

No. 1-11-2445

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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IN THE INTEREST OF	)	Appeal from the
ELIZABETH H., a Minor,	)	Circuit Court of
	)	Cook County.
Respondent-Appellee,	)	
	)	
(THE PEOPLE OF THE STATE OF ILLINOIS	)	
	)	
Petitioner-Appellee,	)	
	)	
v.	)	No. 04 JA 1521
	)	
YOLANDA H.	)	Honorable
	)	Nicholas Geanopoulos,
Respondent-Appellant).	)	Judge Presiding.

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**ORDER**

PRESIDING JUSTICE QUINN delivered the judgment of the court.  
Justice Cunningham and Justice Connors concurred in the judgment.

¶ 1 *HELD:* Trial court finding that mother was unfit to parent minor daughter was not against the manifest weight of the evidence where mother failed to maintain a reasonable degree of responsibility toward daughter and failed to make reasonable progress toward daughter's return home. Court also did not err in finding that termination of parental rights was in the child's best interest.

¶ 2 Respondent, Yolanda H., appeals the judgment of the circuit court terminating her parental rights to her minor daughter, Elizabeth H.<sup>1</sup> On appeal, respondent contends that the trial court erred in finding that she was unfit to parent Elizabeth. For the reasons set forth below, we affirm the circuit court.

¶ 3 **BACKGROUND**

¶ 4 Elizabeth was born to respondent on July 15, 1999. Elizabeth has three brothers, Anthony, born on January 25, 1994, Nicholas, born on February 16, 1996, and Sugee, born on February 18, 1997. On December 13, 2004, the State filed a petition for adjudication of wardship, which alleged that on or about August 14, 2004, Elizabeth was found home alone and that the home was "observed to be filthy with trash, clothing, and feces scattered throughout." The police department and public health officials subsequently determined that the home was uninhabitable. The petition further alleged that since August 14, 2004, respondent refused intact family services, including counseling, and failed to follow-up on necessary medical treatment for Elizabeth and her siblings. According to the petition, neither Elizabeth nor her siblings had ever gone to school, and respondent denied intact caseworker access to Elizabeth and her siblings. The Department of Children and Family Services (DCFS) took protective custody of Elizabeth on December 17, 2004.

¶ 5 An adjudicatory hearing was held on August 4, 2005 at which time the parties stipulated to the testimony of several witnesses. First, they stipulated that if called to testify, Celmira

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<sup>1</sup> The circuit court also terminated the putative father's parental rights in the same order. The father's rights are not at issue before us.

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Bolanos-Ayala, a Department of Child Protection (DCP) worker would state that on or about August 14, 2004, Elizabeth and her older brothers, Nicholas and Sugee, were found home alone, that Arlington Heights police officers observed the home to be filthy with trash, clothing, and feces scattered throughout, and that the home was indicated for environmental neglect and inadequate supervision.

¶ 6 The parties also stipulated that if called to testify, Sean Freres, an Environmental Health Officer for the Arlington Heights Health Department would have stated that all three levels of respondent's home "contained filthy and dreadful conditions" and that while inspecting the home, police officers found two dead kittens in the living room. Freres would also testify that after he completed his inspection, he determined the home to be unlivable.

¶ 7 If called to testify, Sharon Dorfman, another DCP worker would have stated that between August 14, 2004 and December 10, 2004, when protective custody was taken of the minor children, respondent refused intact family services and denied the intact case workers access to the minor children. Further, Dorfman would testify that respondent did not take the minor children for needed medical treatment and that none of the children had ever gone to school before the court took temporary custody of them.

¶ 8 If respondent had testified she would have stated that on August 14, 2004, her oldest daughter, Kimberly, was outside in front of the house while respondent called the police to report that her oldest son, Anthony, was not at home. Respondent also would have stated that there was only one dead kitten in the house, which had been accidentally smothered. Further, she would have testified that she told the initial intact caseworker that she wanted faith-based counseling,

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that she took the minor children to a physician and sought a second opinion from another physician, that she home-schooled her children, and that intact caseworkers had seen the children in November and December of 2004. Lastly, the parties stipulated to a finding of "Neglect Environment Injurious."

¶ 9 Based on the forgoing stipulations, on August 4, 2005, the court entered an adjudication order finding that Elizabeth was abused or neglected by respondent due to an injurious environment resulting from the fact that the home was filthy and littered with trash, clothes, and feces throughout. The court conducted a dispositional hearing on October 4, 2005. At the conclusion of that hearing, the court determined that it was in Elizabeth's best interest to be adjudicated a ward of the court. The court determined that respondent was unable to care for, protect, train, and discipline Elizabeth. The court placed Elizabeth in the guardianship of a DCFS guardianship administrator, with the right to place.

