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2016 IL App (5th) 150414-U

NOS. 5-15-0414, 5-15-0415 & 5-15-0416 (cons.)

NOTICE

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IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

<i>In re</i> A.H., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Saline County.
	)	
Plaintiff-Appellee,	)	
	)	
v.	)	No. 10-JA-48
	)	
Ellen K.H.,	)	Honorable
	)	Todd D. Lambert,
Defendant-Appellant).	)	Judge, presiding.

NO. 5-15-0415

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

<i>In re</i> T.H., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Saline County.
	)	
Plaintiff-Appellee,	)	
	)	
v.	)	No.10-JA-49
	)	
Ellen K.H.,	)	Honorable
	)	Todd D. Lambert,

Defendant-Appellant). ) Judge, presiding.

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NO. 5-15-0416

IN THE  
APPELLATE COURT OF ILLINOIS  
FIFTH DISTRICT

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<i>In re</i> S.H., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Saline County.
	)	
Plaintiff-Appellee,	)	
	)	
v.	)	No. 12-JA-7
	)	
Ellen K.H.,	)	Honorable
	)	Todd D. Lambert,
Defendant-Appellant).	)	Judge, presiding.

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JUSTICE CHAPMAN delivered the judgment of the court.  
Presiding Justice Schwarm and Justice Stewart concurred in the judgment.

**ORDER**

¶ 1 *Held:* Where Ellen K.H. failed to establish that the trial court erred in finding her unfit, and failed to establish that the trial court erred in finding that the best interests of her three children required termination of her parental rights, we affirm the trial court's orders.

¶ 2 Ellen Kristy H. (Kristy) appeals from the trial court's order terminating her parental rights. On appeal, she argues that the State did not establish that she was an unfit parent. Kristy also contends that it was not in the children's best interests to terminate her parental rights. We affirm the trial court's order.

¶ 3

## FACTS

¶ 4

### Family Background

¶ 5 T.H. is a female child born on January 1, 2008. A.H. is a male child born on April 2, 2010. S.H. is a male child born on February 18, 2012. Kristy is the mother of all three children. Billy is the father of all three children. T.H. and A.H. were removed from the home in October 2010. S.H. was removed from the home in March 2012. Throughout the majority of the family's involvement with the Department of Children and Family Services (DCFS) and agencies working with DCFS, Billy and Kristy were married. In late 2013, Kristy obtained a divorce from Billy.

¶ 6

### Intact Family Process

¶ 7 DCFS became involved with this family in late May 2010, before the youngest child, S.H., was born. An incident involving A.H. came to the attention of DCFS when his car seat fell off of a kitchen table. While investigating, DCFS determined that the home was not clean and not safe. DCFS also learned that Billy was a registered sex offender. Billy had been convicted of criminal sexual abuse of a 14-year-old minor. At the time of the crime, Billy was 19 years of age. DCFS initiated an intact family services case on May 28, 2010, in order to keep the children in the home with the parents.

¶ 8

After DCFS's involvement, Billy and Kristy were both given service plans outlining the desired outcome and interventions. The initial service plans required Billy and Kristy to maintain adequate housing with an appropriate level of cleanliness at all times. Kristy was not allowed to leave the children alone in Billy's care. Billy was required to undergo an assessment related to his status as a sex offender. He completed



sister were adopted by their biological mother's sister and her husband, who raised them. Kristy was raped at the age of 17. Her relationship with Billy was her first serious relationship. Billy was raised as a "ward of the state," because he had been sexually abused and neglected by his mother.

¶ 14 The DCFS service plan, dated November 10, 2010, was filed with the court. The permanency goal for both children was to remain "intact" with their family. DCFS rated Billy's and Kristy's progress on their interventions since May 2010 as unsatisfactory. Anger management and parenting classes were added for Billy. Mental health and parenting classes were added for Kristy.

