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2019 IL App (5th) 180393-U

NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

NO. 5-18-0393

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

<i>In re</i> P.C., a Minor)	Appeal from the
)	Circuit Court of
(The People of the State of Illinois,)	Madison County.
)	
Petitioner-Appellee,)	
)	
v.)	No. 16-JA-100
)	
James C.,)	Honorable
)	Martin J. Mengarelli,
Respondent-Appellant).)	Judge, presiding.

JUSTICE WELCH delivered the judgment of the court.
Presiding Justice Overstreet and Justice Moore concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court's decision to terminate the respondent-father's parental rights is affirmed where the court's failure to verbally admonish him of his rights under sections 2-10(2), 2-21(1), and 2-22(6) of the Juvenile Court Act of 1987 (705 ILCS 405/2-10(2), 2-21(1), 2-22(6) (West 2016)) did not deprive him of a fair proceeding.

¶ 2 The respondent, James C., appeals the order of the Madison County circuit court finding him an unfit parent and terminating his parental rights to his child, P.C. On appeal, the respondent asserts that the trial court's failure to admonish him that his

parental rights could be terminated is cause to reverse the order. For the following reasons, we affirm.

¶ 3 P.C. was born on June 3, 2013, to the respondent father and mother, Samantha D. (Samantha). On May 9, 2016, the Illinois Department of Children and Family Services (DCFS) received a report that P.C. was alleged to be at a substantial risk of physical injury because Samantha was believed to be using drugs. DCFS took protective custody of P.C., and P.C. was placed in the care of her maternal grandparents.

¶ 4 On June 1, 2016, DCFS received a second report alleging P.C. was at substantial risk of injury because Samantha was using drugs. The report also alleged that she had left P.C. with the respondent and said she would be back shortly but did not return for P.C. until the next day.

¶ 5 On June 6, 2016, the State filed a petition alleging that P.C. was a neglected minor as defined in section 2-3(1)(a) of the Juvenile Court Act of 1987 (Act) (705 ILCS 405/2-3(1)(a) (West 2016)) because her parents did not provide the proper or necessary support for her well-being as Samantha had a substance abuse addiction; Samantha did not have stable housing; Samantha left P.C. with the respondent and failed to return after two days and had left her without an appropriate care plan on multiple occasions; and the respondent failed to provide care, support, or concern for her. The petition also alleged that P.C. was a neglected minor as defined in section 2-3(1)(b) of the Act (*id.* § 2-3(1)(b)), in that her environment was injurious to her welfare as Samantha had engaged in domestic violence where the respondent was the victim and refused to press charges; she had two pending investigations with DCFS; she had previously failed to

cooperate with DCFS; and the respondent had a criminal history including, but not limited to, convictions for possession of methamphetamine manufacturing materials and theft.

¶ 6 On June 6, 2016, the shelter care hearing was continued to allow Samantha's attorney to be present. P.C. remained in the protective custody of DCFS pending a further order from the trial court. That same day, the respondent signed an "entry of appearance and notice of rights" stating that he submitted to the court's jurisdiction and that he received a copy of the petition. He acknowledged that he understood that he had the following rights: (1) to be present at all hearings; (2) to be heard by the court; (3) to present evidence material to the proceedings; (4) to cross-examine witnesses; (5) to examine pertinent court files and records; and (6) to be represented by an attorney. The form goes on to state that:

"I have been advised that if my Child(ren) are placed in the custody and guardianship of [DCFS], that I MUST COOPERATE WITH THE DEPARTMENT AND COMPLY WITH THE TERMS OF THE SERVICE PLANS AND CORRECT THE CONDITIONS THAT CAUSED THE CHILD TO BE PLACED IN CARE, OR RISK TERMINATION OF MY PARENTAL RIGHTS." (Capitalization in original.)

¶ 7 The respondent appeared at the June 14, 2016, shelter care hearing with his attorney. His attorney noted that he consented to the shelter care order. The respondent testified about Samantha's drug use, the domestic violence incident, and the incident where Samantha had left P.C. in his care, stating that she was going to the store but did not return for P.C. until the next day. At the end of the hearing, during a discussion about when to reconvene, the respondent indicated that he could not miss any more work

because he was already behind on bills and child support. The court stated that it would excuse the respondent's presence. The respondent consented to his attorney appearing on his behalf.