¶ 10 After issuing its dispositional ruling, the court conducted several permanency planning hearings. After a February 24, 2006 hearing, the court entered a permanency planning order with a goal of return home pending status. The court noted that respondent had not made substantial progress, that there is a strong bond between respondent and her minor children, and that respondent needs to engage in counseling. On August 16, 2006, the court held another permanency planning hearing for Elizabeth and entered a goal of return home in 12 months. The court determined at that time that respondent had made substantial progress. A third permanency hearing was held on February 8, 2007. The order issued on that date states that the permanency goal is return home in 12 months but does not state whether respondent had made substantial

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progress toward that goal. The order does state that respondent is in individual counseling and consistently visits with Elizabeth per the visit schedule. The court entered a fourth permanency order on September 20, 2007, continuing the goal of return home in 12 months and stating that respondent had made progress toward that goal. That order also states that respondent is compliant with services and visitation, the Elizabeth had been placed in a specialized foster home and attends therapy. After a permanency hearing held on September 16, 2008, the court entered an order continuing the goal of return home in 12 months but finding that respondent had not made substantial progress toward that goal. The court entered another permanency order on August 6, 2009, again stating that respondent had not made substantial progress toward the goal of return home in 12 months.

¶ 11 On March 26, 2010, the court changed Elizabeth's permanency goal of return home in 12 months to substitute care pending court determination on termination of parental rights. The order stated that Elizabeth's therapist had suspended visits with respondent, who was not engaged in reunification services. On September 16, 2010, the court continued the goal of substitute care pending court determination of termination of parental rights, noting that respondent was not engaged in services and that her visits with Elizabeth were suspended.

¶ 12 On November 8, 2010, the State filed a supplemental petition for the appointment of a guardian with the right to consent to adoption. The petition alleged that respondent is unfit in that she failed to maintain a reasonable degree of interest, concern, or responsibility for Elizabeth's welfare (750 ILCS 50/1(D)(b)(West 2008)), she deserted Elizabeth for more than three months next proceeding the commencement of these termination proceedings (750 ILCS

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50/1(D)(c)(West 2008)), she substantially neglected Elizabeth (750 ILCS 50/1(D)(d)(West 2008)), she failed to protect Elizabeth from conditions in her environment injurious to her welfare (750 ILCS 50/1(D)(g) (West 2008)), she failed to make reasonable efforts to correct the conditions that were the basis for Elizabeth's removal from her care (750 ILCS 50/1(D)(m)(i)) or to make reasonable progress toward her return to her within nine months after the adjudication of neglect or abuse (750 ILCS 50/1(D)(m)(ii)) or within any nine month period after the end of the initial nine month period following the adjudication of abuse or neglect (750 ILCS 50/1(D)(m)(iii)); she demonstrated an intent to forego her parental rights by failing for a period of 12 months to (i) visit Elizabeth, (ii) communicate with Elizabeth or the agency, though able to do so and not prevented from doing so by an agency or court order, and/or (iii) maintain contact with or plan for the future of the child, although physically able to do so (750 ILCS 50/1(D)(n)(West 2008)), and she was unable to discharge her parental responsibilities because of mental impairment, illness, or retardation as defined in 405 ILCS 5/1-116 and/or is developmentally disabled as defined in 405 ILCS 5/1-106, and there is sufficient justification to believe that such inability to discharge parental responsibilities shall extend beyond a reasonable time (750 ILCS 50/1(D)(p) (West 2008)). The petition also alleged that terminating respondent's parental rights and appointing a guardian with the right to consent to adoption would be in Elizabeth's best interest, that she had resided with her foster parents since February 27, 2009, and that they wanted to adopt her.

¶ 13 The court commenced the unfitness hearing on July 12, 2011. At the beginning of the hearing the State withdrew four grounds from its November 8, 2010 supplemental petition: (1)

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the allegation that respondent deserted Elizabeth for more than three months, 750 ILCS 50/1(D)(c), (2) the allegation that respondent substantially neglected Elizabeth, 750 ILCS 50/1(D)(d), (3) the allegation that respondent failed to protect Elizabeth from conditions in her environment injurious to her welfare 750 ILCS 50/1(D)(g), and (4) the allegation that respondent was unable to discharge her parental responsibilities because of mental impairment, illness, or retardation or developmental disability, which will extend beyond a reasonable time, 750 ILCS 50/1(D)(p). The State subsequently withdrew the allegation that respondent demonstrated an intent to forego her parental rights, pursuant to 750 ILCS 50/1(D)(n)(West 2008). Therefore, the case proceeded only on the following alleged grounds: (1) that respondent failed to maintain a reasonable degree of interest, concern, or responsibility for Elizabeth's welfare pursuant to 750 ILCS 50/1(D)(b)(West 2008), and (2) that respondent failed to make reasonable efforts to correct the conditions that were the basis for Elizabeth's removal from her care (750 ILCS 50/1(D)(m)(i) and failed to make reasonable progress toward her return to her within nine months after the adjudication of neglect or abuse or within any nine month period after the end of the initial nine month period following the adjudication of abuse or neglect, pursuant to 750 ILCS 50/1(D)(m)(ii) and (iii) (West 2008)).

