No. 1-11-0444



SIXTH DIVISION
June 20, 2011

IN THE APPELLATE COURT
OF ILLINOIS
FIRST JUDICIAL DISTRICT

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| In the Interest of Carlton B., a Minor,<br><br>Respondent-Appellee,<br><br>(The People of the State of Illinois,<br><br>Petitioner-Appellee,<br><br>v.<br><br>Tiffanie B.,<br><br>Respondent-Appellant). | ) | Appeal from the Circuit Court of Cook County, Illinois Juvenile Justice and Child Protection Department, Child Protection Division.<br><br>07 JA 00460<br><br>Honorable Robert Balanoff, Judge Presiding. |

JUSTICE McBRIDE delivered the judgment of the court.
Presiding Justice Garcia and Justice R. E. Gordon concurred in the judgment.

ORDER

*HELD*: The circuit court's finding that respondent was an unfit parent was not against the manifest weight of the evidence where the evidence established that respondent was unable to discharge her parental responsibilities due to a mental or developmental disability and where there was sufficient justification to believe that this inability would extend beyond a reasonable time.

Respondent, Tiffanie B., is the biological mother of the minor, Carlton B.[1] Following a hearing in November 2010, the trial court found that Tiffanie was an unfit parent. Following a December 2010 hearing, the court found that it was in Carlton's best interests to terminate Tiffanie's parental rights. Tiffanie appeals only from the trial court's finding of unfitness and contends that the court's judgment was against the manifest weight of the evidence. For the reasons that follow, we affirm.

The undisputed facts establish that Tiffanie initially came to the attention of the Illinois Department of Children and Family Services (DCFS) when her first child, Terrell, was born in July 2002. Medical staff at a hospital called the DCFS when they observed that Tiffanie appeared developmentally delayed and did not demonstrate the ability to parent Terrell. A nurse observed Tiffanie attempting to provide medication to Terrell by inserting a syringe into his mouth. Protective custody was taken of Terrell in 2002 and guardianship was granted in 2003, and Tiffanie's parental rights were terminated for Terrell in 2007.

Tiffanie had a second child, Terrence, in March 2004. Medical staff contacted the DCFS to report that Tiffanie appeared developmentally delayed and did not appear capable of parenting the child. However, the State did not file a petition for adjudication of wardship when Terrence was born because Tiffanie had the support of her mother and a maternal uncle in the home. Tiffanie had a third child, Curtis, in 2006. Curtis was born in a toilet and Tiffanie did not

[1]Carlton's biological father, Darron M., is not a party to this appeal. Darron did file an appeal from the trial court's judgment in this case. However, on February 16, 2011, his appointed counsel filed a motion to withdraw as counsel pursuant to *Pennsylvania v. Finley*, 481 U.S. 551 (1981). On April 29, 2011, this court granted that motion.

remove him until paramedics arrived. Paramedics observed that there were no functioning utilities in Tiffanie's home. A clinical evaluation of Tiffanie was done in September 2006 and Tiffanie's full-scale IQ was reported as 56, which fell into the "extremely low functioning" level of intelligence. In 2007, one month before Carlton was born, Terrence and Curtis were found to be neglected due to an injurious environment. The stated reason for Terrence was that Tiffanie had been diagnosed with moderate mental retardation and that she was not making progress in recommended services. The stated reasons for Curtis were the manner in which he was born, the fact that Tiffanie already had one other child in DCFS custody at the time of Curtis' birth, and Tiffanie's diagnosis of moderate mental retardation. Curtis and Terrence were also found to be dependent because they were without proper care due to the physical or mental disability of the parent. Teffanie was found unable to care for the children, who were adjudged wards of the court and placed in the guardianship of the DCFS.

Carlton, the minor involved in this case, was born on June 14, 2007. In June 2007 Tiffanie and Darron moved in together and subsequently announced their engagement to marry. On June 22, 2007, the State filed a petition for adjudication of wardship alleging that Carlton was neglected due to an injurious environment and abused based on a substantial risk of physical injury. The petition specifically alleged that Tiffanie had three prior indicated reports for risk of harm and that she had three other minors in DCFS care and custody with findings of abuse, neglect, and/or dependency. Further, Tiffanie had not made progress in recommended services and had cognitive delays and was therefore unable to parent the child. Finally, Tiffanie and Darron resided together and there were no relatives to care for the child. Also on June 22, 2007,

a temporary custody hearing was held at which the parties entered into an agreed stipulation of facts. Following the hearing, the trial court took temporary custody of Carlton, finding that there was probable cause and an urgent and immediate necessity to remove him from Tiffanie's care and custody. The court granted Tiffanie supervised day visits with Carlton.

