



restrained Z.R. with handcuffs for several hours, and (3) the respondent's home, a trailer, was a hazardous and injurious environment in that it had a large hole in the floor and the home was full of trash, dirty dishes, rotting food, and clutter. At the shelter care hearing on December 10, 2009, the respondent waived her right to a hearing and admitted the allegations in the petition. As a result, the circuit court entered an order finding the children to be abused and/or neglected due to physical abuse, physical restraint, and an injurious environment, and adjudged them wards of the court. A guardian *ad litem* was appointed for the children. Temporary custody was given to the Department of Children and Family Services (DCFS), and the court ordered that a case plan be filed. The order also required the respondent to comply with DCFS and other services or risk termination of her parental rights.

¶ 5 At the adjudicatory hearing on March 8, 2010, and the dispositional hearing on April 5, 2010, the respondent again admitted to the allegations in the petition. A permanency goal of return home within 12 months was set at an April 19, 2010, permanency hearing.

¶ 6 On December 9, 2011, the State filed identical motions for termination of parental rights as to both Z.R. and S.R. The petitions alleged that the respondent was an unfit person as defined by the Adoption Act (750 ILCS 50/1(D) (West 2010)), in that she had (a) failed to maintain a reasonable degree of interest, concern, or responsibility as to the welfare of the minors (750 ILCS 50/1(D)(b) (West 2010)), (b) failed to make reasonable efforts to correct the conditions that were the basis of the removal of the minors from her (750 ILCS 50/1(D)(m)(i) (West 2010)), (c) failed to make reasonable progress toward the return of the minors to her within nine months after an adjudication of abused and neglected (750 ILCS 50/1(D)(m)(ii) (West 2010)), and (d) failed to make reasonable progress toward the return of the minors during any nine-month period after the end of the initial nine-month period following the adjudication of abused or neglected (750 ILCS 50/1(D)(m)(iii) (West 2010)). The State filed amended petitions for termination of parental rights on October 24, 2012,

wherein it removed subsection (c), or "failure to make reasonable progress toward the return of the minors to her within nine months after an adjudication of abused and neglected" (750 ILCS 50/1(D)(m)(ii) (West 2010)). The State removed subsection (c) because the respondent had received "satisfactory" on two service plans during the initial nine-month adjudication period.

¶ 7 A fitness hearing was held on November 8, 2012. Christina Rodgers, a former foster care caseworker for Lutheran Social Services (LSSI), testified that she was the caseworker for S.R. and Z.R. and was assigned to their case in March of 2010. She testified that the respondent's progress rated "unsatisfactory" for her second service plan because she failed to make reasonable progress toward the goal of returning the children home. Rodgers testified that the next service plan was rated as "satisfactory." The service plan was rated as "satisfactory" because she had good attendance with her counseling sessions and was engaged in parenting classes with Project 12 Ways. Though she was still struggling at that time, she was at least attempting to make progress. The service plan following was also rated as "satisfactory" for the same reasons.

¶ 8 Rodgers testified that the following service plan, dated April 20, 2011, was rated as "unsatisfactory" because the environment of the respondent's home had diminished. Rodgers elaborated that there was a three- to four-month period where Project 12 Ways could not enter the home because the electricity needed to be rewired, there was a rodent problem, and there was so much clutter that staff from Project 12 Ways could not walk through the home. Thereafter, the respondent was closed unsuccessfully from Project 12 Ways, and she was closed for a second time unsuccessfully from counseling. Rodgers testified that the respondent was closed from two different stints in counseling because the counselors indicated that the respondent was not open with them and was not making progress. She failed to recognize why her children were placed into care. Rodgers also explained that the

respondent was closed from Project 12 Ways because she had not corrected her home environment issues, was failing to make any kind of real progress, and had cancelled several sessions, giving multiple reasons for the cancellations.

¶ 9 Next, Rodgers testified that the subsequent two service plans, dated May 30, 2011, and November 30, 2011, respectively, were rated as "unsatisfactory" because the respondent had not corrected the conditions that brought the children into care. She was no longer participating in Project 12 Ways or counseling. She had not made improvements to her home.

¶ 10 On cross-examination, Rodgers testified that though the respondent was closed from counseling, she did complete the individual counseling that was required of her. Rodgers reiterated that the respondent was not closed from counseling due to an attendance issue, but due to her not being open and honest regarding the reasons that caused her children to be placed into care. Rodgers also testified that there was a period of time where the respondent had made improvements to her home, but that such improvements were short-lived.

¶ 11 The State next called Stacey Rix, another caseworker for the children. Rix testified that she was assigned to the case in January 2012. She testified that the service plan dated February 8, 2012, was rated as "unsatisfactory."

