitrary, or not based on the evidence.

¶ 53 III. CONCLUSION

¶ 54 For the reasons stated, we affirm the judgment of the circuit court of Winnebago County.

¶ 55 Affirmed.