¶ 15 On February 15, 2011, the court entered an order of disposition adjudging the minors as wards of the court and finding that both parents were unable and unwilling to care for, protect, train, or discipline the minors. Both T.H. and A.H. were placed with a nonrelated traditional foster family on February 9, 2011, as the grandparents, who originally acted as the foster parents, could no longer maintain the placement.

¶ 16 Permanency Hearings and Orders

¶ 17 Over the next three years, DCFS continued to work with Billy and Kristy with numerous service plans. The goal remained to attempt to return the children to Billy and Kristy within 12 months. That goal was never achieved.

¶ 18 At the beginning of DCFS's involvement, housing was the main concern. Housing interventions were eventually rated satisfactory although DCFS continued to have concerns regarding clutter and cleanliness throughout the three years.

¶ 19 Kristy was employed for the majority of this time in nursing homes and also attended college at Southeastern Illinois College. Billy never held a job. He enrolled in classes at Southeastern Illinois College but was barred from the campus because he violated a rule. Because Billy was a registered sex offender, and as Southeastern Illinois College had an onsite daycare facility, he was not allowed on campus until all children from the daycare were gone. Billy showed up on campus at a time when the children were still at the daycare. According to DCFS, Billy apparently spent his days playing video games. Although Billy was home most of the time, DCFS believed that household cleaning tasks were completed by Kristy.

¶ 20 Kristy attended counseling at the Anna Bixby Women's Center. While Kristy was compliant with the mental health interventions of her service plan, DCFS remained concerned that she did not fully grasp the issues associated with protection of her children. DCFS noted that Kristy did not appreciate the dangers stemming from Billy's sex offender status, and caseworkers added specific interventions about recognizing warning signs of grooming behaviors utilized by sex offenders. Overall DCFS wanted Kristy to acknowledge the dangers and become a more watchful and protective parent.

¶ 21 Additionally, despite the successful completion of counseling, Kristy was unable to take steps to protect herself. Although Billy was arrested for battery against Kristy, she dropped the charges. The same problems surfaced in dealing with Billy's anger towards the children. When Billy threatened the children, Kristy did nothing. In June 2011, the court appointed Court Appointed Special Advocates (CASA) to represent the two children. These CASA volunteers spent time with Billy and Kristy during

visitations. The volunteers expressed concern that Kristy seemed content to exist under Billy's control and that she showed no signs that "she would intercede against Billy for the children's protection." Kristy's successful completion of mental health counseling did not translate into real life successful application of the lessons learned.

¶ 22 Kristy also took parenting classes at the Anna Bixby Women's Center. DCFS noted that Kristy had a generalized knowledge of parenting methods. Kristy was compliant with this intervention and her skills improved. Eventually, DCFS referred Billy and Kristy to a more "hands on" parenting program called Project 12 Ways. Despite this program, DCFS found that Billy and Kristy struggled with proper utilization of the skills taught. Neither parent was able to maintain control of the children during visitation. Billy yelled, cursed, and threatened the children. Kristy failed to intervene. DCFS was also concerned about food for the children during visitations. Food was not always available. Additionally, Kristy never made a meal for the children before they arrived. Instead she spent much of the visitation period preparing the meal instead of interacting with the children. During an unsupervised visitation, Kristy began having trouble with the children. She called the case aide who had transported the children and asked for assistance in managing the children. On another occasion, accompanied by a DCFS case manager, Kristy was unable to manage T.H. in a library. DCFS noted that T.H. tried to knock a computer off of a table. She hit A.H., the librarian, and three library visitors. She bit Kristy on the leg. The DCFS case manager intervened to get T.H. under control.

¶ 23 During the three years that DCFS worked to keep the family intact, Billy completed his anger management classes. However, Billy continued to struggle with anger issues. He was arrested for battering Kristy and he cursed, yelled, and threatened the children. The CASA volunteers reported that they felt threatened by Billy after he approached them in court to complain about a report they submitted to the judge. Although Billy completed the anger management classes, it seems that he made no effort to employ strategies taught.