¶ 12 Rix testified that the next service plan, dated May 8, 2012, showed that the goal of substitute care was changed to guardianship. Rix explained that the goal was for the foster parents, Greg and Dawn H., to have guardianship of Z.R. and S.R. It was contemplated that the guardianship would be established by agreement so that the children would be raised by Greg and Dawn H., but the respondent would be allowed visitation. Since the goal was changed to guardianship, the respondent's progress was rated as "satisfactory." Rix testified that visitation between the respondent and the children continued. Greg and Dawn H. supervised the visits. However, the respondent engaged in inappropriate behaviors during

the visits, such as threatening Greg and Dawn H. that if they were awarded guardianship she would continuously bring the case back to court, stating how other people's children should be beaten for bad behavior, and telling S.R. that she knew his conduct was the cause of the children being removed from her.

¶ 13 Rix testified that the permanency goal was changed again on September 7, 2012, to substitute care pending determination of parental rights. Rix testified that the goal was changed because it became apparent that guardianship was not in the best interests of the children due to the respondent's continuous issues. A final service plan was not filed on the date of the fitness hearing, but Rix testified that the respondent would be graded as "unsatisfactory."

¶ 14 The court decided that before making its determination regarding the respondent's fitness, the final service plan needed to be completed and filed. The remaining service plans were entered into evidence, and the hearing was continued.

¶ 15 At the continued fitness hearing, the State again called Christina Rodgers to testify. Rodgers testified that the case came to the attention of LSSI when the State alleged that Z.R. was handcuffed for several hours and that he was beaten on his lower extremities by a belt, leaving cuts, welts, abrasions, and bruising. She further testified about the home environment, as before.

¶ 16 Stacey Rix was called to testify again. She testified that the most recent service plan, dated December 5, 2012, was rated as "unsatisfactory." The service plan showed that the respondent failed to complete or cooperate with mental health counseling and parenting services. Rix testified that a home visit in February showed that the home was in bad condition. It was difficult to move throughout the home and the floor was questionable. That service plan was entered into evidence.

¶ 17 Next, Rix testified that the respondent had arrived at a visitation with the children and

had handcuffs hanging from her rearview mirror. After Z.R., the child who was handcuffed and beaten, saw the handcuffs in his mother's car, he became extremely withdrawn for the rest of the day. Rix further testified that after visitations, the respondent would communicate about the foster parents in a negative way on social media websites.

¶ 18 On cross-examination, Rix testified that though the respondent would attend her counseling sessions before she was closed from counseling, she would not cooperate or participate during those sessions. The respondent's first counselor determined that the respondent was not making any progress. The respondent was then assigned a different counselor, who, after a few months, determined that the respondent was not making progress. Rix also testified that the information she had regarding the visits came from the foster parents.

¶ 19 At the end of the hearing, the court found the respondent to be an unfit person pursuant to the Adoption Act (750 ILCS 50/1 (West 2010)). Specifically, the court found that the respondent was unfit for "failure to make reasonable progress toward return of the child to parent during any 9 month period after the end of the initial 9 month period following the adjudication of neglect and abused minor(s), being 12-8-10 through 9-8-11 or 9-8-11 through 6-8-12 as alleged in ¶ 9d \*\*\*of the amended TPR filed 10-24-12."

¶ 20 On March 28, 2013, a best-interest hearing was held. Rix testified as follows. The children had been placed with Greg and Dawn H. since December 2011. Prior to that placement, they had been placed in two other homes, the home of the respondent's sister, Tasha R., and then another foster family. Tasha requested that the children be removed from the home due to the children's behavioral issues. They were moved to a nonrelation foster family, but were removed from there as well because of the children's behavioral issues.

¶ 21 Since moving to Greg and Dawn H.'s home, the children's behavior has improved substantially. Greg and Dawn H. allowed the children to continue visiting with the

respondent even when they were not required to do so. Greg and Dawn H. had a home suitable for the children and were able to provide for all of the children's needs. They encouraged the boys to go to all of their counseling sessions. Both Z.R. and S.R. were doing well in school at the time of the hearing. Greg and Dawn H. wanted to adopt Z.R. and S.R. if Tiffany's parental rights were terminated. Greg and Dawn H. and the children were very well bonded. On cross-examination by the guardian *ad litem*, Rix indicated that Greg and Dawn H. were open to the idea of keeping the respondent involved in the children's lives in a safe and appropriate capacity.

¶ 22 The respondent testified as follows. She had recently purchased a trailer, but was in the process of remodeling it so she was staying with her mother. The children were happy and excited when they would visit with her. The children had expressed a desire to come home to her. She did not believe that it was in the children's best interest to terminate her parental rights. She had made mistakes in the past but was now on medication to help with depression, and it improved her moods and depression immensely. The children had several relatives in the area, and there was a bond between them and those relatives.

