

2013 IL App (2d) 130493-U  
No. 2-13-0493  
Order filed August 29, 2013

**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).

---

IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

---

*In re* DEMARLO C., a Minor ) Appeal from the Circuit Court  
) of Winnebago County.  
)  
) No. 10-JA-405  
)  
(The People of the State of Illinois, Petitioner- ) Honorable  
Appellee, v. Leyonda B., Respondent- ) Mary Linn Green,  
Appellant). ) Judge, Presiding.

---

*In re* DECARLO C., a Minor ) Appeal from the Circuit Court  
) of Winnebago County.  
)  
) No. 10-JA-406  
)  
(The People of the State of Illinois, Petitioner- ) Honorable  
Appellee, v. Leyonda B., Respondent- ) Mary Linn Green,  
Appellant). ) Judge, Presiding.

---

*In re* DARIYONNA M., a Minor ) Appeal from the Circuit Court  
) of Winnebago County.  
)  
) No. 10-JA-407  
)  
(The People of the State of Illinois, Petitioner- ) Honorable  
Appellee, v. Leyonda B., Respondent- ) Mary Linn Green,  
Appellant). ) Judge, Presiding.

---

<i>In re</i> ALANNA S., a Minor	)	Appeal from the Circuit Court
	)	of Winnebago County.
	)	
	)	No. 11-JA-310
	)	
(The People of the State of Illinois, Petitioner-Appellee, v. Leyonda B., Respondent-Appellant).	)	Honorable
	)	Mary Linn Green,
	)	Judge, Presiding.

---

JUSTICE SPENCE delivered the judgment of the court.  
 Presiding Justice Burke and Justice McLaren concurred in the judgment.

**ORDER**

¶ 1 *Held:* The trial court properly found that respondent was unfit as to all four minors and that it was in the minors’ best interests to terminate her parental rights.

¶ 2 The trial court found respondent, Leyonda B., unfit as to Dariyonna M., Demarlo C., Decarlo C., and Alanna S., and terminated her parental rights. Respondent appeals both findings, arguing that they were against the manifest weight of the evidence. We affirm.

¶ 3 I. BACKGROUND

¶ 4 Respondent has four children: Dariyonna M., born February 3, 2007; the minor boys, Decarlo C., born January 10, 2008, and Demarlo C., born November 28, 2008; and Alanna S., born September 14, 2011. The father of Dariyonna M. is Dartanion M.; the minor boys have the same father, Decarlo C.; and the father of Alanna S. is “Willie.”<sup>1</sup>

¶ 5 On October 27, 2010, prior to Alanna S.’s birth, neglect petitions were filed on behalf of the three minors. The petitions alleged that the three minors were in an environment injurious to their welfare based on the domestic violence of Willie (count I), and that respondent’s mental health issues prevented her from parenting properly (count II). A temporary custody order was entered on December 21, 2010, giving the Department of Children and Family Services (DCFS) discretion to

---

<sup>1</sup>None of the minors’ fathers are parties to this appeal.

place Dariyonna M., Decarlo C., and Demarlo C. with respondent's mother, Yolanda. On March 24, 2011, respondent stipulated to count I of the neglect petition, and count II was dismissed subject to her compliance with service plans. On April 27, 2011, the three minors were adjudicated neglected.

¶ 6 After Alanna S. was born on September 14, 2011, the State filed a neglect petition on her behalf on October 7, 2011. The neglect petition alleged that Alanna S. was in an environment injurious to her welfare in that her siblings were adjudicated neglected and respondent had failed to cure the conditions that would allow them to return to her care. On October 7, 2011, the court entered a temporary custody order giving DCFS discretion to place Alanna S. with Yolanda.

¶ 7 The first permanency hearing occurred on October 24, 2011. The caseworker, Linda Bjur, testified that she became involved with the case six months prior, in May 2011. Currently, Dariyonna M. was six years old and in first grade; Decarlo C. was three years old; Demarlo C. was two years old; and Alanna S. was a newborn. The minors were doing well with Yolanda.

¶ 8 When asked about visitation, Bjur testified that respondent had moved from Rockford to Wisconsin at the end of May or the beginning of June 2011. Respondent first moved to Madison and then moved to La Crosse. She had not seen the minors since May 20, 2011.

¶ 9 The service plan also required respondent to engage in individual counseling and parenting classes and to cooperate with DCFS. Respondent did not engage in any of these services in Illinois and did not maintain consistent contact with DCFS. When Bjur spoke to respondent in August 2011, respondent claimed to have completed some of the services in Wisconsin, but Bjur had no documentation to this effect. At this time, respondent's attorney provided a certificate of completion from a parenting class that respondent had attended in Wisconsin. It was dated October 12, 2011.

¶ 10 When Bjur was asked about respondent having surgery in June 2011, Bjur testified that she received the “preop” papers. However, Bjur did not have documentation that respondent had been on bed rest in Wisconsin due to Alanna S. being a high-risk pregnancy.

¶ 11 The court maintained the goal of the minors returning home in 12 months. However, the court found that respondent had not made reasonable efforts regarding the initial, June 2011 service plan.