¶ 8 The shelter care hearing resumed on June 17, 2016, and the respondent's attorney appeared to represent his interests. At the end of the hearing, Samantha was verbally admonished that if she did not cooperate with DCFS and comply with the service plans, she risked termination of her parental rights.

¶ 9 A temporary custody order was entered that day. The order found that probable cause for filing the petition existed based on Samantha's various failures and the facts that "[the respondent] refused to drug drop on this date" and "[he] is unable to care for [P.C.] on this date." The order concluded that there was an immediate and urgent necessity that P.C. be placed in DCFS's temporary custody. The order stated that:

"The parents are admonished that they must cooperate with the Illinois Department of Children and Family Services. The parents must comply with the terms of the service plans and correct the conditions that require the minor(s) to be in care or they risk termination of parental rights."
(Emphasis in original.)

A pretrial conference hearing was set for August 4, 2016.

¶ 10 In July, August, and September, 2016, the respondent was arrested multiple times for operating an uninsured motor vehicle, driving on a revoked license, and unlawful possession of methamphetamine.

¶ 11 The respondent failed to appear at the August 4, 2016, hearing, but his attorney was present to represent his interest. The trial court set a hearing for adjudication and disposition to be held on September 6, 2016.

¶ 12 The respondent failed to appear at the adjudicatory/dispositional hearing held on September 6, 2016, though his attorney was present to represent his interest.

¶ 13 That same day, Children's Home and Aid caseworker Tom Cinque filed a permanency report, which outlined the service plan and visitation plans for the parents. The respondent's service plan tasks included counseling; attending a substance abuse support group and cooperating with random drug drops; housing requirements; and employment requirements. The respondent was allowed weekly supervised visits, but Cinque noted that "since [he] does not engage in visits, worker is not able to assess them." Cinque stated that the respondent attended only one visit, on July 25, 2016, for June, July, and August of 2016; that he does not contact the caseworker or the foster parents to confirm the visits; and that he does not have a phone number. Cinque reported that "[the respondent] stated at the [temporary custody] hearing that he does not want custody of his child," that "he is not engaged with visits or services," and that "the child remains bonded with the foster parents/grandparents." Cinque also reported that "[the worker contacts the parents and child at least one time per month" but that "[the respondent] is difficult to locate due to his lack of a phone and his follow through with the worker."

¶ 14 An adjudicatory order entered by the trial court on September 6, 2016, stated that the respondent had not been served with a summons, but service was not required because he previously appeared, signed an entry of appearance, and waived service. The court found that P.C. was neglected where she suffered from a lack of support, education, or remedial care as defined by section 2-3(1)(a) of the Act (705 ILCS 405/2-3(1)(a)

(West 2016)) and was in an environment injurious to her welfare as defined by section 2-3(1)(b) of the Act (*id.* § 2-3(1)(b)). The finding was based on the following facts:

"Minor's mother has a substance abuse addiction which impairs her ability to adequately care for the minor; minor's mother does not have stable housing; minor's mother left the minor with minor's father and stated she would be gone briefly to the store and failed to return for the minor in a reasonable period of time; minor's mother has left the minor without an appropriate care plan on multiple occasions; minor's father fails to provide care, support or concern for the minor; minor's mother had engaged in domestic violence where the minor's father was the victim, Re: 14CM2194, minor's father refused to cooperate or press charges; minor's mother has two pending investigations with DCFS; minor's mother previously failed to cooperate with DCFS investigators and intact services; minor's father has criminal convictions including but not limited to manufacturing methamphetamines, Re: 05CF2806 and Theft<\$300, Re: 06CF440."

The court found that the abuse was inflicted by both parents. The court ordered DCFS to conduct an investigation into P.C.'s physical and mental history and her family situation. The order contained an admonishment that the parents must cooperate with DCFS and comply with the terms of the service plan and correct the conditions that require the minor to be in care or risk the termination of their parental rights. The order was entered over the written objection of the respondent's attorney.

¶ 15 The trial court also entered a dispositional order finding that it was consistent with P.C.'s health, welfare, and safety and in her best interest to make her a ward of the court, concluding that the respondent was "for reasons other than financial circumstances alone, unfit to care for, protect, train, educate, supervise or discipline [P.C.], that placement with him is contrary to [her] health, safety and best interest," and that the respondent was "unfit, unable, or unwilling because [he] [had] not yet successfully completed all service plan tasks." The court determined that the parents were provided with services but had

not corrected the conditions that brought P.C. into care and ordered DCFS to develop a permanency goal in conformity with the order. Supervised visitation was to be monitored by DCFS. The order contained an admonishment that the parents must cooperate with DCFS and comply with the terms of the service plan and correct the conditions that require the minor to be in care or risk the termination of their parental rights. The order was entered over the written objection of the respondent's attorney.