¶ 23 On cross-examination, the respondent admitted that the relatives of whom she spoke during direct examination had not seen the children in over three years. She also admitted that she had started taking the depression medication two years earlier.

¶ 24 Next, Dorothy Porter, the respondent's mother, testified. She testified that the children were always excited to see the respondent when she accompanied her on visits. There was a strong bond between the respondent and the children. She testified that there were several relatives in the area with whom the children had previously bonded, but that it had been a long time since the children had seen those relatives. She further testified that the respondent would have a good support system to assist her if the children were placed back with her. She also testified that the respondent had "done a complete 180" now that she was on

medication, in that she was able to effectively communicate with her family and was putting effort into her family. Finally, Porter testified that she did not believe it was in the best interest of the children to terminate the respondent's parental rights because the children looked forward to seeing the respondent and were excited when they would see the respondent.

¶ 25 On cross-examination, Porter admitted that she had not seen the children since September 2012.

¶ 26 Next, Tasha R., the respondent's sister, testified. She testified that the respondent used to be more selfish at the beginning of these proceedings. She testified that now the respondent was more willing to help other people. During the first few visitations, when the children were placed with Tasha, the children were initially hesitant to visit with the respondent. However, over time, they became more comfortable with the respondent. She testified that it would not be in the best interest of the children to terminate the respondent's parental rights because she believed the children loved the respondent, that the respondent deserved to have a second chance at raising her children, and that the respondent would have support from her family.

¶ 27 On cross-examination, Tasha admitted that the last time she had seen the children was two years prior. She also admitted that she did not know whether the respondent had finished any family counseling.

¶ 28 Next, the respondent called Kerry Horwath, the respondent's aunt, to testify. She testified that she had not seen the children in a "couple of years." Both her children and Z.R. and S.R. share a Mexican heritage. She testified that it would not be in the children's best interest if the respondent's parental rights were terminated because Z.R. and S.R. would struggle without having connections to their Mexican heritage. Since they have cousins who also have a Mexican heritage, she felt this would provide a level of support for Z.R. and S.R.

¶ 29 Finally, the State called the foster parents, Greg and Dawn H. Dawn testified that she and her husband had raised other foster children. She testified that she and her husband had a four-bedroom home and had four children living with them. Z.R. and S.R. share a room. Z.R. recently received his report card and got As and Bs. S.R.'s school performance recently improved because he was given medicine for attention deficit hyperactivity disorder (ADHD). She and her husband wanted to adopt Z.R. and S.R. She was a stay-at-home mom and her husband was employed.

¶ 30 Greg testified as follows. He was aware that the children have a Mexican heritage. He speaks Spanish. They celebrate Mexican holidays and have introduced the children to their culture. He testified that he believed the children cared about their mother, but that they also were happy with Greg and Dawn. Z.R. and S.R. call Dawn and Greg "mom" and "dad," respectively. Greg testified that the children would be safe with them and that Greg and Dawn love them very much.

¶ 31 The guardian *ad litem* addressed the court and stated that he had met with the children several times. They appeared to be doing very well with Greg and Dawn H. They expressed interest in their mother, but seemed to recognize that going back to her was not going to happen, nor would it be in their best interest to go back to her. The guardian *ad litem* believed that the children needed permanency and consistency, which could be achieved if the respondent's parental rights were terminated.

¶ 32 The court found that it was in the best interest of the children to terminate the respondent's parental rights. This appeal followed.

¶ 33 ANALYSIS

¶ 34 On appeal, the respondent argues (1) that the circuit court's determination that she was an unfit person was contrary to the manifest weight of the evidence and (2) that the circuit court's determination that it was in the children's best interest to terminate the respondent's

parental rights was contrary to the manifest weight of the evidence.

¶ 35 The Juvenile Court Act of 1987 establishes a two-step process for the involuntary termination of parental rights. 705 ILCS 405/2-29(2) (West 2010). First, the State must prove by clear and convincing evidence that the parent is an unfit parent as defined by section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2010)). *In re Tiffany M.*, 353 Ill. App. 3d 883, 889 (2004). Section 1(D) of the Adoption Act sets forth numerous grounds under which a parent can be found unfit, any one of which, standing alone, will support a finding of unfitness. *Id.* A circuit court's determination that there is clear and convincing evidence of parental unfitness will not be disturbed on review unless it is contrary to the manifest weight of the evidence. *In re M.F.*, 326 Ill. App. 3d 1110, 1114 (2002). A finding is contrary to the manifest weight of the evidence only where the opposite conclusion is clearly evident or where the finding is unreasonable, arbitrary, and not based on the evidence. *In re Tiffany M.*, 353 Ill. App. 3d at 890. The State need only prove one statutory ground to show that a parent is unfit. *In re H.D.*, 343 Ill. App. 3d 483, 493 (2003). Here, the State alleged three grounds of unfitness. However, the trial court only made a finding of unfitness based upon the allegation that the respondent had failed to make reasonable progress toward the return of the children during any nine-month period after the initial nine-month period following the adjudication that they were neglected or abused minors. Accordingly, we will only address that finding.