On March 14, 2008, following an adjudicatory hearing, the trial court found that Carlton was neglected due to an injurious environment. On that same date, following a disposition hearing, the court found that Tiffanie and Darron were unable to parent Carlton, that it was in Carlton's best interest adjudged him a ward of the court, and appointed a DCFS Guardianship Administrator as his guardian with the right to place him. On that same date, the court ordered that the parents be provided with a parenting coach with specific training in coaching persons with mental disabilities.

A DCFS service plan initiated on January 8, 2009, rated Tiffanie's progress as satisfactory in most categories.[2] However, the report notes that Tiffanie has been participating in parenting coaching in her home since September 2008 and has made some "slow progress" and was able to carry out what she learned with the parenting coach into visits with Carlton. However, Tiffanie continued to look to Darron for help during visits and was in continued need of parenting coaching. The report also noted that Tiffanie would require repetition of the material learned in parenting lessons due to her cognitive delays. Despite recommendations that she do so, Tiffanie also had not made any attempts to expand her support network beyond

[2]The DCFS service plans were admitted into evidence during the fitness hearing. They were prepared by Amelia Cearlock of the Jewish Children's Bureau, who testified at the fitness hearing.

Darron.

The DCFS service plan initiated on July 2, 2009, states that the parents had made slow progress until January or February 2009 but that their progress had hit a "plateau." The caseworker observed Tiffanie falling asleep in front of Carlton on three occasions and also working on "word searches" while Carlton ate dinner. The report notes that Tiffanie needed to make "much progress" and that she was unable to provide the caseworker with the contact information of her primary physician so that the caseworker could confirm that Tiffanie no longer needed to take her seizure medication. Tiffanie had also been attending therapy but the report notes that she had appeared distracted during sessions over the last six months, such as "daydreaming" or "completing puzzles," and therefore the therapist struggled to obtain information from her. Tiffanie also had poor attendance in her parenting coaching sessions over the last six months and told the parenting coach, Mr. Riggio, that she missed the sessions because she was attending a computer class that was "fun." The parenting coach also reported that "Based on progress that has been made and material that needs to be covered and reviewed, it is my clinical opinion that [both parents] will not be able to make the gains necessary to achieve a goal of return home within 12 months. While both have demonstrated an ability to benefit from services and integrate individualized parenting instructions to become effective parents to the child, they each have special needs and issues that need to be addressed. Child physical safety being the largest issue at the moment." The parenting coach also noted Tiffanie's cognitive limitations as being a barrier to her meeting Carlton's safety and emotional needs. The report further notes that since June 9, 2009, there had been a "slight increase" in Tiffanie taking the

recommendations of the caseworker and parenting coach and that Tiffanie had begun to interact more with Carlton and engaged him on an educational level. Tiffanie's overall rating in this assessment was unsatisfactory.

On December 16, 2009, the court entered a permanency order following a hearing setting a permanency goal of substitute care pending termination of parental rights. The stated basis for the permanency goal was that the parents had not made substantial progress in services.

The DCFS client service plan initiated on December 29, 2009, notes that Tiffanie had made "some progress" in weekly therapy and parenting coaching. Her interactions with Carlton had improved "slightly" but she continued to need prompting by the caseworker, parenting coach, and Darron. Tiffanie needed reminders on tasks such as checking the temperature of Carlton's food and how to use a microwave and required prompting in areas such as being serious when disciplining Carlton. She also required prompting to remove Carlton from a potentially dangerous situation in the park because she was distracted talking to Darron. Tiffanie also had not attended Carlton's medical appointments or make efforts to expand her support network. Tiffanie told the caseworker that her godmother would be a source of help if Carlton was returned home but she could not explain why the godmother was not currently more involved in her life. Tiffanie's overall progress in the report was rated as unsatisfactory and her progress in six of eight specific services was also rated unsatisfactory.

On May 14, 2010, the State filed a motion to permanently terminate the parental rights of Tiffanie and Darron and to appoint a guardian with power to consent to Carlton's adoption. The motion alleged that the parents were unfit on the following grounds: (1) they failed to maintain a

reasonable degree of interest, concern or responsibility as to the child's welfare (750 ILCS 50/1(D)(b) (West 2010)); (2) they failed to make reasonable efforts to correct the conditions which were the basis for the removal of the child and or have failed to make reasonable progress toward the return of the child within the statutory guidelines (750 ILCS 50/1(D)(m) (West 2010)); and (3) Tiffanie was unable to discharge her parental responsibilities because of mental impairment, illness, or retardation and/or was developmentally disabled and there was sufficient justification to believe that such inability would extend beyond a reasonable time (750 ILCS 50/1(D)(p) (West 2010)). The motion further alleged that it was in the best interests of the minor that a guardian be appointed with the right to consent to adoption because the minor had resided in a foster home since June 21, 2007, the foster parents wanted to adopt the minor, and adoption by the foster parents was in the minor's best interests. Finally, the State specified two overlapping periods for the ground (m) allegations: (1) January 8, 2009 to October 8, 2009; and (2) July 2, 2009 to April 2, 2009.