¶ 12 On March 1, 2012, Alanna S. was adjudicated neglected. On March 8, 2012, the State moved to terminate respondent’s parental rights as to Alanna S. The State’s petition alleged that respondent was unfit on four grounds: (1) for failing to maintain a reasonable degree of interest, concern, or responsibility as to the minor’s welfare (750 ILCS 50/1(D)(b) (West 2010)); (2) for abandoning the minor (750 ILCS 50/1(D)(a) (West 2010)); (3) for abandoning a newborn in any setting which suggests that the parent intended to relinquish her parental rights (750 ILCS 50/1(D)(a-2) (West 2010)); and (4) for failing to demonstrate a reasonable degree of interest, concern, or responsibility as to the welfare of a newborn during the first 30 days after its birth (750 ILCS 50/1(D)(l) (West 2010)).

¶ 13 A second permanency hearing was held on April 23, 2012. Bjur testified that respondent still lived in La Crosse and had not had visitation since May 2011. Prior to May 2011, respondent had had four visits with the minors. Bjur thought that respondent’s last phone contact with the minors was in March 2012.

¶ 14 The service plan required respondent to engage in counseling, domestic abuse services, and parenting classes. Bjur received a letter from New Horizons in Wisconsin that respondent had received counseling and some domestic abuse services. Bjur was currently playing “phone tag” with New Horizons regarding the specific services that respondent had received; the letter indicated that

respondent had been engaged in services with New Horizons since November 2010. After completing the “parenting one” class in Wisconsin, respondent had enrolled in “parenting two” but then missed the January 2012 class.

¶ 15 Regarding respondent’s living situation, Bjur testified that respondent had moved again but had not informed her of the new Wisconsin address. The letter from New Horizons indicated that respondent had been staying at a shelter. The court asked whether respondent had made any efforts to relocate closer to the minors, and Bjur said no. Bjur confirmed that the minors lived with Yolanda in the Chicago area, (Forest Park), and that Alanna S. suffered from sickle cell disease. Also, respondent was still dating Willie, and Bjur had “numerous concerns about domestic violence between the two of them.” As of December 2011, Willie had been incarcerated in La Crosse.

¶ 16 The court found that respondent had not made reasonable efforts regarding the second December 8, 2011, service plan. As for Alanna S., the State had already petitioned to terminate respondent’s parental rights. For the oldest three minors, the court changed the goal to substitute care pending termination of parental rights.

¶ 17 On August 17, 2012, the State moved to terminate respondent’s parental rights to Dariyonna M., Decarlo C., and Demarlo C. The State’s petition alleged that respondent was unfit on four grounds: (1) for failing to maintain a reasonable degree of interest, concern, or responsibility as to the minors’ welfare (750 ILCS 50/1(D)(b) (West 2010)); (2) for failing to protect the minors from conditions within their environment injurious to their welfare; (750 ILCS 50/1(D)(g) (West 2010)); (3) for failing to make reasonable efforts to correct the conditions that were the basis for the removal of the minors within nine months after the date of the neglect adjudication (750 ILCS 50/1(D)(m)(I) (West 2010)); and (4) for failing to make reasonable progress toward the return of the minors within

nine months after the date the date of the neglect adjudication (750 ILCS 50/1(D)(m)(ii) ((West 2010)).

¶ 18 On December 7, 2012, another permanency hearing was held. Shea Osborne, the current caseworker, testified that respondent had had only two visits with the minors since June 2012. Respondent still lived in Wisconsin, and Willie was still incarcerated there. Though respondent told Osborne that she was engaged in services, Osborne had no documentation to that effect. The last administrative case review to discuss services was in June 2012, but respondent did not attend. The notice of the meeting was sent to the address that DCFS had on file for respondent.

¶ 19 Regarding the minors, Osborne testified that Alanna S. was not the only minor with special needs (sickle cell disease). Decarlo C. and Demarlo C. had developmental and behavioral issues, and both boys were in counseling.

¶ 20 A. Fitness Hearing

¶ 21 The court conducted a fitness hearing on March 13, 2013. Bjur testified as follows. Bjur was assigned the case from April 2011 to January 2013. After the creation of an initial service plan, service plans were reviewed every six months, on a June to December cycle. Administrative case reviews occurred every six months, and the parents were allowed to attend these meetings. Parents were notified of meetings by mail, and they could participate by phone as well. Respondent did not attend any meetings or make arrangements to do so by phone.

¶ 22 The administrative case review department mailed notices of meetings through a computerized system; Bjur did not personally mail the notices. As the caseworker, Bjur kept respondent's address updated in the computer system. Respondent did not advise Bjur of two address changes: first, when she moved to Madison, and second, when she moved to La Crosse.

¶ 23 The State introduced four service plans into evidence. The service plans were dated December 29, 2010 (exhibit 3), June 7, 2011 (exhibit 4), December 13, 2011 (exhibit 2), and June 13, 2012 (exhibit 1). The service plans required respondent to engage in counseling, parenting classes, visitation, and to cooperate with DCFS. Other than signing release forms, respondent was rated unsatisfactory in the service plans.

¶ 24 Regarding visitation, the initial visits between respondent and the minors were scheduled weekly and were supervised by Help-At-Home. Respondent did not attend all of her scheduled visits. There were times respondent called to cancel the visit based on having to work or not having a ride; other times, she did not call or show up for the visit. Bjur thought that the last visit respondent attended prior to the permanency goal changing to termination of parental rights (April 2012) occurred in May 2011. Respondent's next visit was not until June 2012, which was her first visit with Alanna S. DCFS took custody of Alanna S. in October 2011, and respondent did not explain why she did not visit her until June 2012. Respondent visited the minors twice in 2012.