¶ 14 At the unfitness hearing, the State's first witness was Melanie Munson, a caseworker at Illinois Mentor. Munson testified that she was assigned to the case in October 2008 and initially served as Elizabeth's caseworker but became the family's caseworker in late 2009 or 2010. Munson said that when she was first assigned to the case respondent's outstanding services included a psychiatric evaluation and continuing individual therapy. Munson stated that in April

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2008, respondent underwent a Parenting Capacity Assessment (PCA) through Thresholds, a Chicago mental health service provider, and that the evaluators recommended that respondent change therapists because there was an inappropriate and unproductive relationship between respondent and her therapist. Munson said that the assessment raised concerns that respondent was not addressing the issues that brought her children into the system. Based on the recommendations in the PCA, Munson told respondent in March 2009 that she needed to switch therapists and that she subsequently referred respondent to numerous therapists but respondent refused to see any of them. For instance, on July 31, 2009, Munson told respondent that she found a therapist near respondent's home but respondent told her that she preferred to go to a provider in downtown Chicago. On August 14, 2009, Munson sent a letter to respondent telling her that she had made an appointment for her with a therapist in Chicago, but respondent did not go to that appointment. In October or November 2009, Munson referred respondent to two therapists affiliated with Illinois Mentor, but respondent did not attend therapy with either therapist. In all, Munson testified that she gave respondent approximately 10 different therapist referrals but that respondent did not follow up on any of them. Respondent did tell Munson that she was seeing a therapist but would not sign consent for release of information so that Munson could speak to that therapist.

¶ 15 Munson testified that as of November 2010, respondent needed a clinical assessment with an individual therapist to determine her mental health needs. Munson said that when she was first assigned to the case, respondent was having supervised visits with Elizabeth in respondent's home, but that the visits were stopped in February 2009, when Elizabeth's brother, Anthony,



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went missing from his foster home and respondent would not provide any information as to his whereabouts. Munson informed respondent in person and in writing that in order for her visits with Elizabeth to be reinstated she would have to complete the prerequisite clinical assessment, but respondent never did so. Munson testified that respondent was evasive and nonresponsive to direct questions and was she was deceptive, refusing to provide Munson with an accurate birth date or social security number. Munson said that respondent gave her at least ten different birth dates and two dissimilar social security numbers and that when she did a criminal background check on respondent using the birth dates and aliases, she obtained several positive legal hits, which may or may not have belonged to respondent. Munson concluded that respondent has taken no responsibility for the circumstances that brought her children into the child welfare system and continues to claim that DCFS has mistreated her and taken her children away.

¶ 16 On cross-examination by the assistant public guardian, Munson testified that the Thresholds PCA report, which stated that respondent was using her therapy as a defense, contributed to the agency's recommendation that respondent change therapists and that all of respondent's psychological evaluations recommended that respondent continue with individual therapy. On further cross-examination by respondent's attorney, Munson stated that the case originally came into the system due to poor conditions in the respondent's home, as well as a failure to enroll her children in school, failure to provide updated medical examination documentation for the children, and failure to cooperate with DCFS. Munson acknowledged that she has visited respondent's home once a month since 2009, most recently in May 2009 and found that it was clean, organized, and presented no safety concerns. She also stated that two of

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respondent's sons have been returned to respondent's care and are enrolled in school. Munson acknowledged that respondent began attending therapy in August 2005 and continued to attend until at least October 2008 but could not confirm that she attended regularly after that. Munson said that respondent has attempted to give gifts and cards to Elizabeth and has asked about Elizabeth's welfare but has not specifically asked that her visits with Elizabeth be reinstated. Munson surmised that respondent has some mental health issues and that a skilled clinician is needed to determine what services respondent needs in order to help her reunite with her family.

¶ 17 On redirect examination, Munson testified that Elizabeth's two brothers who are 16 and 17 years old and living with respondent, were not returned to respondent's care because she had completed services but had run from their foster homes, which they have had done in the past. Munson said that a 2005 psychological evaluation indicated that respondent "maintains paranoid ideations with very constricted affect" and that she had observed these characteristics during her interactions with respondent. On recross examination by respondent's attorney, Munson stated that respondent needs to undergo a clinical evaluation because her most recent evaluation was in 2005 and the PCA was done in 2008 and that a more recent evaluation of her mental health issues is needed, particularly in light of her failure to cooperate with the agency when two of her sons left their foster homes and moved into her home and her refusal to provided the agency with an accurate social security number or date of birth.

¶ 18 The State's next witness, Heather Cintron, is a clinical psychologist with the Cook County Juvenile Court Clinic (CCJCC). The parties stipulated that Cintron is an expert in clinical psychology. Cintron testified that one of her responsibilities at CCJCC is to perform "Ground P

evaluations," which are designed to assess whether an individual suffers from mental retardation, mental defect, or mental health illness, and whether a person's abilities as a parent will be impacted by any of those conditions. Cintron explained that a Ground P evaluation is conducted, by reviewing the records from caseworkers, DCFS, therapists, and service providers who are working on the case, interviewing the parent, observing parent-child interactions, conducting collateral interviews, and in some instance, psychological testing.