In the DCFS service plan initiated in July 2010, Tiffanie's overall progress was rated as unsatisfactory and her specific progress in both parenting coaching and individual therapy was also rated unsatisfactory. The report notes that Tiffanie did not participate in parenting coaching or individual therapy and that she did not challenge the goal of substitute care pending termination of her parental rights. The risk assessment summary of July 2010 noted that Tiffanie had a seizure disorder since age seven but she was not consistent in filling her prescription. Further, although Tiffanie reported not having had a seizure in two years, a nurse at a "Child and Family Team Meeting" witnessed Tiffanie having what appeared to be a seizure. The report

noted that Tiffanie's lack of recognition of her seizures and inconsistent treatment posed a "great risk" to her children.

A fitness hearing was held on November 16, 2010. The State's first witness was Dr. Jennifer Clark, a clinical psychologist and clinical director of the Child Protection Division at the Cook County Juvenile Court Clinic. The court found Dr. Clark to be an expert in clinical psychology.

Dr. Clark testified that Carlton's case was referred to the clinic in October 2009 when the trial court requested a parenting capacity evaluation of Tiffanie due to her history of developmental delays, mental impairment, and lack of progress in services over the past several years. The doctor's written report, dated December 10, 2009, was admitted into evidence. That report notes Tiffanie's age as 33 and Darron's age as 53. The report also noted that Dr. Clark evaluation Tiffanie in June and July 2009 in connection with the termination of parental rights proceeding of Terrence and Curtis. The doctor concluded at that time that Tiffanie met the criteria for a diagnosis of developmental disability that significantly impaired her ability to discharge parental responsibilities and that this inability would extend for the foreseeable future.

Dr. Clark explained that in Carlton's case she conducted a ground (p) evaluation of Tiffanie between October 30 and December 7, 2009. She explained that this type of evaluation is conducted in order to assess whether a parent has a developmental disability or a mental illness, impairment, or retardation. The evaluation further assesses if and how that condition impacts the parent's ability to discharge parental responsibilities and the likely duration of that inability.

For her current evaluation, Dr. Clark interviewed the caseworker and parenting coach in

order to gain the perspective of others who have worked with Tiffanie. Dr. Clark also conducted a clinical interview with Tiffanie and another clinical interview with Tiffanie and Darron. Dr. Clark explained that she spent less time with Tiffanie than would usually be spent with a parent due to Tiffanie's cognitive limitations and inability to provide much information while being interviewed. Tiffanie fully cooperated with Dr. Clark's evaluation but the doctor noted that it was difficult to gather information from Tiffanie because she was assessed to be a "poor historian" and to have significant memory impairment. Additionally, although Tiffanie did not present any symptoms of a "thought disorder or impaired reality testing," she did present "cognitive impairment" as demonstrated in her difficulty understanding questions posed to her and the need for Dr. Clark to use simple language. Tiffanie's speech was also difficult for the doctor to understand.

In performing her current evaluation, Dr. Clark also conducted a 75 minute joint parent-child observation in the parents' home. Dr. Clark also reviewed court documents, DCFS service agency records, and therapy and counseling records that were made available to her. Dr. Clark testified that she also relied upon the prior ground (p) evaluation of Tiffanie that she conducted in June and July of 2009. As part of that prior evaluation, Dr. Clark conducted three clinical interviews with Tiffanie.

Dr. Clark testified that her objectives in her current evaluation of Tiffanie were to look at her parenting strengths and weaknesses along with risk and protective factors related to her ability to meet Carlton's needs. The doctor recommended services to address the risk factors and discussed the likelihood that Tiffanie would be able to achieve a goal of return home within 12

months. Dr. Clark further looked at the impact that a termination of parent's rights might have on Carlton.