¶ 25 Regarding respondent's lack of visitation in 2011, Bjur testified on cross-examination that the December 2011 service plan indicated that respondent had had thyroid surgery in June 2011. That service plan also stated that respondent was placed on bed rest due to a high-risk pregnancy. Bjur noted in that service plan that the "fax [from respondent] just contained minimal information about her surgery as well as a note to be on bed rest due to having a high risk pregnancy."

¶ 26 Respondent advised Bjur that Help-At-Home was unable to help her arrange visits in December 2012. Bjur explained that the service contract had expired because respondent had not been attending visits. That month, Bjur reinstated the contract with Help-At-Home so that respondent could have visits. Since January 2013, respondent had had monthly visits.

¶ 27 Respondent did not send any cards, letters, or gifts to the minors through Bjur, and she did not inquire about the minors' schooling or medical needs. Respondent was always able to call Yolanda to check on the minors. Initially, she did not call on a regular basis, but her calls increased around the time the permanency goal changed. There were several months between respondent's visit in May 2011 and June 2012 that she did not call Yolanda.

¶ 28 With respect to the service plans, Bjur testified that respondent never progressed toward unsupervised visits or a return in placement to her. Bjur explained that the reason this did not happen was because no services were completed.

¶ 29 Although respondent had completed one parenting class in Wisconsin, it was directed at children ages one through four. When Bjur spoke to the instructor from the Wisconsin parenting class, the instructor indicated that part of the homework was interaction with the children. Respondent completed the class although the instructor was not aware that respondent had not interacted with her children. Though respondent signed up for the next parenting class for older children, she did not attend it, meaning that there were additional parenting classes she needed to complete.

¶ 30 In addition, respondent had not complied with the counseling requirement. Respondent advised Bjur that she had received counseling from Gundersen Lutheran Behavioral Health Center and New Horizons. Respondent signed a release at New Horizons, and Bjur called there in May 2012. New Horizons confirmed that respondent had started their counseling program the month before (April 2012) and had participated in two individual counseling sessions. However, Bjur did not receive documentation that respondent completed individual therapy.

¶ 31 Bjur also testified regarding the minor boys' behavioral issues and counseling. In April 2011, Decarlo C. and Demarlo C. exhibited aggressive behaviors that required counseling, and respondent

was informed of their behavioral issues. The minor boys stopped going to counseling in October 2011 because they were doing better and had stabilized. When their behavioral issues resumed in June or July of 2012, they were referred back to counseling. The escalation in their behavior coincided with “having visits with [respondent] again.” Bjur explained that the minor boys’ involvement in counseling was discussed during the administrative case reviews (which respondent did not attend) and during court proceedings. The information about their counseling was also included in the service plans, which were mailed to respondent’s last known address. Respondent never indicated that she was not getting notices from DCFS.

¶ 32 Respondent, age 28, testified next as follows. She currently lived in La Crosse and worked at a group home for the mentally and physically disabled.

¶ 33 Respondent explained that she had moved to Wisconsin twice. First, she moved with the children and Willie to Wisconsin in May of 2010, before the minors were taken by DCFS (December 2010). They decided to move because Rockford had “gotten bad.” Also, the father of the minor boys, Decarlo C., had been released from jail and was coming over to their apartment and getting “into it” with her and Willie. She and Willie moved back to Rockford in December 2010, when the children were removed. She and Willie then moved back to Wisconsin in May 2011. When they returned to Wisconsin in May 2011, respondent was on bed rest due to Alanna S. being a high risk pregnancy.

¶ 34 Respondent had kept DCFS apprised of her addresses. She told DCFS of her new address in Madison at the Salvation Army. She also told Bjur of her new address when she moved to La Crosse, which again was at the Salvation Army. Then, when respondent moved into an apartment, she provided that address, and when she moved to another apartment, she provided that address as well.

¶ 35 Respondent testified regarding her meetings with DCFS. She met with DCFS when the case first opened; she met with Bjur before she replaced the original caseworker; and she met twice with DCFS on court dates. Respondent did not recall receiving notices of administrative case reviews. She testified that she would call her caseworkers to ask about the case and to request meetings with them.

¶ 36 Respondent admitted being aware of her service plans and the requirement that she attend counseling. Respondent complied with this objective by attending counseling at New Horizons and Gundersen Lutheran Behavioral Health Center. She started counseling at New Horizons in November 2010, where she had weekly counseling sessions until April 2012. Respondent identified a letter from New Horizons dated December 11, 2012, stating that she had received “the following services between November 22, 2010 up to the present; counseling, advocacy, information and referral, safety planning, housing counseling, therapy, contact on a domestic abuse incident, hotline calls, and previous shelter stays” during specific dates.

¶ 37 In addition, respondent had seen a psychiatrist from Gundersen Lutheran Behavioral Health Center on a monthly basis since March or April of 2012. Respondent signed releases for that information to be given to DCFS. The psychiatrist would evaluate respondent’s medication. Respondent’s attorney introduced into evidence an exhibit detailing respondent’s treatment at Gundersen Lutheran Behavioral Health Center and her medications.