¶ 16 A permanency order was entered on December 13, 2016, over the respondent's attorney's written objection. The report found both parents had failed to make reasonable efforts or reasonable progress toward returning P.C. home.

¶ 17 That same day, Cinque filed a permanency report. The respondent's service plan tasks were updated to state that he had not started counseling; that after his August 24, 2016, arrest for methamphetamine possession, he needed to have a substance abuse assessment and begin treatment; that he had moved in with his father after being released from jail; and that he lost his job and needed to obtain steady income. Cinque noted the respondent's many run-ins with law enforcement, including a July 21, 2016, order for his release on bond for operating an uninsured motor vehicle and driving on a revoked license; a July 31, 2016, arrest for operating an uninsured motor vehicle and driving on a revoked license; an August 8, 2016, arrest for operating an uninsured motor vehicle, driving on a revoked license, and improper traffic lane usage; an August 7, 2016, investigation by the Glen Carbon police for robbery, noting "[the respondent] & [Samantha] stealing the wallet of her x-boyfriend [*sic*]"; an August 24, 2016, arrest for methamphetamine possession; a September 6, 2016, forcible entry and detainer default

judgment order stating that he owed \$2700 in rent; and a September 9, 2016, arrest for methamphetamine possession, noting that he was sent to the Madison County jail and released on November 28, 2016. Cinque stated that the respondent attended only one visit for June through September of 2016 and that "he did not want visit[ation] while in jail." Cinque noted that the respondent did not contact him or the foster parents to confirm visits and that his phone number changed regularly.

¶ 18 On December 20, 2016, mail sent to the respondent from the court was returned as not deliverable.

¶ 19 On January 24, 2017, the trial court entered an order appointing a court-appointed special advocate (CASA).

¶ 20 On May 23, 2017, CASA filed a report. The case summary referenced that the respondent was unable to care for P.C. at the time that she entered DCFS's care. The report noted that P.C. was attending weekly, supervised visits with both parents but that the respondent had not complied with any of the service plan requirements, had not cooperated with random drug drops, and had a criminal record with pending charges. The report recommended that since it had been almost one year since the case opened and no progress had been made toward reunification, it was appropriate to begin the legal screen and plan for the grandparents' adoption of P.C.

¶ 21 That same day, Cinque also filed a report. The respondent's service plan was updated to state that after his arrest for methamphetamine possession, he was required to obtain a substance abuse assessment and begin treatment; and after being court-ordered to attend treatment for methamphetamine use, he successfully completed inpatient substance

abuse treatment on March 28, 2017. Cinque noted that the respondent needed to attend outpatient treatment and could do so in Granite City or Springfield, but "to date, [the respondent] has not attended any outpatient treatment."

¶ 22 The report also updated the respondent's legal record, which included: his failure to appear for the July 21, 2016, violation, which, after a warrant was issued, was later dismissed; his failure to appear for the July 31, 2016, charge for operating an uninsured motor vehicle and driving on a revoked license, which was later dismissed; his failure to appear for the August 8, 2016, charge for operating an uninsured motor vehicle, driving on a revoked license, and improper traffic lane usage, which was later dismissed; a hearing was set for the pending robbery charge involving Samantha as his codefendant; his failure to appear for the August 24, 2016, methamphetamine possession charge, to which he ultimately pled guilty and was ordered to 30 months' probation with drug treatment but then failed to complete his probation requirements and was arrested on February 9, 2017; his failure to respond to his landlord's complaint regarding the forcible entry and detainer and a default judgment was entered; and the September 9, 2016, methamphetamine possession charge, which was dismissed. Regarding probation, Cinque noted that the respondent missed his probation appointments on January 23, 2017, April 3, 2017, and May 4, 2017; therefore, a warrant for his arrest was being submitted, and a court date was set for the petition to revoke his probation.