Based upon her evaluation, Dr. Clark concluded that Tiffanie met the criteria for a developmental disability. She explained that a development disability is a disability that appears much like mental retardation but can be caused by other factors such as autism or cerebral palsy or another neurological impairment. The disability causes "a substantial handicap in functioning and is expected to last indefinitely." Dr. Clark explained that the only reason she did not diagnose Tiffanie with mental retardation was because she did not have a clear indication that Tiffanie was diagnosed with mental retardation prior to age 18, which is one of the requirements. Tiffanie's developmental disability impaired both her cognitive and adaptive function. Tiffanie presented with a significant cognitive limitation such as impaired comprehension of language, slow thought-processing speed, impaired attention, memory, and judgment, difficulty planning or problem solving, problems with insight and problem-solving, and impaired ability to apply and retain what has been learned in services. For example, she could not remember the name of her oldest son. Tiffanie also displayed difficulties in adaptive functioning over the years, which included impaired skills in communication, daily living, and socialization.

Dr. Clark further testified that in her opinion Tiffanie's developmental disability significantly impaired her functioning in many areas and impacted her ability to discharge her parental responsibilities. Most significantly, she could not function independently or meet her own needs. In Dr. Clark's opinion, despite her participation in services, Tiffanie would be unable to meet the basic needs of any child placed in her care. Tiffanie's developmental

disability is chronic in that it is long-standing and unlikely to change. Dr. Clark testified that while a person with cognitive limitations can learn skills to compensate for her deficits, it is very unlikely that such a person could develop skills so that she was no longer cognitively impaired. Dr. Clark assessed that Tiffanie did not learn or apply the skills that she was taught in services and that would be required to make meaningful changes in order to parent a child. In the doctor's opinion, it was "extremely likely" that Tiffanie's mental disability would extend into the reasonably foreseeable future. In was also Dr. Clark's opinion, to a reasonable degree of psychological certainty, that Tiffanie would be unable to parent Carlton in the reasonably foreseeable future.

In her clinical report summary, Dr. Clark noted that the likelihood that Tiffanie and Darron would be able to make the gains necessary to achieve a goal of return home in the foreseeable future were "minimal." The doctor concluded that "despite their clear love for Carlton and desire to raise him as well as the fact that they have made some progress in services, both parents have significant limitations that are either unable or unlikely to be resolved through services in the foreseeable future."

On cross-examination, Dr. Clark testified that she formulated her opinion about parental responsibilities was based upon the basic needs of a child and whether a parent could meet those needs. She explained that she thought in terms of "three domains." The first was physical needs such as safety, supervision, monitoring, and attending to medical needs and emergencies. The second was cognitive needs, which included the ability to foster growth and development in language and to adapt to the child's changing needs. The third was emotional needs, which

included the ability to be attuned to a child's emotional state, to read their emotional "cues," to display empathy, and to adapt to the child's moods and react sensitively in a nurturing manner. Dr. Clark agreed that Tiffanie and Darron acted as a team but she did not believe that as a couple they could provide minimal care for Carlton as there would be times when one of the them would be alone with Carlton.

On further cross-examination by Darron's attorney, Dr. Clark testified that Darron has had cerebral palsy his entire life. He relied on crutches to walk and had never been able to walk independently without them. The doctor also testified that Carlton is a very active child and that she was therefore concerned about Darron's ability to meet Carlton's physical needs as they related to safety. Darron's cognitive limitations were another risk factor the doctor identified. He could be "concrete" in his thinking and lacked insight into his and Tiffanie's limitations as well as the impact those limitations might have on a child in their care. She noted, however, that protective factors included Tiffanie and Darron's relationship, their consistent participation in visitation, and their desire to maintain a relationship with Carlton. She also noted that Darron grew up in a loving home free of abuse and neglect and that this type of childhood increases the likelihood that a person will by the same type of parent. He also has a lack of developmental delays and emotional and behavioral problems, factors which correlate to a lower risk for abuse and neglect. Dr. Clark also noted a "connectiveness" between Carlton and his parents in that he was comfortable in their care and would express a desire to go home with his parents at the end of parent-child visits.

Dr. Clark testified that she observed Carlon and his parents in their home for an hour and

15 minutes. She explained that she spent only a limited amount of time with the parents for her current evaluation because she had assessed Tiffanie in great detail only four months prior to her current evaluation. She assessed Tiffanie for any change since that prior evaluation and there had been no change in her functioning and she did not need more time to conduct that assessment. Dr. Clark observed a safety issue during that visit involving Tiffanie failing to monitor the temperature of the food Carlton was being fed. Specifically, Darron instructed Tiffanie how to heat Carlton's food and the importance of stirring and testing the food before she served it to Carlton. Tiffanie initially followed these instructions but shortly thereafter, when Darron was not being "diligently attentive," Tiffanie gave Carlton a bowl of hot food without checking the temperature. The caseworker noticed this and told Tiffanie that she had to check the temperature of the food that she was feeding Carlton. Shortly thereafter, however, Tiffanie again attempted to feed Carlton without checking the food's temperature.