¶ 24 Billy was also required to undergo a sex offender evaluation. That evaluation led to the requirement that he undergo sexual offender group sessions. DCFS reported that Billy and Kristy never believed that he needed additional therapy. So, Billy's attendance was sporadic. Billy could not have an online social profile or engage in Internet activities in order to successfully comply with the sex offender interventions. CASA volunteers monitored his online Facebook profile and discovered inappropriate sexual content. Billy never achieved completion of these interventions.

¶ 25 Billy was not compliant with his interventions, which caused Kristy problems with her own service plan success because he remained in her household. DCFS workers and the trial judge counseled and explained this to Kristy. Because the household was viewed as a whole, Kristy could not achieve return of her children until Billy either successfully completed his interventions or was no longer part of her household and life. Eventually, Kristy seemed to understand that Billy stood in the way of her reunification with her children. In late 2012, Kristy informed a DCFS case manager that she was willing to

divorce Billy in order to get her children back, and that after Billy completed his required interventions, she and Billy would reunite.

¶ 26 In April 2013, DCFS changed its position on permanency. Until April 2013, the goal was to reunite the family. Visitation rights had increased. However, Kristy was unable to manage the children and Billy was verbally threatening to the children. DCFS sought guidance from the court. The court's April 9, 2013, order determined that substitute care pending termination of parental rights was the appropriate permanency goal.

¶ 27 Months after the permanency goal was modified by the court, Kristy filed for and eventually received a divorce from Billy. However, DCFS and the CASA volunteers remained concerned that the divorce was actually meant as a strategy rather than a true life change. DCFS and the CASA volunteers noted that they attended court hearings together, and on at least one occasion, that Billy was at Kristy's home before and after her visitation with the children. Billy eventually moved to Texas, but the CASA volunteers discovered that he still apparently maintained contact with Kristy via Facebook.

¶ 28 Motion for Termination of Parental Rights

¶ 29 The State filed the motions for termination of parental rights on January 14, 2014. The State listed the following grounds for unfitness pursuant to section 1(D) of the Illinois Adoption Act (750 ILCS 50/1(D) (West 2012)):

- A. Failure to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare;

- B. Failure to protect the child from conditions within his/her environment injurious to the child's welfare;
- C. Failure by a parent to make reasonable efforts to correct the conditions that were the basis for the removal of the child from the parent;
- D. Failure by a parent to make reasonable progress toward the return of the child to the parent within nine months after an adjudication of the minor as neglected or abused; and
- E. Failure by a parent to make reasonable progress toward the return of the child to the parent during any nine-month period after the end of the initial nine-month period following the adjudication of the minor as neglected or abused.

¶ 30 Fitness Hearing and Court Order

¶ 31 The fitness hearing was held over several nonconsecutive days.

¶ 32 Mona Miller, a DCFS case supervisor, was assigned to this case after Billy and Kristy failed to make progress with the intact family services program. Miller testified that while in the intact program, Kristy was only required to maintain adequate housing and to develop protective factors for being in a relationship with a convicted sex offender. The April 2011 service plan added additional interventions for Kristy, including parenting classes and a mental health assessment. Miller explained that DCFS's primary concern with Billy at that point was that he had not completed sex offender treatment. However, DCFS added anger management classes and family counseling to Billy's service plan.

¶ 33 Miller provided additional detail about DCFS's concern regarding Billy's sex offender status. While Billy told DCFS that his sexual assault victim was his girlfriend, the sex offender assessment report indicated that the victim was his friend's girlfriend. Furthermore, DCFS learned that at about the time of the assault at issue, he was accused of a second sexual assault. In addition, there was a third sexual assault accusation in Chicago, but DCFS was unable to obtain information about that case. Miller also indicated that Billy's report that he was sexually abused as a child was problematic. Finally, Miller was disturbed by Billy's own statement that he enjoyed "the thrill of the hunt," and that once he achieved his goal, he would stop.