¶ 38 After Dariyonna M., Decarlo C., and Demarlo C. were removed in December 2010, respondent visited them twice in February 2011, and also in March and April of 2011. In May 2011, respondent was put on bed rest. The doctors told respondent she needed bed rest because she had “placenta previa” and because there was a problem with her thyroid surgery. She was on bed rest

until Alanna S. was born on September 14, 2011. A “couple of doctors” sent Bjur letters about respondent being on bed rest.

¶ 39 After Alanna S. was born, respondent went to the shelter for one day, not three days, as shelter records indicated. Respondent admitted that she did not have a visit with Alanna S. between October 2011, when Alanna S. was removed, and May 2012. Respondent did not visit the minors after Alanna S. was born due to the “traumatic stress” of DCFS taking Alanna S. too. Respondent explained that when she would get on the train or the bus or the expressway, she would start feeling like she could not breathe; she had shortness of breath. Respondent went to a therapist and psychiatrist, who diagnosed her with “panic and anxiety disorder.” She took several medications on a daily basis.

¶ 40 Respondent admitted that she stayed at a domestic violence shelter from January 6 to February 17, 2012. She did not stay there due to a domestic violence incident with Willie. After Alanna S. was born in September 2011, Willie went to jail in November 2011 due to his involvement in a fight at a bar. Someone ended up getting stabbed, and Willie was convicted of third-degree reckless endangerment. Respondent went to the shelter to get the counseling she needed. She stayed again at the shelter from March 2 to April 9, 2012.

¶ 41 Respondent visited the minors in May 2012. It was not a scheduled visit, but Yolanda and Bjur allowed it. The minors, Yolanda, and respondent met at respondent’s grandmother’s home, where they all spent two days together. Respondent also had supervised visits in June and August of 2012 through Help-At-Home. In September and October of 2012, respondent’s depression returned and her medication was adjusted. In November 2012, respondent called Help-At-Home and no one returned her calls. In December 2012, respondent called Help-At-Home again and learned

that their contract with DCFS had expired. Bjur transferred respondent's case to another Help-At-Home agency, and she visited the minors in December 2012, January 2013, and February 2013.

¶ 42 As far as calling the minors, respondent testified that she called them "all the time since this first happened." After having Alanna S., respondent and Yolanda communicated more, which led to more phone contact with the minors.

¶ 43 Respondent was never informed that the Wisconsin parenting class she completed was not sufficient to meet the requirements of her service plan. Respondent applied what she learned during the class during visitation with the minors.

¶ 44 On April 11, 2013, the court found respondent unfit as to the four minors on all grounds alleged by the State. The case proceeded immediately to a best interests hearing.

¶ 45 **B. Best Interests Hearing**

¶ 46 The new caseworker, Cali Broege, testified that she inherited the case from Bjur in January 2013. Broege had consulted with Bjur and the minors and had also observed the minors in Yolanda's home on four occasions. The three oldest minors had been living with Yolanda since they were taken into care (December 2010), and Alanna S. was also placed there when she was taken into care (October 2011).

¶ 47 Broege testified regarding the minors' bonds, attachments, and desires for permanency. Dariyonna M. was six years old and liked living with Yolanda; she wanted to stay with her. Dariyonna M. never expressed any concern about Yolanda and was also "really close" to Yolanda's fiancé, Eric. Eric had a son who just entered the military, and Dariyonna M. was "very close with them." Regarding respondent, Dariyonna M. loved her and wanted to continue seeing her, but she "clearly said that she would like to stay" with Yolanda.

¶ 48 Decarlo C. was five years old and had some speech, developmental, and cognitive delays. Decarlo C. loved respondent and wanted to see her, but he wanted to live with Yolanda. Decarlo C. went to Yolanda for “everything” and was “very close” to Eric; he did not voice any concerns about living with them.

¶ 49 Demarlo C., age four, was more delayed than Decarlo C. in terms of speech, cognitive ability, and behavioral issues. Demarlo C. kept exiting the room when Broege tried to talk to him about permanency, so she did not get any answers. Demarlo C. had a “strong bond” with Yolanda and would go to her for whatever he needed.

¶ 50 Alanna S., who was under the age of two, was not verbal enough to discuss permanency. Still, Yolanda was the only caretaker she had known, and there was a “very strong bond between her” and Yolanda. When Broege observed their interaction, Alanna S. was “almost always next to” Yolanda. Yolanda was very protective of Alanna S., especially given her sickle cell disease. Broege was not able to comment on Alanna S.’s attachment to respondent because they had only had a couple of visits together.

¶ 51 Next, Broege discussed the minor boys’ behavioral issues. Both minors responded well to Yolanda’s discipline. Yolanda imposed appropriate rules, using redirection, time-outs, and rewards. Due to their behavioral issues, the minor boys had “bounced around” to different day care and pre-K programs, and Yolanda met repeatedly with the providers to discuss their issues and educational needs. Demarlo C., in particular, would act out by hitting, kicking, spitting, and swearing. His behavior improved for quite some time but then returned in the fall of 2012, when respondent’s phone contact increased. Yolanda arranged her work schedule and childcare schedule so that she and the minor boys could attend family-based trauma therapy on a weekly basis.