Under questioning by the trial court, Dr. Clark testified that in her opinion, neither Tiffanie nor Darron could separately parent Carlton. She was also concerned about the two parenting Carlton together because it was unlikely that they would always be present to assist the other in the areas where each was individually deficient. She was further concerned that Darron's limited insight into the risks that Tiffanie posed to Carlton's safety suggested that he might not always use good judgment in deciding what supervision Carlton needed.

The State's next witness was caseworker Amelia Cearlock, the case manager at Jewish Child and Family Services who was assigned to Carlton's case. Carlton's case came into the system because of "risk of harm" due to Tiffanie having three other children in DCFS care at the

time of Carlton's birth. Cearlock testified that her responsibilities included facililtating parent-child visits, monitoring Carlton in the home, ensuring his medical records were current, and recommending services for the parents. Parenting coaching started in September 2008 and Teffanie's individual therapy started in December 2008. Mr. Riggio, a licensed clinical social worker, was their parenting coach.

Cearlock testified that from January 2009 until October 2009 (the first period of alleged unfitness under ground (m)), Tiffanie was offered parent coaching, individual therapy, and supervised weekly visits with Carlton. Tiffanie was also required to attend Carlton's medical appointments, to follow up on a previous diagnosis that she had a seizure disorder, and to expand her support system in case Carlton was returned home. She explained that it was important to have additional support given Tiffanie's developmental delays and Darron's physical limitations. Parenting coaching was important because Tiffanie had been participating in coaching prior to Carlton's birth without success and it was therefore recommended that she work with someone experienced with persons with developmental disabilities. The information regarding Tiffanie's diagnosis of a seizure disorder was important because it was unknown whether those seizures could affect Carlton if he were in Tiffanie's care. Cearlock spoke to Tiffanie in July or August 2008 and Tiffanie stated she was no longer taking seizure medication pursuant to her doctor's instructions. Tiffanie showed Cearlock a medication bottle that displayed a physician's name and a pharmacist's number. Tiffanie also provided Cearlock with the cross-street of the location of the doctor's office. Cearlock determined the phone number of the physician's office but was unable to contact the physician.

Tiffanie's initial visits with Carlton were once a week for two hours and were supervised by Cearlock. Cearlock testified that she supervised each parent-child visit from January 2009 until October 2009. Typically, two of the visits per month were at the home and two were at the JCFS office because they were also sibling visits. Cearlock also attended the parenting sessions, which were held once a week until April or May 2009 and then were decreased to approximately twice a month.

As of October 2009, Cearlock rated the parents' progress in recommended services as unsatisfactory. She explained that the parents had not made sufficient progress to warrant additional visitation or a goal of return home. The parents' progress plateaued in February or March 2009 and then began to decrease. The visits were "not what we needed to see" given the amount of time the parents had been in services. For example, in February 2009, Cearlock had asked the parents to devise a schedule of activities for Carlton during the visits. She asked them to rent age-appropriate books from the library for Carlton but the parents failed to do so. In March 2009, Cearlock observed Tiffanie working on a crossword puzzle during two visits while Carlton played alone. On another occasion, a visit took place at McDonalds and Carlton put an entire "Chicken Nugget" in his mouth while the parents talked among themselves. Cearlock prompted the parents to break the nuggets up for Carlton, but later, while the parents were talking among themselves, Carton grabbed another nugget that was not broken up and "shoved it in his mouth." This was a "major concern" to Cearlock. In another instance in April 2009, Tiffanie fell asleep during a parent-child visit while Darron was in his bedroom getting physical therapy. In May 2009 there was an incident in which Cearlock and Tiffanie were walking with Carlton to get

diapers. Tiffanie was holding Carlton's hand and walking very fast and "darting him in and out of traffic and not really paying attention to where she was going." When they arrived at the store, Tiffanie immediately went to the diaper section and she and Carlton got separated. Tiffanie also did not have money to pay for diapers although she thought she did, and Cearlock had to pay for them.

As of the end of October 2009, Tiffanie was still engaged in individual therapy. Cearlock rated her progress in this area as unsatisfactory based upon reports from the therapist that she was not making progress and was not interested in setting goals for therapy. Neither parent had been successfully discharged from parenting coaching as of October 2009. The parents missed some of Carlton's medical appointments because the foster parents did not notify the agency, but the parents did ask Cearlock about the appointments.