¶ 34 Miller explained DCFS policy on family progress. She testified that progress was rated as a family, and that even if one parent made great progress, if the other had not made progress, the children would not be returned, as the environment was essentially unchanged.

¶ 35 DCFS caseworker Allyson Ryan worked with the family in 2012. While Kristy complied with, and was rated satisfactory on, her individual interventions, overall, Ryan rated Kristy's progress as unsatisfactory because Billy was not making progress and he lived in Kristy's household. Ryan also testified about the visitations she supervised. She testified that the children were always excited to see their parents, but that eventually T.H. would tell Ryan that she was ready to return "home" to her foster family. T.H. also complained to Ryan that Billy was mean.

¶ 36 DCFS caseworker Steve Olson worked with the family in late October 2012. Olson testified that after T.H. told her foster family that Billy spanked her, he interviewed T.H. T.H. would not confirm the allegation, and so the report was deemed unfounded.

¶ 37 DCFS case manager Pamela Orange testified about a 2013 incident that changed the direction of this case. During a visitation, a DCFS worker witnessed Billy threatening to beat his children. DCFS then sought guidance from the court about how to handle the case. Visitation was changed in that Billy was no longer allowed to have unsupervised visitation, but Kristy could continue with unsupervised visitation. Orange also testified about an incident at the library when Kristy sought Orange's assistance with the children. Orange testified that she had to chase T.H. around the library in order to bring her back to Kristy. Orange addressed the concerns that DCFS had with Kristy in light of the fact that Kristy "looked good on paper." She testified that while Kristy completed the required interventions, she was unable to apply what she had learned, and did not do enough to intervene on behalf of the children when Billy was yelling at or threatening the children. Orange explained that Kristy followed Billy's lead on all parenting issues.

¶ 38 Kristy testified at the unfitness hearing regarding the discipline issues brought up by the State. She testified that in many situations, she did not feel that discipline was warranted, but that if Billy started the discipline process, she would not undermine him, as this was a tenant of parenting classes. She described the parenting differences between the Anna Bixby program, which focused on time-outs, and the Project 12 Ways program, which focused on redirection, as conflicting. She and Billy used both techniques, but acknowledged that disciplinary measures were rarely successful with the children.

¶ 39 On June 9, 2015, the trial court entered its order finding that Billy and Kristy were unfit parents. The court found by clear and convincing evidence that Kristy was an unfit person for failing to protect the child from conditions within her environment that were injurious to the child's welfare, by failing to make reasonable progress within nine months after the adjudication of neglect or within any nine-month period after the end of the initial nine-month period. The court found that Billy was unfit under all five reasons alleged by the State.

¶ 40 Best-Interests Hearing and Order

¶ 41 The trial court held the best-interests hearing on September 1, 2015. On the date of the hearing, T.H. was seven years old, A.H. was five years old, and S.H. was three years old.

¶ 42 Current DCFS caseworker Andres Garcia testified that all three children were well cared for in foster placement and he recommended termination of parental rights. He testified that Kristy currently had one-hour monthly visitation with the children at locations outside of her home. For the most part, the children were well-behaved during these visits. The children did not seem to be displaying affection with Kristy.

¶ 43 Kristy testified that she currently had a larger support system in place, including her sisters, her brother, her aunt, and a cousin, all of whom then lived close to her home. She also testified that if she was able to get her children back, she would reduce the number of hours she worked.

¶ 44 Elizabeth Caputo testified that she was Kristy's twin sister. She testified that she attended some of Kristy's visits with her children. She described Kristy as a responsible

and caring mother, who appropriately disciplined the children when needed. She testified that Kristy knew how to reach Billy in case of an emergency with one of their children, but otherwise Kristy had no contact with him. She testified that she was able to provide support for Kristy.

