

**NOTICE**  
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2014 IL App (4th) 130894-U  
NO. 4-13-0894

**FILED**  
February 4, 2014  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

IN THE APPELLATE COURT  
OF ILLINOIS  
FOURTH DISTRICT

In re: Jo. T., Jm. T., and Ja. T., Minors,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Champaign County
v.	)	No. 11JA47
TAKEYA JOHNSON,	)	
Respondent-Appellant.	)	Honorable
	)	John R. Kennedy,
	)	Judge Presiding.

JUSTICE POPE delivered the judgment of the court.  
Justices Knecht and Holder White concurred in the judgment.

**ORDER**

¶ 1 *Held:* The trial court's order terminating respondent mother's parental rights is affirmed.

¶ 2 In November 2011, the State filed an amended petition for adjudication of abuse and neglect as to five children of respondent, Takeya Johnson. The three children involved in this appeal are Jo. T. (born October 21, 2007), Jm. T. (born June 2, 2009), and Ja. T. (born June 5, 2011).

¶ 3 On November 9, 2011, respondent admitted she abused Jm. T. (and two of her other children, An. C. (born November 26, 2002) and Ke. C. (born April 28, 2004)) by inflicting excessive corporal punishment, and neglected Jo. T. and Ja. T. by exposing them to the risk of excessive corporal punishment. On October 27, 2012, the State filed a petition to terminate respondent's parental rights. On September 20, 2013, the trial court terminated respondent's

parental rights as to Jo. T., Jm. T., and Ja. T. Respondent appeals, contending the court's finding she was unfit was against the manifest weight of the evidence, as was the finding it was in the minors' best interests to terminate her parental rights.

¶ 4 We affirm.

¶ 5 I. BACKGROUND

¶ 6 On November 9, 2011, respondent admitted she inflicted excessive corporal punishment on three of her children, including Jm. T., when she struck them with electrical cords, pursuant to section 2-3(2)(v) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(2)(v) (West 2010)). She also admitted neglecting Jo. T. and Ja. T. by exposing them to the risk of excessive corporal punishment pursuant to section 2-3(1)(b) of the Juvenile Court Act (705 ILCS 405/2-3(1)(b) (West 2010)). On appeal, this court affirmed the trial court's judgment finding the minors abused and neglected. *In re An. C.*, 2012 IL App (4th) 120004-U.

¶ 7 On October 17, 2012, the State filed a motion seeking a finding of unfitness and the termination of respondent's parental rights to the minors. The State alleged respondent was unfit by failing to (1) make reasonable efforts to correct the conditions that were the basis for the minors' removal from her (750 ILCS 50/1(D)(m)(i) (West 2010)); (2) make reasonable progress toward the minors' return within nine months of adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2010)); and (3) maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare (750 ILCS 50/1(D)(b) (West 2010)).

¶ 8 The trial court heard evidence of unfitness on January 29, March 5, April 10, and April 18, 2013. On May 8, 2013, the court found respondent unfit on the first two grounds as to five of her children (failure to make reasonable efforts and failure to make reasonable progress).

On June 26, 2013, the court terminated respondent's parental rights to two of her children not involved in this appeal (An. C. and Ke. C.). We affirmed the trial court's judgment in that case, *In re A.C.*, 2013 IL App (4th) 130558-U.

¶ 9 The trial court held the best-interest hearing on September 20, 2013, for the three minors in the case *sub judice* and found it in their best interests to terminate respondent's parental rights.

¶ 10 A. The Fitness Hearing

¶ 11 The trial court heard evidence of unfitness over the course of several days, January 29, March 5, April 10, and April 18, 2013. At the January 29 hearing, Marya Burke, a facilitator with the CHANGE program at Cognition Works, testified CHANGE is a cognitive-behavioral program designed to help people change problematic ways of thinking. She worked with respondent and identified three of respondent's relevant maladaptive thinking patterns; closed thinking (a tendency not to take in information from others or to be self-critical); unrealistic self-image; and control through power (the use of any means at her disposal to control others' behavior.) The program is designed to meet weekly for 26 weeks. Respondent was terminated from the program in spring 2012 for lack of attendance. She was allowed to reenroll in August 2012, but she was terminated a second time. After a third referral, she became active in the program, but as of the date of the hearing, January 2013, respondent still had not completed the program. Burke testified respondent was currently making progress in the program.