Cearlock also testified about the second time period alleged in the State's petition; from July 2009 to April 2010. During that time period, Tiffanie was still in need of services and no additional services were recommended. Tiffanie's overall progress was unsatisfactory and Cearlock did not see an improvement. As of April 2010, neither parent had been successfully discharged from individual therapy or parenting coaching. From October 2009 to April 2010, Cearlock received reports from Tiffanie's therapist indicating that she was distracted during sessions. As of April 2010, the parents had not developed a support system and Tiffanie had not provided Cearlock with the requested information regarding her seizure disorder.

Cearlock testified that the permanency goal changed to substitute care pending court determination on termination of parental rights on December 16, 2009, due to the parents' lack of

progress in all services. The parents also failed to follow through with any of Cearlocks' recommendations regarding how the parents should interact with or care for Carlton. Once that goal changed, the agency no longer financially provided for those services but the parents were still encouraged to participate in them. Cearlock also testified that the parents were not offered unsupervised visits during the period of January 2009 through April 2010 because she was concerned about Carlton's safety if the visits were not supervised.

On cross-examination, Cearlock testified that the parent-child visits were for two hours once a week when Cearlock got the case in July 2008 and that they were increased to three hours in December 2008 and increased to four hours in February 2009. This was done to give the parents more time with Carlton and an increased chance to demonstrate their parenting skills.

Following arguments, the trial court found that the State had proved by clear and convincing evidence that the parents were unfit under grounds (b) and (m) and also that Tiffanie was unfit under ground (p). As to ground (p), the court found that Tiffanie was unable to discharge her parental responsibilities because of a mental or developmental disability and that there was sufficient justification to believe that such inability would extend beyond a reasonable time. Under ground (m), the court specifically found that Tiffanie had failed to make efforts and/or progress during the periods of January 2009 to October 2009 and from July 2009 to April 2010. The court stated it was familiar with the case as it had been in the court for three years. The court observed that there had never been an unsupervised visit in the case and that, although the parents had tried to get Carlton back, their efforts had been unsuccessful. The court further stated that Tiffanie had a developmental disability that affected her ability to function and to meet

her parenting responsibilities. Tiffanie could not meet the basic needs of a child, which was unlikely to change, and she could not parent Carlton in the foreseeable future. Further, the evidence showed after three years of services, neither parent, individually or together, could meet the minimal parenting standards needed to care for a child. The court stated that the parents needed to meet the minimum parenting standards in all aspects of parenting and that it was "clear" to the court that the parents had failed to make progress in visits and services. They never achieved unsupervised visits and ignored Carlton during visits. Finally, the parents had failed to develop a support system that was needed if Carlton was to be returned home.

The court held a best interest hearing on December 1, 2010. Cearlock testified at the hearing that in her opinion it was in Carlton's best interest that his parents' rights be terminated because the foster home was safe and appropriate and Carlton had been in that home since he was one week old. At the hearing, the foster parent, Laverne Ghee, testified that Carlton had integrated well into the family and that she wanted to adopt Carlton because she loved him and considered him her son.

The court found that although the Tiffanie and Darron loved their child, it was in Carlton's best interests that the parents' rights be terminated. The court observed that Carlton looked at Ms. Ghee as his mother and that her home was the only one he had known. Ms. Ghee provided for all of his needs and Carlton had bonded with her as well as his foster brother and foster aunt. Carlton also looked to Ms. Ghee's adult daughter as his aunt and that daughter was also the backup care plan. Carlton had also bonded with another minor in the home, had friends at school, and had traveled with Ms. Ghee and her family. The court proceeded to terminate Tiffanie and Darron's

parental rights. Tiffanie subsequently appealed.

The Juvenile Court Act of 1987 (705 ILCS 405/1–1 et seq. (West 2010)) provides a two-step process for the involuntary termination of parental rights. *In re C.W.*, 199 Ill.2d 198, 210 (2002). First, the State must prove that the parent is unfit as defined in section 1(D) of the Adoption Act. 750 ILCS 50/1(D) (West 2010); *In re C.W.*, 199 Ill.2d at 210. Because the termination of parental rights constitutes a complete severance of the parent-child relationship, proof of parental unfitness must be clear and convincing. *In re C.N.*, 196 Ill.2d 181, 208 (2001). Only if the court makes a finding of unfitness will the court go on to consider whether it is in the best interest of the child to terminate parental rights. 705 ILCS 405/2–29(2) (West 2010); *In re C.W.*, 199 Ill.2d at 210.