¶ 19 Cintron testified that she attempted to conduct a Ground P evaluation on respondent by reviewing all relevant records and meeting with respondent. Cintron stated that she typically conducts three interviews with a parent in order to get an accurate picture of the parent's perception of the case but that respondent would only meet with her two times. Cintron further stated that respondent was uncooperative and provided her with little information to use in making an evaluation of her mental health. Cintron was also unable to conduct a parent-child evaluation because respondent's visits with Elizabeth had been suspended. Cintron stated that she can make an accurate diagnosis even if a parent is uncooperative but that in this case she did not have current mental health records because respondent had not participated in therapy since 2009, and she was not able to contact collateral service providers to assess respondent's progress. As a result, Cintron said that ultimately she was unable to complete a Ground P evaluation for respondent but she did submit a report that was admitted into evidence.

¶ 20 Cintron testified that when she first met respondent she was very pleasant and nice but also exhibited suspicion and paranoia. Respondent did not want to answer Cintron's questions and questioned Cintron's credentials and educational background. Cintron testified that she

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spoke with respondent about the reasons Elizabeth initially came into the court system and that respondent told her that the DCP investigation was erroneous, that she had done nothing wrong, and that data had been manipulated. Cintron testified that respondent said that although the home was not clean it was not her fault but instead due to landlord's failure to make repairs. She also stated that respondent believed she was being deceived and persecuted, and that tasks were added to her service plan in order to make it more difficult to regain custody of Elizabeth. Respondent also thought that if she gave information to her caseworker that information would be used against her. According to Cintron, respondent's suspiciousness, paranoia, and uncooperativeness were consistent with traits that were noted in her records from 2005 and there was no noticeable improvement in her ability to accept responsibility for the conduct that resulted in Elizabeth being taken into DCFS custody.

¶ 21 On cross-examination by respondent's attorney, Cintron stated that she spent three hours and 45 minutes with respondent over two different days. She also said that the reports from respondent's therapist were inconsistent because the therapist had indicated that respondent had become less defensive and more willing to talk about her feelings but later indicated that she was still evasive and defensive. Cintron acknowledged that the therapist's report indicated that respondent was making progress in expressing her emotions but was not making progress in addressing her responsibility for Elizabeth's case coming into the legal system.

¶ 22 At the conclusion of the unfitness hearing and after hearing arguments from both sides, the juvenile court entered a finding on July 28, 2011, that respondent was unfit. First, the court found that pursuant to 750 ILCS 50/1(D)(b)(West 2008), the State did not prove that respondent

failed to maintain a reasonable degree of interest and concern for Elizabeth but did prove that she failed to maintain a reasonable degree of responsibility for Elizabeth's welfare. The court acknowledged that respondent had cleaned her home and enrolled two of her sons in school but found that respondent failed to take responsibility for what led to the case coming into the system, refused to engage in a clinical evaluation to determine if she needed additional services in order to be reunified with Elizabeth, and failed to cooperate by providing an accurate birth date and social security number. The court also found, pursuant to 750 ILCS 50/1(D)(m)(i) that respondent failed to make reasonable efforts to correct the conditions that were the basis for Elizabeth's removal from the home and failed to make reasonable progress toward Elizabeth's return home, pursuant to 750 ILCS 50/1(D)(m)(ii) and (iii) (West 2008).

¶ 23 After its finding of unfitness, the court immediately commenced a hearing to determine whether termination of respondent's parental rights was in Elizabeth's best interests. The State's first witness was Elizabeth's foster mother, Carolyn, who, testified that she and her husband have been Elizabeth's foster parents since February 2009. Carolyn stated that Elizabeth was hard to handle when she first came to live with them because she had tantrums, screamed, cursed, and threatened to run away. Carolyn testified that Elizabeth is now a happy child, has friends in the neighborhood, and takes part in activities such as athletics, singing, and dancing. Carolyn stated that Elizabeth, who is in sixth grade, enjoys school and is an honor student.

¶ 24 Carolyn further testified that she and her husband have five biological children who do not live in the home and an adopted son and two other foster children. Elizabeth gets along with her foster siblings and likes to go camping, shopping, and out to dinner with her foster family.

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Carolyn stated that Elizabeth is a part of their family, that that she and her husband love Elizabeth and want to adopt her. Carolyn said that her daughter, Patricia, is the designated backup care giver for Elizabeth, and that Patricia and Elizabeth have a good relationship .

¶ 25 On cross-examination by the assistant public guardian, Carolyn testified that Elizabeth calls her and her husband "mom" and "dad" and that Elizabeth comes to them for support when she is happy and or sad and that when she's upset, she will sit down with Carolyn and talk about her problems. Carolyn testified that in the past Elizabeth heard voices and had hallucinations about her family but that those have decreased . She also said that Elizabeth is in therapy and takes medications that are monitored by her psychiatrist.