¶ 12 Conrad Hayes, a group facilitator at Cognition Works, worked with respondent in a parenting-education group. Respondent started the 12-week class in April 2012. While she

completed homework assignments and accepted feedback from facilitators, she consistently blamed others for choices she had made. Respondent successfully completed the education program.

¶ 13 Christine Johnson, an individual therapist with Lutheran Social Services of Illinois (LSSI), worked with respondent on five different goals, including anger control. During the first quarter, June 13, 2012, to September 19, 2012, respondent had not completed any of the five goals. At the time of the hearing, only one goal had been achieved and they were currently working on the second goal. They had only touched on the third goal, anger management, but had not really engaged in that one yet. Further, respondent had been referred to a separate anger-management class and was restarting it for the third time in August 2012. Johnson learned from respondent she had been subjected to physical and sexual abuse as a child and also engaged in and had domestic violence perpetrated upon her.

¶ 14 On March 5, 2013, the fitness hearing continued. Nicole Martin testified she was employed by the Champaign County Regional Planning Commission as a case manager. In that capacity, she was working with respondent on income and housing goals. Respondent was close to eviction at that time. Respondent was working full-time and she did not keep in regular contact with Martin. Respondent did not complete her goals while Martin worked with her. Martin testified respondent had told her she would be able to meet with Martin when necessary as her employer was aware of her situation. Nevertheless, she would miss weekly meetings with Martin.

¶ 15 Anita Faulkner of the Department of Children and Family Services (DCFS) was the initial case manager for the family. When she first met respondent in September 2011,

respondent was incarcerated in the Champaign County jail. Respondent had been charged with aggravated battery for physically abusing her children. Respondent, who was 25 years old at that time, was last employed in 2009 and had never graduated high school. Respondent admitted whipping her child, An. C., with a cord. Faulkner did not observe any remorse, regret, or emotion on respondent's part. Faulkner explained the various services respondent would have to complete in order to get her children back. Respondent told Faulkner she would just move back to Chicago because "Chicago would give them back to her like they always have." Faulkner had become aware of prior reports of physical abuse in Cook County.

¶ 16 Respondent denied any domestic violence in her current relationship with Joshua Thomas. This was contrary to reports from the children and other family members. Faulkner recommended a domestic-violence evaluation for respondent. Respondent also stated she did not remember any domestic violence in a prior relationship. This was also contrary to what the child, Ke. C., reported. Faulkner transferred the case to another caseworker in mid-February 2012. At that time, respondent was still incarcerated.

¶ 17 Brianna Coffey, respondent's caseworker with LSSI from July 2012 to late January 2013, testified respondent was evicted from her residence in Rantoul for nonpayment of rent. Respondent then moved to Champaign and resided with a male friend. She then found more permanent housing and reported she was living alone. Respondent did not have any positive drug drops. There was no visitation between respondent and the children because the children were not emotionally ready for it. Some of the children were still expressing fear of respondent.

¶ 18 Rachel Kramer, a supervisor at LSSI who was respondent's current caseworker,

testified a court order suspending respondent's visitation with her children had been in effect throughout the pendency of the case. Respondent was incarcerated until March 20, 2012, and this was an obstacle to her starting services after the adjudicatory and dispositional hearings.

¶ 19 Respondent testified she did not have a vehicle when the case opened, but her paramour, Joshua Thomas, had one. However, it was not reliable. At that time, she was living in Rantoul and Cognition Works was located in Champaign, about 10-15 minutes away from Rantoul.

¶ 20 As a child, respondent was disciplined by getting "whippings" with cords, having to stay in her room, and by having to hold books in her outstretched arms or on her head. Respondent stated through her classes at Cognition Works she learned how to hold herself accountable. She did not think she would use physical discipline anymore.

¶ 21 In recommending respondent be found unfit for failure to make reasonable progress between November 29, 2011 (the date the adjudicatory order was entered), and August 29, 2012, *i.e.*, the initial nine-month period following adjudication, the guardian *ad litem* (GAL) for the children pointed out the following. During that time frame, respondent had been terminated from her domestic-violence counseling for the second time, had just started anger management for the third time, was still exhibiting irresponsible thinking patterns, continued to struggle with holding herself accountable for the physical abuse, and had not completed any of the goals set in individual counseling.