Although section 1(D) of the Act sets forth numerous grounds under which a parent may be found unfit, any one of the grounds, if proven, is sufficient to enter a finding of unfitness. *In re C.E. and R.E.*, 406 Ill. App. 3d 97, 107 (2010). Because the circuit court is in the best position to assess the credibility of witnesses, a reviewing court may reverse a circuit court's finding of unfitness only where it is against the manifest weight of the evidence. *In re C.N.*, 196 Ill.2d at 208. A finding is against the manifest weight of the evidence where the opposite conclusion is clearly evident or where the finding is unreasonable, arbitrary, or not based on the evidence. *In re M.J.*, 314 Ill. App. 3d 649, 655 (2000). Each case concerning parental unfitness is *sui generis* and requires a close analysis of its unique facts. Therefore, factual comparisons to other cases by reviewing courts are of "little value." *In re C.E. and R.E.*, 406 Ill. App. 3d at 108.

In this case, the trial court found Tiffanie to be unfit on three separate statutory grounds.

The court initially found that Tiffanie was unfit under ground (p). That section allows for a finding of unfitness on the following ground:

> "Inability to discharge parental responsibilities supported by competent evidence from a psychiatrist, licensed clinical social worker, or clinical psychologist of mental impairment, mental illness or mental retardation *** or developmental disability *** and there is sufficient justification to believe that the inability to discharge parental responsibilities shall extend beyond a reasonable time limit." 750 ILCS 50/1(D)(p) (West 2010).

A two-part analysis is therefore necessary to determine whether a parent is unfit due to a form of mental disability. First, competent evidence must demonstrate that the parent suffers from a mental disability which prevents her from discharging parental responsibilities. Second, sufficient justification must be established to believe the inability to discharge parental responsibilities will extend beyond a reasonable time period. *In re M.F.*, 326 Ill. App. 3d 1110, 1114 (2002).

Tiffanie claims that the trial court's finding under this ground is against the manifest weight of the evidence. She acknowledges that she has "developmental disabilities" and that she is "mildly retarded." She claims, however, that she has been able to maintain a job, that she is able to keep a clean and appropriate home, and that she is able to feed Carlton and take care of herself. She also points out that Darron is also present in the home and that together they are able to care for the child.

In this case, clinical psychologist Dr. Clark conducted a ground (p) evaluation of Tiffanie

from October 30, 2009, to December 7, 2009. She explained that this type of evaluation is conducted in order to assess whether a parent has a developmental disability or a mental illness, impairment, or retardation. The evaluation further assesses if and how that condition impacts the parent's ability to discharge parental responsibilities and the likely duration of that inability. In preparation for her evaluation, Dr. Clark interviewed the caseworker and parenting coach and she conducted clinical interviews with Darron and Tiffanie. She also conducted a joint parent-child observation in the parents' home and reviewed numerous documents, including DCFS records as well as Tiffanie's counseling and therapy records. She further reviewed her prior ground (p) evaluation of Tiffanie that she conducted in June and July 2009 regarding whether Tiffanie met the criteria for termination of parental rights of Curtis and Terrence. In that prior evaluation, Dr. Clark concluded that Tiffanie met the criteria for a diagnosis of mental disability that significantly impaired her ability to discharge her parental responsibilities and that this inability would extend for the foreseeable future.

Dr. Clark testified at the fitness hearing that, based upon her current evaluation, it was her opinion that Tiffanie met the criteria for a diagnosis of a developmental disability. She explained that a developmental disability causes a "substantial handicap in functioning and is expected to last indefinitely." A developmental disability appears much like mental retardation but can be caused by other factors such as autism or cerebral palsy. In Tiffanie's case, the only reason the doctor did not diagnose her with mental retardation was that it was not clear that Tiffanie had been given such a diagnosis prior to the age of 18, which is one the requirements.

Dr. Clark testified that in her opinion Tiffanie's developmental disability significantly

impaired her functioning in many areas and impacted her ability to discharge her parental responsibilities. Most significantly, she could not function independently or meet her own needs. Tiffanie's developmental disability impaired her cognitive and adaptive functions. Tiffanie had significant cognitive limitations such as impaired comprehension of language, attention, memory, and judgment, had slow thoughts-processing speed, and impaired ability to retain and apply what she learned in services. Dr. Clark testified that it is very unlikely that a person with cognitive limitations could develop skills so that she was no longer cognitively impaired. Tiffany also had difficulty in adaptive functioning, including impaired communication, daily living, and socialization skills. It was Dr. Clark's opinion that despite her participation in services, Tiffanie would be unable to meet the basic needs of any child placed in her care. Tiffanie's developmental disability is chronic, meaning that it is long-standing and unlikely to change. Dr. Clark also believed that Tiffanie did not learn or apply the skills she was taught in services and that she would be required to do so in order to make meaningful changes and to parent a child. In the doctor's opinion, it was "extremely likely" that Tiffanie's mental disability would extend into the reasonably foreseeable future. In was Dr. Clark's opinion, to a reasonable degree of psychological certainty, that Tiffanie would be unable to parent Carlton in the reasonably foreseeable future.