¶ 52 As for respondent, Broege testified that she had not been involved in any of the issues regarding the minor boys' special needs until now.

¶ 53 In addition to the minor boys' behavioral issues, Broege explained that Alanna S. required a lot of monitoring due to her sickle cell disease and asthma. Yolanda had to take special precautions regarding germs because Alanna S. was prone to infections, and if she developed a cold or got sick, it would escalate quickly. Yolanda had to keep Alanna S. extra warm and bundled up, and she had to give her daily medication. The sickle cell disease also caused Alanna S. to suffer "bursts of pain," which required Yolanda to make sure she was comfortable at all times. Yolanda missed a lot of work due to Alanna S.'s hospitalizations and doctor appointments. Broege spoke to Alanna S.'s doctor, who "praised" Yolanda's diligence and follow-through. Although Alanna S.'s condition placed additional stress on Yolanda, she did well attending to all of the minors' needs.

¶ 54 Broege had no concerns regarding Yolanda's ability to provide a safe and stable home for all of the minors. She did have concerns regarding respondent's ability to provide such an environment for the minors, however. Respondent had not demonstrated the stability that the minors needed; a lot of their behaviors were the result of what they had endured and witnessed. The minors talked often about "the past and trauma" they had experienced. The minors needed routine and to know that someone would consistently meet their needs. Broege admitted that recently, respondent had been more involved with the minors and more consistent in taking her medication. Nevertheless, Broege opined that it was in the minors' best interests to terminate her parental rights. Yolanda was willing to adopt the minors, and she was also willing to continue their visits with respondent. Yolanda's desire to keep respondent in the minors' lives factored into Broege's opinion. Broege noted that Yolanda had even given respondent money to feed the minors during visits and to help with transportation. Yolanda had also researched housing for respondent closer to Chicago.

¶ 55 Lori Peacock, the guardian *ad litem*, testified that she had observed the minors in Yolanda's home on three occasions, in March and September of 2012, and in April 2013. The minors were well cared for and "very bonded" to Yolanda. They were also very bonded to Eric, calling him "papa." With respect to Demarlo C. and Decarlo C., Yolanda was also appropriate in using redirection and time-outs to control their behavior. Alanna S. was always sitting on Yolanda's lap, being held by her, or following her around.

¶ 56 Peacock discussed permanency with the minors and had "nothing different to state other than what the caseworker [Broege] indicated." Alanna S. was too young to verbalize her thoughts. With respect to the oldest three minors, Peacock acknowledged that they had a bond with respondent and called her "mom." Dariyonna M. was the most conflicted regarding permanency. She felt safe living with Yolanda but did not always feel safe when living with respondent. Dariyonna M. wanted to remain with Yolanda and continue visits with respondent. Decarlo C. also had concerns about safety. Peacock testified that during her initial March 2012 visit, Decarlo C. expressed a fear of Willie hitting respondent, and he continued to have fear for respondent's safety.

¶ 57 Respondent testified next as follows. She lived in La Crosse in a two-bedroom duplex with a furnished basement. She lived by herself and paid the \$550 monthly rent on her own. Respondent identified pictures of her residence. For the past six months, respondent worked as a personal care provider at a group home for mentally and physically disabled people. Respondent was looking for housing closer to Chicago and also for a job in the area.

¶ 58 Respondent also went to Neighborhood City Church, where she volunteered. Respondent identified exhibit three as a letter from her pastor detailing her service.

¶ 59 Currently, she and Yolanda had been "talking." Their relationship was bad before, and Yolanda did not understand that "they were really trying to" terminate respondent's parental rights.

As a result, Yolanda said she would come to court on respondent's behalf because she "didn't know that that's what they were trying to do." Now, respondent's relationship with Yolanda was better.

¶ 60 Respondent was currently seeing a psychiatrist and therapist at Gundersen Lutheran Behavioral Health Center; he made sure she received the correct medication. After Alanna S. was born, respondent was diagnosed with post traumatic stress disorder (PTSD), bipolar disorder, and severe depression. Exhibit one was a letter from respondent's psychiatrist explaining her PTSD diagnosis and medication. Respondent had arranged to go to counseling on her own.

¶ 61 Regarding the counseling appointments for Decarlo C. and Demarlo C., respondent did not learn until "a couple of weeks ago" that she could participate in their counseling. Bjur had advised respondent that she could not attend, but Broege was arranging for respondent to meet with the minor boys' counselor. Respondent had already met with the counselor individually, and they were in the process of scheduling a group counseling appointment. The counselor mentioned coordinating therapy with respondent's monthly visits, but respondent told the counselor she wanted to meet more often.

¶ 62 Yolanda testified on behalf of respondent. In terms of permanency, Yolanda was willing to adopt the minors or set up a guardianship. Either way, Yolanda wanted to "be there for the children." When asked whether she preferred to adopt the minors or set up a guardianship, Yolanda wanted was best for the minors and would leave that decision up to the court. Yolanda knew that the children would always have a bond with respondent; she was their mother.

¶ 63 Yolanda wanted respondent to stay involved with the minors. She testified that she had tried to help respondent in the past and was still available to help her. However, the minors were her number one concern because they could not take care of themselves. From "day one," Yolanda had offered financial assistance to respondent to move back to the Chicago area, but respondent never

took advantage of her offer. When asked if respondent was currently open to receiving help, Yolanda replied that during “the last maybe week or so, a couple of weeks,” respondent had showed a willingness to receive help from Yolanda and DCFS.