¶ 45 At the conclusion of the hearing, the State asked the court to terminate parental rights. Billy's attorneys asked the court to find that the best interests of the children would not be met by termination of parental rights. Kristy's attorney asked the court to find that the best interests of the children would not be met by terminating Kristy's parental rights, but suggested that the court terminate Billy's rights. The court-appointed guardian *ad litem* (GAL), Nathan Rowland, stated that the housing issues were resolved; that Kristy completed her service plans; that she remained employed; that she divorced Billy; and that she maintained her independence from him. Rowland further stated that Kristy had a good family support system in place to assist her. In conclusion, Rowland said that although the children deserved permanency, they also had the right to a connection with their mother. He stated that in his opinion as an advocate for the children, it was not in their best interests to terminate Kristy's parental rights, but that in his opinion, it was in the children's best interests to terminate Billy's parental rights.

¶ 46 On September 1, 2015, the court entered its orders terminating Billy's and Kristy's parental rights. In his decision, the judge addressed Kristy as follows:

"I can remember on multiple occasions practically begging the mother to detach from the father. And on multiple occasions the mother chose the father instead of her children. I remember on multiple occasions the mother being told that she has

to either redirect the father or get the children out of the situation when his temper is a problem and she didn't. \*\*\* The mother chose a different route even when all the caseworkers and this Court was begging her to do otherwise. You can't have it both ways. You can't make that decision then and then still want your children back now five and three years later, it doesn't work that way.

I admire the work you've done. \*\*\* But you have on more than one occasion chosen someone over your children and I have nothing before me that makes me believe that if that situation were to arise again that you wouldn't do it again. It scares me to think that these children might be returned to you."

Kristy appeals from the termination of her parental rights.

¶ 47

#### LAW AND ANALYSIS

¶ 48 On appeal, Kristy raises several issues. She alleges that the trial court erred in finding that she was an unfit parent. She also claims that the trial court erred in finding that termination of her parental rights was in the best interests of the children.

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

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

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

¶ 53 The terms "reasonable effort" and "reasonable progress" have different meanings. The requirement that the parent makes reasonable efforts to correct the conditions that led to the child's removal is a subjective standard. Reasonable effort "is associated with the

goal of correcting the conditions that caused the removal of the child and focuses on the amount of effort reasonable for the particular parent." *In re M.A.*, 325 Ill. App. 3d at 391, 767 N.E.2d at 617 (citing *In re J.A.*, 316 Ill. App. 3d 553, 565, 736 N.E.2d 678, 688-89 (2000)). The requirement that the parent makes reasonable progress towards return of the child within nine months of the finding of neglect or within any other nine months after the initial nine months is an objective standard. *Id.* (citing *In re J.A.*, 316 Ill. App. 3d at 564, 736 N.E.2d at 688).

¶ 54 This case was decided based upon the household environment as a whole, instead of the progress of the individual parents. When DCFS removed T.H. and A.H. from the home in October 2010, the interventions were relatively simple. Although the initial problem—adequate, clean, and safe housing—was eventually corrected, the case evolved. As the case progressed, DCFS added to the service plans as additional problems were discovered.

¶ 55 Billy has not appealed the court's finding that he is an unfit parent. However, he was a part of the family household scrutinized by DCFS. In addition, Kristy's inability or unwillingness to protect the children from Billy was relevant to the court's determination with respect to Kristy's fitness. Therefore, we must consider Billy's progress and behaviors as well as Kristy's progress.

¶ 56 Billy is a registered sex offender. While he completed the initial sex offender assessment, he never completed the group therapy DCFS subsequently mandated. Kristy made excuses for Billy's failure to comply with the DCFS requirements during her testimony at the fitness hearing. Furthermore, neither Billy nor Kristy felt that he needed

additional counseling. That attitude shaped the remainder of this case. Billy's compliance with his counseling was marked as satisfactory about three years after T.H. and A.H. were removed from the home (and about two years after S.H. was removed from the home), but treatment was never fully completed.