¶ 23 Regarding visitation, Cinque stated that the respondent attended one visit from June through December 2016. The respondent stated that this was because he did not want P.C. to visit while he was in jail. In December 2016, the respondent attended three

visits. In January 2017, he attended one visit and missed two visits; in February 2017, he did not attend any visits and missed three visits. In March 2017, he attended one visit, while in inpatient treatment, and missed three visits; in April 2017, he attended three visits and missed four visits. Cinque noted that the respondent had not engaged in outpatient treatment or counseling and was inconsistent in visiting P.C.

¶ 24 Also on May 23, 2017, a permanency hearing was held, but the respondent failed to appear. A permanency order was entered over his attorney's written objection. The report found both parents had failed to make reasonable efforts or reasonable progress toward returning P.C. home.

¶ 25 On May 31, 2017, and again on July 24, 2017, mail sent to the respondent from the court was returned to the clerk's office.

¶ 26 On November 16, 2017, CASA filed a report stating that the respondent had only spoken with the caseworker twice since June 3, 2017, both times "after his own mother persuaded him to make the call," and had not been in contact with P.C. at all since that date. The report noted that he "made very little effort to cooperate with [the] service plan" and had not met any of the requirements; he had not visited P.C. in five months, and his employment status and living arrangements were unknown. The caseworker noted that a concern that "neither parent is able or willing to take even the minimum necessary steps toward reunification with the child." The report recommended that the respondent's parental rights be terminated and to continue to plan for P.C.'s adoption by her grandparents.

¶ 27 That same day, Cinque also filed a report. The report updated the respondent's service plan tasks, noting that he failed to start counseling or attend outpatient substance abuse treatment. The report also updated his legal record, which included the following past felonies: two separate 2004 convictions for burglary; a 2004 conviction for criminal trespass to a residence; a 2005 conviction for theft; a 2005 conviction for methamphetamine possession; and a 2006 conviction for theft of over \$300. Regarding visitation, Cinque noted that the respondent's last visit with P.C. was on June 4, 2017.

¶ 28 Also on November 16, 2017, a permanency hearing was held, but the respondent failed to appear. A permanency order was entered over his attorney's written objection. The report found both parents had failed to make reasonable efforts or reasonable progress toward returning P.C. home.

¶ 29 On November 27, 2017, mail sent to the respondent from the court was returned to the clerk's office.

¶ 30 On December 28, 2017, the State filed a petition for termination of parental rights and for appointment of a guardian with the power to consent to adoption. The petition alleged that the respondent was an unfit person as outlined in the Act for the following reasons: he had abandoned P.C.; he had failed to maintain a reasonable degree of interest, concern, or responsibility as to her welfare; he had deserted her for more than three months preceding the commencement of the proceedings; he had failed to make reasonable efforts to correct the conditions that were the basis for her removal during any nine-month period following the September 6, 2016, adjudication of neglect through the date of the filing of the petition; he had failed to make reasonable progress toward her

return during any nine-month period following the September 6, 2016, adjudication of neglect through the date of the filing of the petition; and he was deprived in that he has been criminally convicted of at least three felonies and at least one of those felonies took place within five years of the filing of the petition.

¶ 31 On January 12, 2018, a document was filed with the trial court indicating service of a summons and petition to terminate the respondent's parental rights. The form stated that:

"THE COURT HAS AUTHORITY IN THIS PROCEEDING TO TAKE FROM YOU THE CUSTODY AND GUARDIANSHIP OF THE MINOR, TO TERMINATE YOUR PARENTAL RIGHTS, AND TO APPOINT A GUARDIAN WITH POWER TO CONSENT TO ADOPTION. YOU MAY LOSE ALL PARENTAL RIGHTS TO YOUR CHILD. IF THE PETITION REQUESTS THE TERMINATION OF YOUR PARENTAL RIGHTS AND THE APPOINTMENT OF A GUARDIAN WITH POWER TO CONSENT TO ADOPTION, YOU MAY LOSE ALL PARENTAL RIGHTS TO THE CHILD."
(Capitalization in original.)

¶ 32 On February 22, 2018, Cinque filed a report for the pretermination hearing. The report was similar to previous reports but noted that on December 12, 2017, the respondent was arrested for violating probation and was residing in the Madison County jail. His last visit with P.C. was June 4, 2017.

¶ 33 On April 10, 2018, CASA filed a report for the termination hearing. The report stated that the respondent had been in communication with the caseworker "due to being incarcerated" but that "he does not wish to see the child while he is in jail." Termination of parental rights was recommended.