¶ 64 Also, Yolanda had always been open to respondent communicating with the minors over the phone. When the minors were first placed in her care, there were long periods in which respondent did not call them. Since October or November of 2012, respondent had been calling the minors on a more regular basis. The increased contact caused the minors to be “a little bit more aggressive” because they wanted respondent “to come around more.” There were a lot of behavior problems that had “something \*\*\* to do with that,” especially with respect to Decarlo C.’s behavior at daycare.

¶ 65 Yolanda testified that the minors were bonded to her. Caring for Alanna S. was a “very serious matter.” Because Alanna S. was not yet verbal, Yolanda was there for her around the clock, even if that meant she needed to miss work. Yolanda worked at a department store and had lost insurance and work hours because Alanna S. needed her care. Yolanda was very involved with Alanna S.’s doctor and counselor to learn how to best meet Alanna S.’s needs.

¶ 66 Regarding Decarlo C. and Demarlo C., they were “sweet little boys” who loved Yolanda. Still, they had been through a lot and had behavioral problems that required many skills. Yolanda testified that both minors were going to be okay with a lot of love, patience, and counseling. Yolanda had to meet with daycare and educational providers “almost every day” to deal with the minor boys’ issues.

¶ 67 Eric was also bonded to the minors and was committed to helping her raise them. Eric had one child who was in the military but always wanted more children. Yolanda testified that she could not take care of the minors “without him.”

¶ 68 On April 17, 2013, the court found that it was in the minors' best interests to terminate respondent's parental rights. In particular, the court was "very impressed" with Yolanda; she was credible and the children were "very, very lucky to have her." The court stated that Yolanda understood that this hearing was about the minors and what was best for them. The court believed that Yolanda would help respondent remain in the minors' lives; she was not a complete stranger who would prevent contact in the future. The court changed the goal to adoption.

¶ 69 Respondent timely appealed.

¶ 70 II. ANALYSIS

¶ 71 Termination of parental rights is a two-step process. *In re Julian K.*, 2012 IL App (1st) 112841, ¶ 1. First, the trial court must find, by clear and convincing evidence, that the parent is unfit. *Id.* ¶ 63. Second, the court must determine, by a preponderance of the evidence, whether termination of parental rights is in the minors' best interests. *Id.*

¶ 72 A. Unfitness

¶ 73 Because the termination of parental rights constitutes a complete severance of the relationship between the parent and child, proof of parental unfitness must be clear and convincing. *In re Shauntae P.*, 2012 IL App (1st) 112280, ¶ 88. The trial court is in the best position to assess the credibility of witnesses, and a reviewing court may reverse a trial court's finding of unfitness only where it is against the manifest weight of the evidence. *Id.* ¶ 89. A decision regarding parental unfitness is against the manifest weight of the evidence where the opposite conclusion is clearly the proper result. *In re C.E.*, 406 Ill. App. 3d 97, 108 (2010). Each case concerning parental unfitness is *sui generis*, meaning that factual comparisons to other cases by reviewing courts are of little value. *Id.*

¶ 74 In this case, the trial court found respondent unfit on all of the grounds alleged by the State as to each minor. Although section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2010)) sets forth several grounds under which a parent may be deemed unfit, any one ground, properly proven, is sufficient to enter a finding of unfitness. *In re Shauntae P.*, 2012 IL App (1st) 112280, ¶ 89. We consider the trial court's finding of unfitness under section 1(D)(b) of the Adoption Act, the one ground of unfitness common to all four minors.

¶ 75 Section 1(D)(b) of the Adoption Act defines an unfit person as any person who fails to "maintain a reasonable degree of interest or concern or responsibility as to the child's welfare." 750 ILCS 50/1(D)(b) (West 2010). "Because the language of 1(D)(b) is in the disjunctive, any of the three elements may be considered on its own 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 at 108. When a parent is alleged unfit on that particular ground, the trial court is to examine the parent's efforts to communicate with or show interest in the child, not the success of those efforts. *In re Adoption of L.T.M.*, 214 Ill. 2d 60, 68 (2005). Factors to be applied toward an analysis of these elements include consideration of a parent's efforts to visit and maintain contact with the child, as well as other indicia of interest, such as inquiries into the child's welfare. *In re C.E.*, 406 Ill. App. 3d at 108. Evidence of noncompliance with an imposed service plan or infrequent or irregular visitation with the child all have been held sufficient to support a finding of unfitness under section 1(D)(b). *In re Shauntae P.*, 2012 IL App (1st) 112280, ¶ 90. A court must also examine the parent's conduct in the context of the parent's circumstances, such as 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 children can be attributed to a need to cope with personal problems rather than indifference towards them. *In re C.E.*, 406 Ill. App. 3d at 108-09.

¶ 76 Respondent argues that the trial court's finding was against the manifest weight of the evidence. According to respondent, her lack of visitation and contact with the minors was the result of being on bed rest, mental health issues, a lack of cooperation by Yolanda and DCFS, and transportation problems with Help-At-Home. We disagree. A review of the evidence demonstrates respondent's overall lack of visitation and interest in the minors. Also, her reasons for not visiting or contacting them are unsupported by the record. Therefore, as we explain, the State satisfied its burden of showing, by clear and convincing evidence, that respondent failed to maintain a reasonable degree of interest as to the minors' welfare.