¶ 26 On cross-examination by respondent's attorney, Carolyn testified that when Elizabeth first came to live in their home she talked about her biological family but does not speak about them much anymore and does not talk about wanting to visit with her brothers. Carolyn stated that she would not have a problem with having Elizabeth visit her brothers or her mother if Elizabeth asked to do so and her therapist approved. Carolyn also said that Elizabeth has not talked about respondent in a long time and has not said that she wants to visit respondent. Carolyn acknowledged that respondent had given her gifts for Elizabeth in the past and had recently given her a birthday gift to give to Elizabeth. On redirect examination, Carolyn testified that Elizabeth has made clear that she loves respondent but wants to live with her foster family and wants to be adopted by Carolyn and her husband.

¶ 27 The best interest hearing was continued until July 28, 2011, at which time Erin Hahn, a caseworker from Illinois Mentor testified. Hahn stated that she was assigned to Elizabeth's case

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in September 2010. Hahn said that she visits with Elizabeth twice a month and that she last visited on July 25, 2011, at which time she found the home to be safe and appropriate, with no signs of abuse, neglect, or corporal punishment. Hahn said that during her visits she has observed that Elizabeth's foster mother, whom Elizabeth refers to as "mom," is very nurturing and supportive of Elizabeth, allows Elizabeth to communicate her needs, and encourages Elizabeth in her school activities. Hahn has observed a similar relationship between Elizabeth and her foster father, whom she calls "dad," and said that Elizabeth also has a good relationship with her foster siblings.

¶ 28 Hahn testified that Elizabeth has been diagnosed with a mood disorder, post-traumatic stress disorder (PTSD), and attention deficit hyperactivity disorder (ADHD) and is taking medicine for those conditions. Hahn said that Elizabeth sees a psychiatrist and has been in counseling since April 2010, to address her hallucinations about her brothers and her mother and her brothers stealing her from her foster family or her foster family getting hurt.

¶ 29 Hahn spoke with Elizabeth the morning of the hearing and said that Elizabeth told her that she wanted to be adopted by her foster parents because although she loves her mother and brothers, her mother cannot take care of her properly while her foster parents can. Hahn said that Elizabeth has said that she loves her foster family and feels secure in her foster home. Elizabeth has friends, is an honor roll student, and is involved in several school activities, including track, soccer, intramural sports, and chorus.

¶ 30 Hahn testified that Elizabeth has never told her that she want to go back to living with her biological family. Hahn opined that it is in Elizabeth's best interest for respondent's parental

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rights to be terminated because respondent has had enough time to complete required services but has failed to do so and because Elizabeth needs permanency. Hahn also discussed the structure and household rules in the foster home, which include eating meals together, doing homework after school, and completing household chores. Hahn said that this structure is good for Elizabeth given her mental illness.

¶ 31 On cross-examination by respondent's attorney, Hahn acknowledged that she had not observed respondent and Elizabeth interacting together, had never been to respondent's home, or observed respondent's parenting skills because she is not the family's caseworker. Hahn stated that since she was assigned to this case, Elizabeth has mentioned respondent two or three times in conversation. During one of those conversations Elizabeth said that she loves her mother but is ready to be adopted. Hahn said that respondent has given her gifts, which she has given to Elizabeth.

¶ 32 Respondent, who testified next, stated that she does not want her parental rights terminated. Respondent described her home and said that Elizabeth has her own room there, which has not been changed since Elizabeth left. Respondent said that she last saw Elizabeth about two years earlier, at which time Elizabeth told her that she wanted to come home. Respondent said that Elizabeth never had hallucinations when she lived with her and opined that they were caused by her medications. Respondent testified that she believes she can take care of Elizabeth. Respondent said that she has never heard from Erin Hahn, Elizabeth's caseworker, and has tried, unsuccessfully to contact her. Respondent said that Elizabeth should be returned to her care because things have changed in the home and she is a good mother. She said that she



believes Elizabeth wants to come home and will do so as soon as she is able to.

¶ 33 After closing arguments the court issued its ruling and found based on "the totality of the record" that it is in Elizabeth's best interest to terminate parental rights. The court cited the testimony of Elizabeth's foster mother, who described her relationship with Elizabeth and how Elizabeth fits into their family and said that she and her husband want to adopt Elizabeth. The court also noted that Elizabeth's caseworker testified that Elizabeth told her that she wants to stay with her foster family and be adopted by her foster parents. The court stated that there is no doubt that Elizabeth loves respondent and that respondent cares for Elizabeth but that caring for someone is not the same as being able to provide for them.