¶ 34 On April 17, 2018, Cinque filed a report for the termination hearing. The report was similar to previous reports but noted that the respondent did not want P.C. to visit him while he was in jail.

¶ 35 A permanency order was entered on May 10, 2018. The respondent failed to appear at the hearing held that day due to his incarceration, and the order was entered over his attorney's written objection. The permanency goal was "substitute care pending determination of termination of parental rights." The report found that both parents had failed to make reasonable efforts or reasonable progress toward returning P.C. home.

¶ 36 Cinque filed reports on May 10 and May 31, 2018, that were substantially similar to previous reports. On May 31, 2018, the case was continued to July 26, 2018.

¶ 37 On June 28, 2018, the State filed a motion to temporarily suspend visitation between the respondent and P.C. pending the outcome of the termination hearing. The motion alleged that the respondent had not seen P.C. in over one year, that she was not bonded to him, and that she would not be adversely affected if visitation was suspended. According to Cinque's testimony at the July 26, 2018, termination hearing, the motion was filed after the respondent requested in May 2018 that P.C. visit him in jail.

¶ 38 On July 17, 2018, CASA filed a report for the termination hearing. The report noted that the respondent remained in the Madison County jail awaiting felony charges and that he had requested visitation with P.C., but a motion to suspend visitation was filed. The report stated that the respondent had not been in contact with P.C. since June of 2017 and that he had made promises in the past to attend visitation and meetings but then failed to attend them. The report concluded that, although the respondent expressed

interest in seeing P.C., "he does not understand how to put the child's interest ahead of his own," and that "this CASA, the foster parents, and the caseworker are all in agreement that [visitation at this point] would be damaging to the child."

¶ 39 On July 24, 2018, the State filed an amended petition for termination of parental rights and for appointment of a guardian with power to consent to adoption.

¶ 40 On July 26, 2018, a hearing was held on the amended petition. The respondent appeared in the custody of the Madison County sheriff's department. The respondent's attorney requested a continuance pending the outcome of his criminal case, but the trial court denied the motion. The court took judicial notice of several facts, including that P.C. was adjudicated neglected and the parents were found unfit on September 6, 2016, and wardship had not terminated; that a petition for termination of the respondent's parental rights was filed on December 28, 2017; and that the respondent was served with summons by the Madison County sheriff's department, return receipt of which was filed with the court on January 12, 2018. The court also took notice that the respondent had the following criminal convictions: an April 5, 2004, conviction for burglary with a sentence of two years' probation; a conviction for burglary, on the same date as the previous conviction, with the same sentence; an August 23, 2004, conviction for criminal trespass to residence, with a sentence of two years in the Illinois Department of Corrections (DOC); a March 22, 2006, conviction for retail theft under \$150, second subsequent offense, with a sentence of six years in the DOC; a March 29, 2006, conviction for unlawful possession of methamphetamine manufacturing materials, with a sentence of six years in the DOC; a conviction for theft over \$300 on the same date as the

previous conviction, with the same sentence; and two November 29, 2016, convictions for theft from a person and unlawful possession of methamphetamine, with a sentence of 30 months' probation. Certified copies of the convictions were entered without objection.

¶ 41 Tom Cinque testified that service plans are evaluated every six months and that the first service plan in this case was established on July 4, 2016; the respondent's goals were to address and cooperate with substance abuse treatment, obtain counseling, continue with employment, obtain safe housing, and follow the law and avoid arrest. He stated that the current service plan was created in May 2018 and that there were no substantial changes to that plan from the previous one because there was no progress made.

¶ 42 Cinque stated that, as to the respondent's assessment for substance abuse, he successfully completed inpatient treatment in March of 2017 at Gateway Foundation in Springfield, Illinois, but he did not follow up with outpatient services. Cinque also noted that he referred the respondent for mental health services but that he did not obtain an assessment. The respondent was employed in construction between the times that he was in jail, and he did not have housing. Cinque also stated that the respondent's recent criminal charges were in violation of his service plan tasks.