¶ 77 The three oldest minors, Dariyonna M., Decarlo C., and Demarlo C., were removed from respondent's care in December 2010. Initially, visitation was scheduled on a weekly basis and supervised by Help-At-Home. Over the first few months, respondent missed several visits, many of which were unexcused, despite living in Rockford at the time. Specifically, respondent visited the minors twice in February 2011, once in March in 2011, once in April of 2011, and once in May 2011.

¶ 78 While respondent claims that she was on bed rest from May 2011 to Alanna S.'s birth in September 2011, none of the medical records or exhibits support this claim. At most, respondent provided documentation of thyroid surgery in June 2011. The notation of bed rest in the service plan originated from respondent, not from any doctor or report. In fact, respondent admitted to moving to Wisconsin in May of 2011, during the time she was allegedly on bed rest.

¶ 79 But even if we were to assume, *arguendo*, that respondent was on bed rest for the four-month period from mid-May to mid-September 2011, respondent still failed to visit any of the minors for another eight months. In other words, respondent failed to visit Dariyonna M., Decarlo C., and Demarlo C. for one entire year (May 2011 to May 2012), and she failed to visit Alanna S. for the first

seven months of her life (October 2011, when Alanna S. was removed, to May 2012). Bjur testified that respondent had no explanation for not visiting during this period. Significantly, the May 2012 visit did not occur until after the permanency goal was changed to termination of parental rights in April 2012. After that, respondent had one visit in June of 2012, one visit in August of 2012, one visit in December of 2012, one visit in January 2013, and one visit in February 2013.

¶ 80 In sum, respondent visited the minors only 11 times over almost a 2½ year period. It was respondent's decision to move to Wisconsin in May 2011, five months after the minors were removed, which obviously complicated visitation. And yet, as stated, respondent missed opportunities for visitation even before moving to Wisconsin. According to Bjur, respondent's lack of visitation and lack of compliance with the service plan resulted in the case never progressing to unsupervised visitation or a return placement to her.

¶ 81 Regarding respondent's claim that there were transportation problems with Help-At-Home, Bjur explained that the contract with Help-At-Home was cancelled due to respondent's lack of visitation. It was not until December 2012, two years after the first three minors came into care, that respondent had a problem scheduling visitation. However, when respondent advised Bjur that she wished to have visitation in December 2012, Bjur accommodated respondent's request by reinstating the contract with Help-At-Home.

¶ 82 Respondent's claim that DCFS and Yolanda failed to cooperate with her is likewise unsupported by the record. Again, it was respondent who chose not to participate in visits. Regarding respondent's contact with the minors, Bjur testified that respondent was always free to call Yolanda and talk to them. However, Yolanda advised Bjur that respondent did not call on a regular basis until the permanency goal changed in April 2012. Moreover, during the year that respondent did not visit the minors, Bjur testified that several months elapsed without any phone

contact as well. At trial, respondent contradicted Bjur's testimony regarding the lack of phone contact. According to respondent, she called the minors "all the time since this first happened," and her communication with Yolanda increased after Alanna S. was born. It was up to the trial court to assess the witnesses' credibility. Clearly, the trial court was not persuaded by respondent's testimony that she called "all the time."

¶ 83 Finally, respondent points to her mental health issues as impeding contact and visitation. At trial, respondent testified that she did not visit the minors after Alanna S. was removed because of the "traumatic stress" of DCFS taking that child too. She testified that she could not travel without feeling panicky or shortness of breath. However, as stated, it was respondent's choice to move to Wisconsin, which caused her to have to travel a long distance to visit the minors.

¶ 84 Moreover, the record does not support her claim that she was engaged in weekly counseling or that she made reasonable efforts to address her mental health issues. In terms of counseling, respondent testified that she complied with the service plan's counseling requirement by starting counseling at New Horizons in November 2010 and having weekly counseling sessions until April 2012. However, the letter from New Horizons indicated that as of November 2010, respondent had received various services; it did not state that she had participated in weekly counseling. In fact, Bjur testified that New Horizons confirmed that respondent did not start its counseling program until April 2012, the month the permanency goal changed. In addition, the medical exhibits in the record show that respondent routinely missed appointments with doctors and psychiatrists and at times, resisted taking her medication.

¶ 85 Given respondent's decision to move to Wisconsin, her lack of visitation, her failure to call or inquire about the minors' medical, schooling, or counseling issues, and her failure to send cards, letters, or gifts, the court found that respondent did not maintain a reasonable degree of interest as

to the minors' welfare. Therefore, the trial court's decision finding respondent unfit under section 1(D)(b) is not against the manifest weight of the evidence.

¶ 86

B. Best Interests Hearing

¶ 87 Respondent next argues that it was not in the best interests of the minors to terminate her parental rights. A reviewing court will not disturb the trial court's decision at a termination hearing unless it is against the manifest weight of the evidence. *In re Julian K.*, 2012 IL App (1st) 112841, ¶ 65. The reason for this deferential standard is that the trial court is in a superior position to assess the witnesses' credibility and weigh the evidence. *Id.* ¶ 66. A trial court's decision is against the manifest weight of the evidence only when the opposite conclusion is clearly apparent. *In re William H.*, 407 Ill. App. 3d 858, 866 (2011).