¶ 22 On May 8, 2013, the trial court found respondent unfit by clear and convincing evidence for failure to make reasonable efforts to correct the conditions that resulted in the removal of her children and for failing to make reasonable progress toward the return of the

minors within the first nine months following adjudication. The court agreed with the rationale advanced by the GAL. The court noted respondent had been incarcerated for a portion of the period (as a result of abusing the children) and was very slow to make progress in the services. While finding respondent made *some* progress, the court found the progress made was not reasonable. Respondent had been discharged from the CHANGE program in August and September 2012. The court found this to be a very significant time when measuring the nine-month period from adjudication.

¶ 23

#### B. The Best-Interest Hearing

¶ 24 Respondent did not introduce any evidence at the best-interest hearing on September 20, 2013. The trial court had written best-interest reports submitted by LSSI and the court appointed special advocate (CASA). The LSSI report indicated respondent's children An. C. and Ke. C. had between 70 and 100 marks and scars on their necks, temples, buttocks, chests, and legs when a family member took the children to the police department. Jm. T., who was two years old then, had several marks and scars on his body, including a recent mark in the shape of a loop on his back and inner thigh. An. C. reported respondent, in addition to whipping her with cords, also punched and slapped An. C. repeatedly. Despite a no-visitation order being in effect, respondent spent the night with An. C. in April 2013. Because of the broken relationship between respondent and the children as a result of the severe physical abuse, LSSI recommended termination of respondent's parental rights.

¶ 25

The trial court found CASA's report particularly helpful. That report reflected Jo. T. had been living with his paternal grandmother in Rantoul since June 27, 2012. The CASA advocate had visited with Jo. T. 19 times during the pendency of the case. Jo. T. was thriving in

a predictable, consistent, routine environment. An. C. also lived in this home. Their grandmother was providing both appropriate discipline and love and was willing to provide Jo. T. with a "forever" home.

¶ 26 Ja. T. and Jm. T were in a traditional foster home with their sibling who was born during the pendency of this case. They had been in this placement since May 25, 2012. They had not visited with their biological parents for almost two years. (Ja. T. was 3 months old when she came into care and Jm. T. was 15 months old then.) Both children had developed a strong attachment to their foster parents, calling them "mommy" and "daddy." The children appeared comfortable and secure in the foster home as a result of the loving, routine, and stable environment provided. The foster parents facilitated visits with the children's siblings and were willing and able to adopt the minors.

¶ 27 The CASA also recommended respondent's parental rights be terminated. Thereafter, the trial court terminated respondent's parental rights.

¶ 28 This appeal followed.

¶ 29 II. ANALYSIS

¶ 30 On appeal, respondent argues the State failed to prove her unfit by clear and convincing evidence and the trial court's order terminating her parental rights was not in the best interests of the minors.

¶ 31 A. Fitness Determination

¶ 32 A parent will be deemed unfit if the State proves, by clear and convincing evidence, one or more of the grounds of unfitness enumerated in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2010)). See *In re A.L.*, 409 Ill. App. 3d 492, 499, 949 N.E.2d

1123, 1128 (2011). This court will not overturn a finding of parental unfitness unless the finding is against the manifest weight of the evidence, meaning "the correctness of the opposite conclusion is clearly evident from a review of the evidence." *In re T.A.*, 359 Ill. App. 3d 953, 960, 835 N.E.2d 908, 913 (2005).

¶ 33 In this case, respondent was found unfit on two grounds listed in section 1(D): she (1) failed to make reasonable efforts to correct the conditions that were the basis for the minors' removal (750 ILCS 50/1(D)(m)(i) (West 2010)); and (2) failed to make reasonable progress toward the return of the minors within nine months of the neglect adjudication (750 ILCS 50/1(D)(m)(ii) (West 2010)).

¶ 34 We note the State need only prove one statutory ground to establish parental unfitness. *In re Donald A.G.*, 221 Ill. 2d 234, 244, 850 N.E.2d 172, 177 (2006). Accordingly, we begin our analysis with respondent's argument the trial court's finding she failed to make reasonable progress toward the return of the minors was against the manifest weight of the evidence.