¶ 43 Cinque stated that, although the respondent had weekly visitation rights, he did not engage in visitation regularly; his last visit with P.C. was June 4, 2017. He had made no attempts to contact P.C., but had contacted Cinque twice, approximately three months after his last visit with P.C. Cinque stated that the respondent also called him from his mother's house "because I couldn't find him for six months"; he then found the

respondent in the Madison County jail in December of 2017. He stated that the respondent did not want visits from December of 2017 to May of 2018, but when he expressed interest in visits in May, he was denied. Cinque opined that the respondent was an unfit parent because "there was no progress made since when [*sic*] the child came into care."

¶ 44 The respondent addressed the court, noting that the case was opened because of Samantha's behavior and that he started doing drugs because she did not allow him to see P.C. He stated that he "[has not] been able to kick [the drugs] since." He explained that Cinque told him that P.C.'s foster parents did not like how P.C. behaved after seeing him and that was why he "[was not] 100 percent about bringing her up here and seeing her *** through the glass"; when he did ask to see P.C., he was denied.

¶ 45 The trial court concluded that the State failed to meet its burden that the respondent abandoned P.C., failed to maintain a reasonable degree of interest, or deserted her. However, the court found that the State did meet its burden that he "has not made reasonable efforts and reasonable progress and is also depraved by virtue of the statute and his criminal convictions," and that he was unfit for those reasons.

¶ 46 The trial court then conducted the best interests portion of the hearing, and Cinque was recalled to testify. He stated that the respondent acted more like a friend to P.C. than a parent figure. He testified that P.C. was well-bonded with her foster parents, comfortable in their home, and referred to them as mom and dad. He stated that her foster parents were employed, able to meet P.C.'s needs, and willing to adopt her. He believed that it was in the best interest of the child for the respondent's parental rights to

be terminated and that the grandparents be free to adopt. The court determined that the State proved by a preponderance of the evidence that it was in P.C.'s best interest to terminate the respondent's parental rights and free the child for adoption.

¶ 47 The trial court entered a written order that day. The court stated that the respondent was served with a summons by the Madison County sheriff's department, return receipt of which was filed with the court on January 12, 2018.

¶ 48 The trial court found by clear and convincing evidence that the respondent was unfit pursuant to section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2016)) in that he failed to make reasonable efforts to correct the conditions that were the basis for the minor's removal during any nine-month period following her being adjudicated neglected; the relevant time period was identified as September 6, 2016, and December 28, 2017, and that he was depraved in that he had been criminally convicted of at least three felonies under Illinois law and at least one of those convictions took place within five years of the filing of the motion seeking termination of his parental rights.

¶ 49 The trial court found by a preponderance of the evidence that it was in P.C.'s best interest that the respondent's parental rights be terminated, as the foster parents wished to adopt her and had signed permanency commitments; the minor was strongly bonded to the foster family; her emotional, psychological, and financial needs were being met in the foster home; she was not strongly bonded to the respondent; and she will not be adversely impacted by the termination of his parental rights. The court terminated the respondent's parental rights and freed P.C. for adoption.

¶ 50 On appeal, the respondent contends that he was not properly admonished regarding the possibility that his parental rights could be terminated.

¶ 51 The respondent did not raise this issue at trial, and generally, the failure to preserve an issue before the trial court results in forfeiture of that issue on appeal. Ill. S. Ct. R. 615(a) (eff. Jan. 1, 1967). However, the reviewing court may consider otherwise forfeited issues where there are plain errors or defects affecting substantial rights. *Id.* The plain-error doctrine may be applied to clear or obvious errors in juvenile abuse or neglect cases "if the evidence is closely balanced or the error affects substantial rights." *In re Andrea D.*, 342 Ill. App. 3d 233, 242 (2003). As the permanent termination of parental rights affects a fundamental liberty interest, rulings affecting that right may be reviewed for plain error. *Id.* (citing *In re J.J.*, 201 Ill. 2d 236, 243 (2002)). Under both prongs of the plain-error analysis, the burden of persuasion remains with the respondent. *People v. Wilmington*, 2013 IL 112938, ¶ 31. In determining whether to apply the plain-error doctrine, we must first determine whether a clear or obvious error occurred. *People v. Downs*, 2015 IL 117934, ¶ 15.

¶ 52 The respondent identifies three sections of the Act that require admonishments to parents. Section 2-10(2) requires that after a temporary custody hearing, if the child is placed in the temporary custody of DCFS, the court shall admonish the parents that "[they] must cooperate with [DCFS], comply with the terms of the service plans, and correct the conditions which require the child to be in care, or risk termination of their parental rights." 705 ILCS 405/2-10(2) (West 2016). Section 2-21(1) requires that after the adjudication hearing, if the court finds that the child has been abused, neglected, or

dependent, the court shall give the parents those same admonishments. *Id.* § 2-21(1). Finally, section 2-22(6) requires that, when the court declares a child to be a ward of the court and awards guardianship to DCFS, the court shall give the parents those same admonishments. *Id.* § 2-22(6).