¶ 36 In this case, the State alleged that the respondent failed to make reasonable progress in two different nine-month periods, from December 8, 2010, to September 8, 2011, or from September 8, 2011, to June 8, 2012. Showing that the respondent failed to make reasonable progress in either time frame satisfies the requirements of section 1(D)(m)(iii) of the Adoption Act (750 ILCS 50/1(D)(m)(iii) (West 2010)).

¶ 37 The respondent was discharged from one counselor in July 2011 for failing to make

progress in counseling sessions. The respondent moved from the first home to the second home in January 2011. The second home passed safety checks at that time, but fell into a state of disarray, filth, and was generally an unsafe environment. Although the respondent argues on appeal that she was still attending Project 12 Ways sessions during the December 2010 to September 2011 nine-month period, Project 12 Ways reported to the court on May 30, 2011, that while the respondent had made some progress, she had not yet attained the goals set forth for her and required frequent prompting from staff members to maintain positive and appropriate interactions with her children. The trial court's finding that during the December 2010 to September 2011 period the respondent had not made reasonable progress toward reunification with her children is not against the manifest weight of the evidence.

¶ 38 Likewise, the trial court's finding of unfitness for failure to make reasonable progress toward the return of the children during the nine-month period between September 8, 2011, and June 8, 2012, is supported by the evidence. At the time of the November 30, 2011, service plan, the respondent was no longer participating in Project 12 Ways or counseling, and she had failed to make required improvements to her home. Although her progress was briefly rated as "satisfactory" in the spring of 2012 when a tentative agreement was reached for guardianship of the children, her subsequent inappropriate behaviors when visiting with the children rendered the guardianship plan unworkable. During that nine-month period, the respondent not only failed to comply with the conditions of her service plan, but her conduct in the presence of the children during visitation destroyed her best opportunity to maintain a relationship with the children through a guardianship. The trial court's finding that the respondent failed to make reasonable progress toward the return of her children during the nine-month period from September 8, 2011, to June 8, 2012, is not against the manifest weight of the evidence.

¶ 39 If the circuit court finds a parent to be unfit, the court must then determine whether it is in the children's best interests that parental rights be terminated. 705 ILCS 405/2-29(2) (West 2010). At this stage, the focus of the court's scrutiny shifts from the rights of the parent to the best interests of the children. *In re B.B.*, 386 Ill. App. 3d 686, 697 (2008). The State must prove, by a preponderance of the evidence, that termination of the parent's rights is in the best interest of the minors. *In re Tiffany M.*, 353 Ill. App. 3d 883, 891 (2004). The court must consider the factors set forth in section 1-3(4.05) of the Juvenile Court Act of 1987 (705 ILCS 405/1-3(4.05) (West 2010)) when determining the best interest of the minors, but is not required to specifically mention each factor listed. A trial court's determination that termination of parental rights is in the child's best interest will not be disturbed on review unless it is contrary to the manifest weight of the evidence. *In re R.L.*, 352 Ill. App. 3d 985, 1001 (2004).

¶ 40 Here, testimony at the best-interest hearing showed that Z.R. and S.R. were well bonded with Greg and Dawn H. Their home was suitable for children, and Greg and Dawn H. encouraged the children to go to their counseling sessions. Both Z.R. and S.R.'s grades improved when they were placed with Greg and Dawn H. Further, Greg and Dawn H. supported the children's Mexican heritage by celebrating Mexican holidays. Finally, Greg and Dawn H. were open to allowing the children to continue to see the respondent in a safe setting. This openness is important considering the report of the guardian *ad litem* that noted that the children were still concerned and cared about their mother. Greg and Dawn H. would provide a level of permanency, consistency, and stability for the children.

¶ 41 The respondent argues that the children would have family members to support them if they were returned to the respondent. However, the children had not seen some of those family members in over two years. In fact, the last time the children saw the grandmother was over a year before the best-interest hearing. Their grandmother even admitted during

her testimony that the bond the children once had with certain family members was likely diminished because they had not seen those family members for years.

¶ 42 We therefore find that the trial court's decision to terminate the respondent's parental rights is not against the manifest weight of the evidence. Z.R. and S.R. need a safe, permanent home, which the respondent repeatedly showed she could not give them. Accordingly, the judgment of the circuit court of Perry County finding the respondent unfit and terminating her parental rights should be affirmed.

¶ 43 CONCLUSION

¶ 44 For the foregoing reasons, the judgment of the circuit court of Perry County is affirmed.

¶ 45 Affirmed.