¶ 34 The court then considered the best interest factors delineated in 705 ILCS 405 1-3(4.05) (West 2008). First, the court found that Elizabeth's foster parents ensure her physical safety, provide her with food, shelter, and clothing, and take care of her health needs. The court also found that Elizabeth is flourishing in her foster home and at school. The court also considered Elizabeth's background and her family, cultural and religious ties and found that she has been integrated into her foster family. With regard to Elizabeth's sense of attachment, the court found that although Elizabeth loves her mother, she has told her caseworker that she wants to stay in her foster home. Further, the court found that Elizabeth's sense of familiarity, continuity, and affection all weigh in favor of her remaining in her foster home on a permanent basis. The court added that the least disruptive placement alternative would be for Elizabeth to remain in her foster home because she has been living there for over two years, has indicated that she would like to stay there, and has ties in the community there through her school and church. The court

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also found that Elizabeth's need for permanency as well as stability and continuity in her relationship with a parental figure weigh in favor of her remaining in the foster home, particularly given that Elizabeth had been in the system for over six years.

¶ 35 After reviewing all of these factors, the court found that the State met its burden of showing by a preponderance of the evidence that it was in Elizabeth's best interests to terminate respondent's parental rights and to set a new permanency goal of adoption. On August 22, 2011, respondent filed a timely notice of appeal.

¶ 36

#### ANALYSIS

¶ 37 The Juvenile Court Act of 1987 (705 ILCS 405/1-1 *et seq.* (West 2008)) 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 2008); *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 2008); *In re C.W.*, 199 Ill. 2d at 210. 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. *In re C.N.*, 196 Ill. 2d at 208. Each case concerning parental fitness is *sui generis*, requiring close analysis

of its individual facts; consequently, factual comparisons to other cases by review courts are of little value. *In re Daphnie, E.*, 368 Ill. App. 3d 1052, 1064 (2006). A finding of unfitness will stand if supported by any one of the statutory grounds set forth in section 1(D) of the Adoption Act. *In re Daphnie, E.*, 368 Ill. App. 3d at 1064.

¶ 38 On appeal, respondent contends that the trial court's finding that she was unfit for failing to maintain a reasonable degree of responsibility toward Elizabeth, failing to make reasonable progress toward Elizabeth's return home, and failing to make reasonable progress toward correcting conditions that brought Elizabeth into care was against the manifest weight of the evidence and should be reversed.

¶ 39 A. Failure to Maintain a Reasonable Degree of Interest, Concern or Responsibility

¶ 40 Section 1(D)(b) provides that a parent may be declared unfit if she fails to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare. 750 ILCS 50/1D(b) (West 2008). In determining whether a parent has a reasonable degree of interest, concern, or responsibility for a child's welfare courts consider a parent's efforts to visit and maintain contact with a child, as well as other indicia of interest, such as inquiries into the child's welfare. *In re Adoption of Syck*, 138 Ill. 2d 255, 278-79 (1990). Completion of service plan objectives can also be considered as evidence of a parent's concern, interest, or responsibility. *In re Jaron Z.*, 348 Ill. App. 3d 239, 259 (2004). The interest, concern, or responsibility must be objectively reasonable. *In re M.J.*, 314 Ill. App. 3d 649, 657 (2000). Courts will consider the parent's efforts to show an interest in the child's well-being regardless of whether those efforts were successful. *In re Adoption of Syck*, 138 Ill. 2d at 279.

¶ 41 Here, respondent contends that the trial court's finding that she failed to maintain a reasonable degree of responsibility for Elizabeth's welfare as against the manifest weight of the evidence because she corrected the conditions that brought this case into the system by cleaning up her home, which had been in a deplorable state and by enrolling two of her sons in school. Further, respondent asserts that she was engaged in therapy, which was part of her service plan, until the family's caseworker told her that her therapist was not providing adequate service and needed to be replaced. Therefore, respondent contends, the State failed to prove that she failed to maintain a reasonable degree of responsibility toward Elizabeth. We disagree.

¶ 42 First, we note that the trial judge acknowledged respondent's efforts to clean up her home and enroll her two sons in school, although he found that the status of Elizabeth's brother's was "minimally relevant" to Elizabeth's case. The court's finding that respondent did not maintain reasonable responsibility for Elizabeth's welfare, however, was based on its finding that she refused to acknowledge her role in the events that resulted in DCFS making Elizabeth a ward of the State. Instead of acknowledging that she failed to maintain a clean home or enroll her children in school, she continually portrayed herself as a victim of DCFS. Further, the record shows that respondent never asked that her visits with Elizabeth be reinstated and that after she was told that a clinical evaluation was a prerequisite to a reinstatement of those visits, she refused to undergo such an evaluation. Respondent also continued to be evasive with the family's caseworker by providing multiple social security numbers and birth dates, which made it impossible to perform a background check on her. In sum, respondent's refusal to complete the service plan objective of undergoing a clinical evaluation and continuing with therapy as well as

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her lack of cooperation was evidence of her failure to maintain a reasonable degree of responsibility for Elizabeth's welfare. Therefore, based on the record we conclude the trial court did not err in finding respondent unfit under section 1(D)(b) of the Adoption Act. 750 ILCS 50/1(D)(b) (West 2008).