In her clinical report summary, Dr. Clark noted that the likelihood that Tiffanie and Darron would be able to make the gains necessary to achieve a goal of return home in the foreseeable future were "minimal." The doctor concluded that "despite their clear love for Carlton and desire to raise him as well as the fact that they have made some progress in services, both parents have significant limitations that are either unable or unlikely to be resolved through services in the

foreseeable future."

Tiffanie points out that Darron also lives in the home and claims that together they can care for Carlton. Dr. Clark acknowledged that Tiffanie and Darron lived together and that they acted as a "team." However, the doctor testified that Darron suffered from cerebral palsy and that he was confined to walking with crutches. The doctor was concerned that Darron's physical limitations would impact his ability to meet Carlton's physical needs as they related to safety. The doctor also testified that Darron had cognitive limitations and that he lacked insight into his and Tiffanie's limitations and into the impact those limitations would have on their ability to care for Carlton. For these reasons, Dr. Clark did not believe that Tiffanie or Darron could separately parent Carlton. Moreover, Dr. Clark testified that as a couple Tiffanie and Darron could not provide the minimal necessary care for Carlton because it was unlikely that they would always be present to assist each other in the areas that each was deficient. The doctor was also concerned that Darron's limited insight into the risks that Tiffanie posed to Carlton's safety suggested that he might not always use good judgment in deciding what supervision Carlton needed. For these reasons, the doctor did not believe that Darron's presence in the home was sufficient to enable Tiffanie and Darron to parent Carlton as a couple.

Finally, although Tiffanie claims that she could care for and feed Carlton, the record reveals a number of safety incidents involving Carlton, such as the incident with the "chicken nugget," the incident involving Tiffanie failing to monitor the temperature of Carlton's food, and the incident involving Tiffanie crossing the street with Carlton. These incidents stemmed from Tiffanie's inability to learn and apply the lessons she had been taught by the caseworker and her

parenting coach, and Dr. Clark testified that Tiffanie could not learn or apply the skills she was taught through services in order to parent Carlton.

We conclude that the State proved the allegation of unfitness under ground (p) by clear and convincing evidence. The trial court acknowledged that the parents loved Carlton and that they wanted to see him returned home. The court nevertheless found that Tiffanie was unable to discharge her parental responsibilities because she suffered from a mental or developmental disability and that there was sufficient justification to believe that this inability would extend beyond a reasonable time. Based upon the evidence presented at the fitness hearing, we find that the trial court's judgment was not against the manifest weight of the evidence.

We note that the trial court also found that Tiffanie was unfit under ground (b) of the Act, which allows for a finding of unfitness based upon a "failure to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare." 750 ILCS 750 ILCS 50/1(D)(b) (West 2010). The language in this section is stated in the disjunctive and therefore any of the three elements on its own may be considered as a basis for a finding of unfitness. *In re C.E. and R.E.*, 406 Ill. App. 3d at 108. The trial court's order in this case states that Tiffanie was unfit based upon her failure to "maintain a reasonable degree of interest, concern, or responsibility."

Although Tiffianie makes the broad contention in her opening brief that the trial court's findings of unfitness under grounds (b), (m) and (p), she raises no specific argument that the court's unfitness finding under ground (b) was against the manifest weight of the evidence. Instead, her arguments are directed solely at the court's unfitness findings under grounds (m) and (p). Therefore, any such claim in waived. See 210 Ill. 2d R. 341(h)(7) ("Points not argued are

waived and shall not be raised in the reply brief, in oral argument, or on petition for rehearing"). Moreover, because any of the three statutory grounds, if proven, is sufficient to enter a finding of unfitness, Tiffanie's failure to address this ground also justifies affirming the trial court's judgment in this case.

Finally, Tiffanie claims that the trial court's finding of unfitness under ground (m) was against the manifest weight of the evidence. However, we need not consider this claim given that any of the three grounds under which the trial court found Tiffanie unfit are sufficient to affirm the trial court's judgment and given our conclusion that the court's unfitness finding under ground (p) was not against the manifest weight of the evidence.

For the reasons stated, the judgment of the circuit court of Cook County is affirmed.

Affirmed.