¶ 35 This court judges reasonable progress according to an objective standard. See *In re Jordan V.*, 347 Ill. App. 3d 1057, 1067, 808 N.E.2d 596, 605 (2004). For a court to find progress was reasonable, the record must show, at a minimum, measurable or demonstrable movement toward the goal of returning the child to the parent. See *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1067, 859 N.E.2d 123, 137 (2006). A court will find progress to be reasonable when it can conclude it will be able to return the child to parental custody in the near future. *A.L.*, 409 Ill. App. 3d at 500, 949 N.E.2d at 1129 (quoting *In re L.L.S.*, 218 Ill. App. 3d 444, 461, 577 N.E.2d 1375, 1387 (1991)).

¶ 36 Here, due to her own conduct, respondent was incarcerated for a significant portion of time following the adjudication of abuse and neglect. As a result, she could not make progress during that time. Even after she was released from jail, however, her progress was slow. She was dismissed from at least two programs for nonattendance. She enrolled in anger-management classes three separate times. She failed to reach the vast majority of the goals set for her in individual counseling. Because we find the trial court did not err in concluding respondent was an unfit parent on one ground listed in section 1(D) (see 750 ILCS 50/1(D)(m)(ii) (West 2010)), we need not address the other fitness findings.

¶ 37 Respondent had not progressed to a point where the children could even visit with her, much less be returned to her. While respondent did participate in services and made *some* progress, the manifest weight of the evidence supports the trial court's finding her progress was not reasonable.

#### ¶ 38 B. The Best-Interests Determination

¶ 39 After a parent is found unfit, the trial court shifts its focus in termination proceedings to the child's interests. *In re D.T.*, 212 Ill. 2d 347, 364, 818 N.E.2d 1214, 1227 (2004). At the best-interest stage, a "parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life." *D.T.*, 212 Ill. 2d at 364, 818 N.E.2d at 1227. Before a parent's rights may be terminated, a court must find the State proved, by a preponderance of the evidence, it is in the child's best interests those rights be terminated. See *D.T.*, 212 Ill. 2d at 366, 818 N.E.2d at 1228.

¶ 40 When considering whether termination of parental rights is in a child's best interest, the trial court must consider a number of factors within "the context of the child's age

and developmental needs." 705 ILCS 405/1-3(4.05) (West 2010). These include the following:

"(1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's familial, cultural[,] and religious background and ties; (4) the child's sense of attachments, including love, security, familiarity, continuity of affection, and the least[-] disruptive placement alternative; (5) the child's wishes and long-term goals; (6) the child's community ties; (7) the child's need for permanence, including the need for stability and continuity of relationships with parent figures and siblings; (8) the uniqueness of every family and child; (9) the risks related to substitute care; and (10) the preferences of the person available to care for the child."

*Daphnie E.*, 368 Ill. App. 3d at 1072, 859 N.E.2d at 141; 705 ILCS 405/1-3 (4.05)(a) to (4.05)(j) (West 2010).

¶ 41 The trial court's finding termination of parental rights is in a child's best interest will not be reversed on appeal unless it is against the manifest weight of the evidence. *In re Anaya J.G.*, 403 Ill. App. 3d 875, 883, 932 N.E.2d 1192, 1199 (2010). A decision will be found to be against the manifest weight of the evidence "if the facts clearly demonstrate that the court should have reached the opposite conclusion." *Daphnie E.*, 368 Ill. App. 3d at 1072, 859 N.E.2d at 141.

¶ 42 Here, as recounted above, all three minors were thriving in their respective placements. They were in stable, consistent, and loving homes. Jo. T. was residing with his sister, An. C., in the home of his paternal grandmother. His grandmother was willing to provide

him permanency. Ja. T. and Jm. T. were placed together in a traditional foster home. They had been in that placement for 14 of the 22 months they had been in care—a large portion of their very young lives. Their new baby sister also resided with them in this foster home. The children consider their foster parents "mommy" and "daddy" and display affection toward their foster parents. They are an integral part of the family and are loved unconditionally. The foster parents are willing and able to adopt the children.

¶ 43 While respondent may have been making some effort and some progress, in the meantime, her children were thriving in the care of others and becoming integrated in loving homes. The children had not seen or visited their mother for the 22 months they were in care.

¶ 44 Based on the evidence and reports presented to the trial court, its decision to terminate respondent's parental rights was clearly not against the manifest weight of the evidence.

¶ 45 III. CONCLUSION

¶ 46 For the reasons stated, we affirm the trial court's judgment.

¶ 47 Affirmed.