¶ 53 The respondent correctly notes that he did not receive an oral admonishment from the trial court after the temporary custody hearing as required by section 2-10(2) of the Act, as he was excused from the second day of the hearing; and that he did not receive an admonishment after the adjudication/dispositional hearing as required by sections 2-21 and 2-22 of the Act, respectively, as he did not attend those hearings.

¶ 54 We note that the impediment to the respondent's ability to participate in all but two hearings was either due to his choice not to appear or his incarceration. However, we may assume *arguendo* that the trial court erred in failing to verbally admonish the respondent because he cannot demonstrate that this failure affected the outcome of the case.

¶ 55 An error requires reversal under the plain-error doctrine where (1) the evidence is so closely balanced that the error alone threatens to tip the scales of justice against the respondent, regardless of the seriousness of the error, or (2) the error is so serious that it affected the fairness of the proceedings and undermined the integrity of the judicial process. *People v. Piatkowski*, 225 Ill. 2d 551, 565 (2007). We examine this case under the second prong.

¶ 56 The record in this case does not reflect that the alleged error would have affected the fairness of the proceedings. First, the respondent concedes that he was informed of

his rights and responsibilities prior to the temporary custody hearing, when he signed his entry of appearance and notice of rights form on June 6, 2016. The form states that:

"I have been advised that if my Child(ren) are placed in the custody and guardianship of [DCFS], that I MUST COOPERATE WITH THE DEPARTMENT AND COMPLY WITH THE TERMS OF THE SERVICE PLANS AND CORRECT THE CONDITIONS THAT CAUSED THE CHILD TO BE PLACED IN CARE, OR RISK TERMINATION OF MY PARENTAL RIGHTS." (Capitalization in original.)

Thus, on June 6, 2016, the respondent had actual knowledge of the consequences of failing to comply with his service plan and cooperate with DCFS. Moreover, the record does not substantiate his claim that he did not receive the adjudicatory and dispositional orders entered on September 6, 2016, as they were not returned undeliverable to the respondent; these, too, contained written admonishments that the parents must cooperate with DCFS and comply with the terms of the service plan and correct the conditions that require the minor to be in care or risk the termination of their parental rights.

¶ 57 The record in this case also does not reflect that further admonishments would have resulted in a change in the respondent's behavior such that his parental rights would not have been terminated. Despite his claim otherwise, he did not follow court orders when he received them. His service plan was established on July 4, 2016. His goals were to address and cooperate with substance abuse treatment, obtain counseling, continue with employment, obtain safe housing, and follow the law and avoid arrest. While he did complete a court-ordered inpatient drug treatment program in March of 2017, he failed to comply with orders in nearly every other regard. He failed to engage in drug testing, and indeed, admitted at the July 26, 2018, termination hearing that he

continued to abuse drugs. He never sought outpatient drug treatment or counseling. His employment and housing were inconsistent due to his repeated stints in jail, and the record is rife with examples of how he was unable to follow the law and avoid arrest. Though he was represented by counsel, he failed to attend every relevant hearing held between the two that he did attend (on June 14, 2016, and July 26, 2018); he was formally excused from only one of these hearings. He failed to keep the caseworkers informed of his current address and phone number. He failed to maintain consistent visitation with P.C. despite being entitled to weekly visits; his last visit with P.C. before the State filed the December 28, 2017, petition to terminate his parental rights was on June 4, 2017. Given that his behavior did not change after he had actual knowledge regarding the risk of termination of his parental rights, we disagree with the respondent's claim that his behavior would have changed had he been verbally admonished at the temporary custody hearing on June 17, 2016, or at the adjudicatory/dispositional hearing on September 6, 2016, that his parental rights could be terminated. See *In re Kenneth F.*, 332 Ill. App. 3d 674, 683 (2002).

¶ 58 We conclude that any error in failing to verbally admonish the respondent did not deprive him of a fair proceeding. We therefore affirm the order of the circuit court terminating his parental rights.

¶ 59 Affirmed.