¶ 88 Under the Juvenile Court Act of 1987 (705 ILCS 405/1-2 *et seq.* (West 2010)), the best interests of the minors is the paramount consideration to which no other takes precedence. *In re I.H.*, 238 Ill. 2d 430, 445 (2010). A child's best interest is not to be balanced against any other interest; it must remain inviolate and impregnable from all other factors. *In re Austin W.*, 214 Ill. 2d 31, 49 (2005). Even the superior right of a natural parent must yield unless it is in accord with the best interests of the minors involved. *Id.* at 50.

¶ 89 The Act sets forth the factors to be considered whenever a best interest determination is required, and they are to be considered in the context of the minors' ages and developmental needs:

“(a) the physical safety and welfare of the child, including, food, shelter, health, and clothing;

(b) the development of the child's identity;

(c) the child's background and ties, including familial, cultural, and religious;

(d) the child's sense of attachments, including:

- (i) where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);
- (ii) the child's sense of security;
- (iii) the child's sense of familiarity;
- (iv) continuity of affection for the child;
- (v) the least disruptive placement alternative for the child;
- (e) the child's wishes and long-term goals;
- (f) the child's community ties, including church, school, and friends;
- (g) the child's need for permanence which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives;
- (h) the uniqueness of every family and child;
- (i) the risks attendant to entering and being in substitute care;
- (j) the preferences of the persons available to care for the child.” 705 ILCS 405/1-3(4.05) (West 2010).

Also relevant in a best interests determination is the nature and length of the minors' relationships with their present caretaker and the effect that a change in placement would have upon their emotional and psychological well-being. *In re William H.*, 407 Ill. App. 3d at 871.

¶ 90 Respondent argues that the minors still have a bond with her and call her “mom”; she attends monthly visits with the minors and will attend the minor boys' counseling appointments; she attends her own counseling appointments and takes her medication; and she has had consistent employment and is willing to relocate to Illinois. Respondent further argues that Yolanda refused to answer

whether she preferred adoption over establishing a guardianship, and Yolanda thought that it was best for the minors that respondent remain involved in their lives.

¶ 91 At the outset, we note that the focus at the best interests hearing shifts from respondent's efforts and progress to the minors. Therefore, our inquiry is no longer centered on whether respondent is participating in services. That said, we agree with respondent that the oldest three minors are still bonded to her. Nevertheless, for the following reasons, the trial court properly terminated her parental rights.

¶ 92 By the time of the April 2013 best interests hearing, Dariyonna M. (age nine), Demarco C. (age five), and Demarlo C. (age four) had lived with Yolanda for nearly 2½ years. Alanna S. did not remain with respondent for even one month after she was born in September 2011, making Yolanda the only caretaker she had known. At the time of the best interests hearing, Alanna S. had lived with Yolanda about 1½ years. Both Broege and Peacock testified that the minors were well cared for and "very bonded" to Yolanda and Eric.

¶ 93 Dariyonna M. was the most conflicted regarding permanency, but both Peacock and Broege testified that she desired to remain with Yolanda and continue visits with respondent. Dariyonna M. stated that she did not always feel safe living with respondent. Decarlo C. also expressed a desire to remain with Yolanda. Though Demarlo C.'s delays prevented him from expressing a preference, he, like Dariyonna M., did not always feel safe living with respondent. In particular, Decarlo M. remembered Willie hitting respondent and fearing for her safety. Also, Broege testified that Demarlo C. went to Yolanda for "everything he needed." Alanna S., too young to express a preference, was very bonded to Yolanda and "almost always next to" her.

¶ 94 In addition, three of the four minors had special needs, which Yolanda was equipped to handle. Broege testified that the minor boys had behavioral issues that Yolanda handled

appropriately with redirection, time-outs, and rewards. She also involved them in therapy and met with preschool and daycare providers, as needed. Decarlo C. and Demarlo C. responded well to Yolanda's correction and were doing well in her care. Likewise, Yolanda went to great lengths to care for Alanna's medical needs, which were extensive given her sickle cell disease and asthma. Yolanda went to doctor's appointments and missed work when necessary. Despite all of these special needs, Broege testified that she had no concerns over Yolanda's ability to provide a safe and stable home for all of the minors.

¶ 95 Finally, Yolanda was a family member who was willing to adopt the minors. As the trial court noted, the minors benefitted from this family placement because Yolanda was committed to fostering a relationship between the minors and respondent. The trial court found Yolanda very credible in this regard. While respondent questions Yolanda's refusal to express a preference for adoption versus guardianship, Yolanda made clear that she wanted what was best for the minors, which only the court could decide. Yolanda also made clear that she wanted respondent to remain in the minors' lives. To this end, Yolanda provided financial assistance to respondent and was even researching housing so that respondent could move closer to Chicago.

¶ 96 The minors are doing well and are bonded to Yolanda and Eric. Accordingly, the trial court's decision that it was in the minors' best interests to terminate respondent's parental rights was not against the manifest weight of the evidence.

¶ 97 III. CONCLUSION

¶ 98 For the reasons stated, the judgment of the Winnebago County circuit court is affirmed.

¶ 99 Affirmed.