¶ 43           B. Failure to Make Reasonable Progress Toward Child's Return Home

¶ 44   Next, respondent contends that the trial court's finding, pursuant to section 1(D)(m)(ii) and (iii) of the Illinois Adoption Act, that she failed to make reasonable progress toward the return home of Elizabeth is against the manifest weight of the evidence. A parent may be declared unfit under the Adoption Act if she fails “to make reasonable progress toward the return of the child to the parent within 9 months after the adjudication of neglected or abused minor” (750 ILCS 50/1(D)(m)(ii) (West 2008)) or during any 9-month period after the end of the initial 9-month period following the adjudication of neglect or abuse. (750 ILCS 50/1(D)(m)(iii) (West 2008)). Reasonable progress has been defined as “ ‘demonstrable movement toward the goal of reunification.’ ” *C.N.*, 196 Ill.2d at 211 quoting *In re J.A.*, 316 Ill. App. 3d 553, 565 (2000). “[T]he benchmark for measuring a parent’s ‘progress toward the return of the child’ under section 1(D)(m) of the Adoption Act encompasses the parent’s compliance with the service plans and the court’s directives, in light of the condition which gave rise to the removal of the child, and in light of other conditions which later became known and which would prevent the court from returning custody of the child to the parent.” *C.N.*, 196 Ill.2d at 216-17.

¶ 45   In the instant case, respondent asserts that the trial court's finding that she failed to make reasonable progress toward Elizabeth's return home was in error because the case came into the

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system due to the deplorable conditions in the home but the record shows, based on visits from the family's caseworker, that since at least May 2009 and continuing since then, she has maintained a clean environment in the home. Further, she asserts that any argument that she still needs therapy is belied by the fact that her home is clean, her sons are now in her care, and are enrolled in school.

¶ 46 While it is true that the condition of respondent's home was initially the reason the case came into the system, it was ultimately determined that respondent needed to undergo a psychological assessment and subsequent therapy in order for her daughter to be returned to her care. These tasks were listed in multiple service plans. However, respondent refused to undergo an evaluation and refused to continue therapy after her respondent's original therapist was removed after it was determined that there was an inappropriate and unproductive relationship between respondent and her therapist. Over several months, the family's caseworker gave respondent at least 10 referrals for another therapist, but she refused to follow through on any of them. Dr. Cintron also testified as to respondent's refusal to cooperate with mental health care professionals, which made it impossible to accurately assess her mental health issues.

¶ 47 Respondent knew that in order to be reunited with her daughter she had to undergo a psychological evaluation and continue with individual therapy after her sessions with her initial therapist were discontinued. However, she refused to take these necessary steps to address her mental health issues. Respondent testified that she had not seen Elizabeth for two years. Case worker Munson testified that respondent never asked to resume visitation. Finally, respondent continued to display suspiciousness and paranoia, and was uncooperative with her caseworker

and others, which was similar to the conduct she exhibited when the case first came into the system. As a result, because respondent failed to take steps to address these issues, we find that the trial court did not err in finding respondent unfit under for failing to make reasonable progress toward Elizabeth's return within the subject time frame.

¶ 48 C. Reasonable Progress Toward Correcting Conditions That Brought Child Into Care

¶ 49 Lastly, respondent contends that the trial court's finding, pursuant to section 1(D)(m)(i) of the Adoption Act, that she failed to make reasonable progress to correct the conditions that brought Elizabeth into care was against the manifest weight of the evidence. Respondent asserts that at the August 4, 2005 adjudication hearing, Elizabeth was found to be in an injurious environment because the home was filthy and littered with trash, clothing, and feces, because the children were not enrolled in school, and because respondent failed to cooperate with the agency by providing the children's medical records. However, respondent argues that the family's caseworker, Melanie Munson, testified that the home has been consistently organized and clean during her visits between April 2009 and her most recent visit in May 2011. Further, her two sons who were returned to her care in March or April 2009 are in school. Therefore, respondent asserts that the trial court erred in finding that she has failed to correct the condition that brought Elizabeth into care. It does appear that respondent has maintained a clean home and has enrolled her sons in school, which was the initial reason that Elizabeth came into the system. However, it was subsequently determined that respondent had mental health issues that needed to be addressed, which as noted above, she has failed to do. Further, a finding of unfitness will stand if supported by any one of the statutory grounds set forth in section 1(D) of the Adoption Act. *In re*

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*D.D.*, 196 Ill. 2d 405, 422 (2001). Even if we agreed with respondent that she has made reasonable progress toward correcting conditions that brought Elizabeth into care by cleaning up her home, respondent failed to maintain a reasonable degree of responsibility pursuant to 750 ILCS 50/1D(b) and failed to make reasonable progress toward Elizabeth's return home, pursuant to 750 ILCS 50/1D(m)(ii) and (iii). Therefore, the trial court's finding of unfitness was not against the manifest weight of the evidence.