¶ 57 During those three years, DCFS determined that Billy had anger management issues and that Kristy needed counseling as well. The State charged Billy with a domestic violence-related crime after he struck Kristy leaving her with a black eye. Kristy refused to pursue the charges. Billy expressed his anger verbally and physically in the household. He intimidated the CASA volunteers, and in DCFS's and CASA's assessment, he intimidated Kristy. Although Billy was rated satisfactory on anger management counseling in October 2012, in early 2013, Billy threatened to beat one of his children while a DCFS representative was present. As Billy was unable to control his anger despite the presence of a DCFS representative, DCFS concluded that he was not applying anger management methods taught in class.

¶ 58 Additionally, although Billy and Kristy completed parenting classes, neither parent was effectively able to handle the children during visitation. Throughout this case, DCFS representatives reported parenting concerns including insufficient food, improper timing of meals, yelling at the children, and threatening to spank the children. Kristy also showed an inability to manage the children. At the fitness hearing, she blamed her parenting failures on inconsistencies between the two parenting courses she took. On two separate occasions, Kristy asked DCFS for assistance with the children. Furthermore, Kristy had no ability to stand up to Billy when he was yelling at or disciplining the

children using methods inconsistent with techniques taught in parenting classes. This inability to step in to protect her children, in the presence of DCFS representatives, was the most troubling.

¶ 59 The State filed its petition to terminate parental rights in January 2014—3 years and 3 months after T.H. and A.H. were removed from the home and 1 year and 10 months after S.H. was removed the home. Throughout that time period, DCFS and the court counseled Kristy about the home being evaluated as a whole. As long as Billy remained in the home and was not compliant with his service plans, Kristy would not be allowed to have the children returned to the home. Although separating from Billy was never a service plan intervention, it was what Kristy needed to do in order to protect the children from Billy and work towards the return of the children. Kristy was aware of this. Instead of taking action necessary to facilitate the return of her children, Kristy chose to stay with Billy. Although DCFS repeatedly expressed this need to Kristy, she took no action until the fall of 2013, months after the court changed the permanency goal to substitute care pending termination of parental rights.

¶ 60 The trial court concluded that Kristy was unfit because she did not take steps to protect the children from an injurious environment, because she failed to make progress in the first nine months after the adjudication of neglect, and because she failed to make progress during any of the State-specified subsequent nine-month periods after the first nine-month period.

¶ 61 On review, we will not overrule the trial court's decision unless it is contrary to the manifest weight of the evidence. *In re M.A.*, 325 Ill. App. 3d at 390, 757 N.E.2d at 617.

Furthermore, we must defer to the court's judgment because the trial court was present during the hearing and was able to assess the credibility of the witnesses. *Id.* at 391, 757 N.E.2d at 617.

¶ 62 We find no basis in the record to conclude that the trial court's decision was against the manifest weight of the evidence. We affirm the trial court's finding that Kristy is an unfit parent under all three bases. Kristy refused to take the necessary steps to protect her children from the injurious home environment caused by Billy. She also personally failed to apply parenting techniques taught in classes. She failed to make reasonable progress during the first nine months after the adjudication of neglect (December 7, 2010, through September 7, 2011), and she failed to make reasonable progress during the subsequent nine-month periods specified by the State.

¶ 63 Best Interests of the Minor Children

¶ 64 A court's termination of parental rights is an extreme act. *In re Adoption of Syck*, 138 Ill. 2d 255, 274-75, 562 N.E.2d 174, 184 (1990). A parent maintains a superior right to raise his or her own children. *Id.* However, once a parent has been determined to be unfit, "the parent's rights must yield to the child's best interest." *In re Tashika F.*, 333 Ill. App. 3d 165, 170, 775 N.E.2d 304, 307 (2002); *In re J.L.*, 236 Ill. 2d 329, 337-38, 924 N.E.2d 961, 966 (2010). Until the court determines that a parent is unfit, the interests of both the parent and the child are concurrent "to the extent that they both 'share a vital interest in preventing erroneous termination of their natural relationship.' " *In re D.T.*, 212 Ill. 2d 347, 363, 818 N.E.2d 1214, 1226 (2004) (quoting *Santosky v. Kramer*, 455 U.S. 745, 760-61 (1982)). After finding that a parent is unfit, the State must establish