¶ 50

#### D. Termination of Parental Rights

¶ 51 Although respondent's appeal challenges the trial court's finding that she is an unfit parent, she has not challenged the trial court's finding that the termination of her parental rights is in the best interest of Elizabeth.<sup>2</sup> Our supreme court has consistently held that a party's failure to raise an issue may be deemed a forfeiture (the failure to timely comply with procedural requirements) or waiver (the voluntary relinquishment of a known right) of that issue. *Buenz v. Frontline Transportation Co.*, 227 Ill. 2d 302, 320-21 (2008) citing *Sullivan v. Edward Hospital*, 209 Ill. 2d 100, 124-25 (2004); see also Supreme Court Rule 341(h)(7) ("Points not argued [in the appellant's brief] are waived and shall not be raised in the reply brief, in oral argument, or on petition for rehearing." " Ill. S.Ct.R. 341(h)(7)) (eff. July 1, 2008)). Waiver notwithstanding, we find that the trial court's finding that the termination of respondent's parental rights is in Elizabeth's best interests was not against the manifest weight of the evidence.

¶ 52 Once a trial court finds a parent unfit under one of the grounds of section 1(D) of the

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<sup>2</sup> Respondent did not raise the issue in her initial brief and has not filed a reply brief.



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Adoption Act, the next step in an involuntary termination proceeding requires the court to consider whether it is in the best interests of the child to terminate parental rights, pursuant to the Juvenile Court Act (705 ILCS 405/1-3 (West 2008)). The burden of proof is upon the State, which must prove by a preponderance of the evidence that termination is in the child's best interests. See *In re D.T.*, 212 Ill.2d 366. The court's determination in this respect lies within its sound discretion, especially when it considers the credibility of testimony presented at the best interests hearing; that determination will not be reversed unless it is against the manifest weight of the evidence or the trial court has abused its discretion. See *In re G.L.*, 329 Ill. App.3d 18, 25 (2002). "A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident." *In re Arthur H.*, 212 Ill. 2d 441, 464 (2004).

¶ 53 Section 1-3(4.05) of the Juvenile Court Act requires a trial court to consider a number of factors for termination within "the context of the child's age and developmental needs." 705 ILCS 405/1-3 (4.05) (West 2008). These include:

- "(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 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; and
- (j) the preferences of the persons available to care for the child.” 705 ILCS 405/1-3 (4.05) (West 2008).

¶ 54 Additionally, a court may consider the nature and length of the child's relationship with his present caretaker and the effect that a change in placement would have upon his emotional and psychological well-being. *In re Jaron Z.*, 348 Ill. App. 3d 239, 262 (2004). The trial court is not required to explicitly mention each factor listed in section 1-3(4.05) while rendering its decision. *In re Jaron Z.*, 348 Ill. App. 3d at 262-263. In fact, the court need not articulate any specific rationale for its decision, and a reviewing court need not rely on any basis used by a trial court below in affirming its decision. *In re Jaron Z.*, 348 Ill. App. 3d at 262-263.

¶ 55 A review of the evidence in relation to the statutory factors shows that the trial court's

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decision to terminate respondent's parental rights as to Elizabeth was not contrary to the manifest weight of the evidence or an abuse of discretion. Evidence presented at the best interest hearing revealed that Elizabeth was happy, in a stable, appropriate, safe home and had bonded with her foster parents, whom she called "mom" and dad." She also has a good relationships with her foster siblings and her foster parents' extended family. Elizabeth has been living with her foster family for more than two years, during which time she has attended school, become an honor roll student, and participated in several after-school activities, including athletics and chorus. She also has friends in her neighborhood and at school. Elizabeth has been diagnosed with a mood disorder, PTSD, and ADHD, for which she receives medication that is monitored by a psychiatrist. She also participates in individual therapy on a weekly basis to address hallucinations, which have decreased in frequency. Elizabeth foster home provides structure and proper discipline, which her caseworker said are beneficial for Elizabeth given her mental illness. Elizabeth's foster mother testified that she and her husband want to adopt Elizabeth and stated that if she were permitted to do so, she would continue to allow Elizabeth to have contact with her natural mother and her brothers.

¶ 56 Elizabeth's caseworker, Erin Hahn, testified that Elizabeth has consistently stated that she wants to be adopted by her foster parents because although she loves her mother and brothers, her mother cannot take care of her properly. Elizabeth has also told Hahn that she loves her foster family and feels secure in her foster home. Hahn testified that she recommended that respondent's parental rights be terminated because respondent has failed to complete the required services in order for Elizabeth to be returned home despite having six years to do so. She also

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testified that termination of parental rights and subsequent adoption by her foster parents would provide Elizabeth with the permanency that she needs in light of the fact that the case has been in the system since 2005. All of this evidence supports the trial court's finding that it was in Elizabeth's best interests to terminate respondent's parental rights.

¶ 57

#### CONCLUSION

¶ 58 For the foregoing reasons, we affirm the circuit court.

¶ 59 Affirmed.