proof that termination of a parent's rights is in the child's best interests by a preponderance of the evidence. 705 ILCS 405/2-29(2) (West 2014); *In re D.T.*, 212 Ill. 2d 347, 366, 818 N.E.2d 1214, 1228 (2004). The appellate court must decide whether the trial court's decision on the best interests of the children is contrary to the manifest weight of the evidence. *In re S.J.*, 368 Ill. App. 3d 749, 755, 859 N.E.2d 281, 286 (2006).

¶ 65 The factors a court must consider in deciding a minor's best interests are:

- 1) the child's physical safety and welfare;
- 2) the child's background and ties (including family, culture, and religion);
- 3) the need for permanence, including familiarity, stability, and continuity with parental figures and other relatives;
- 4) risks related to substitute care; and
- 5) preferences of the person available to care for the child. 705 ILCS 405/1-3(4.05) (West 2014); *In re Deandre D.*, 405 Ill. App. 3d 945, 953-54, 940 N.E.2d 246, 253-54 (2010).

The trial court may consider the likelihood of adoption. *In re Tashika F.*, 333 Ill. App. 3d at 170, 775 N.E.2d at 308. The court can also consider the length of the child's relationship with his foster parents and the emotional and/or physical effect of a change of placement on the well-being of the child. *In re Brandon A.*, 395 Ill. App. 3d 224, 240, 916 N.E.2d 890, 904 (2009) (citing *In re Austin W.*, 214 Ill. 2d 31, 50, 823 N.E.2d 572, 584 (2005)). The court is not required to consider each factor individually in determining the best interests of the child. *In re Tiffany M.*, 353 Ill. App. 3d 883, 893, 819 N.E.2d 813, 822 (2004).

¶ 66 In this case, the GAL, Rowland, argued that it was not in the children's best interests to terminate Kristy's parental rights. We respect the GAL's opinion, and we concur with the trial court's statement that Kristy made substantial progress towards bettering herself. However, for the reasons that follow, we agree with the trial court that the children's best interests can only be served by terminating Kristy's parental rights.

¶ 67 T.H. and A.H. began living with their foster parents in February 2011, and S.H. was an infant when he began living with his foster parents in March 2012. As of the best-interests hearing date, T.H. and A.H. had been in foster care for four years and seven months; S.H. had been in foster care for three years and four months.

¶ 68 Without question, from the record on appeal and the testimony of DCFS caseworkers and managers, the children are bonded with their foster parents, who are open to adoption. Removing these three children from their foster family after the passage of so many years would likely be confusing and detrimental to them. It is this degree of permanence that is paramount. These children deserve a permanent and stable home life.

¶ 69 Furthermore, there is the question of Billy's and Kristy's relationship postdivorce. Until Billy's recent move to Texas, circumstantially, it appeared that Billy and Kristy remained together. In fact, this was Kristy's stated plan. She informed DCFS of her intention to separate from Billy in order to regain custody and guardianship of the children, and that after Billy completed his service plan interventions, she would reunite with Billy. As the trial judge stated:

"[Y]ou have on more than one occasion chosen someone over your children and I have nothing before me that makes me believe that if that situation were to arise again that you wouldn't do it again."

Billy refused to comply with interventions and had significant anger issues. Kristy was unable to step in to protect her children from Billy's anger even when DCFS was present. The children need to be protected. Allowing Kristy to regain custody could facilitate Billy's return, which could potentially harm the children.

¶ 70 Finally, we note that these three children need and deserve a safe, loving, and nurturing home. After years in foster care, we agree with the trial court's decision that the best interests of these children require the termination of Kristy's parental rights.

¶ 71 **CONCLUSION**

¶ 72 For the foregoing reasons, we affirm the judgments of the circuit court of Saline County.

¶ 73 Affirmed.