

No. 1-12-2840

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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IN THE INTEREST OF GIANNI B., a minor.	)	Appeal from the Circuit Court
	)	of Cook County
(THE PEOPLE OF THE STATE OF ILLINOIS	)	
	)	
Petitioner-Appellee,	)	
	)	09 JA 652
v.	)	
	)	
KRISTOFER W.,	)	Honorable
	)	Richard A. Stevens,
Respondent-Appellant.)	)	Judge Presiding.

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PRESIDING JUSTICE McBRIDE delivered the judgment of the court.  
Justices Howse and Palmer concurred in the judgment.

ORDER

¶ 1 HELD: (1) Where the record shows that granting respondent natural father's motion for a continuance in the middle of an unfitness hearing was not in the best interest of the minor and respondent failed to show he was prejudiced by the denial of his motion, the trial court did not abuse its discretion in denying the motion; and (2) Where respondent failed to make reasonable progress in services and failed to end his relationship with the natural mother even after being informed that it would be a barrier to his reunification with the minor, the trial court's findings of unfitness were not against the manifest weight of the evidence.

¶ 2 Respondent Kristofer W. is the natural father of the minor Gianni B. The minor was placed in the temporary custody of the Illinois Department of Child and Family Services (DCFS) in August 2009 and was adjudicated a ward of the court in July 2010. Subsequently, the court found Kristofer to be unfit and ultimately found that it was in Gianni's best interest to terminate Kristofer's parental rights. Kristofer appeals, arguing: that (1) the trial court erred in denying his motion requesting a continuance; and (2) the trial court's findings of unfitness were against the manifest weight of the evidence. We affirm.

¶ 3 Gianni was born on July 2, 2009. On August 13, 2009, the State filed a petition for adjudication of wardship and a motion for temporary custody of Gianni. The petition alleged that Gianni had been neglected based on an environment injurious to his welfare and abused based on a substantial risk of physical injury, citing section 2-3(1)(b) and 2-3(2)(ii) of the Juvenile Court Act of 1987 (Act) (705 ILCS 405/1-1 *et seq.* (West 2008)). 705 ILCS 405/2-3(1)(b), 2-3(2)(ii) (West 2008). More specifically, the petition alleged that the natural mother, Nicole B., had two prior indicated reports for substantial risk of sexual abuse by the, at that time, putative father, Kristofer, and one prior indicated report for mental and emotional impairment. Kristofer had one prior indicated report for sexual molestation of his five-year-old grandson, Julius W. (2005 indicated report). The petition further alleged Gianni had tested positive for illegal substances at the time of his birth and suffered from withdrawal symptoms. The same factual allegations supported the motion for temporary custody.

¶ 4 After a temporary custody hearing, the trial court granted temporary custody of Gianni to the DCFS Guardianship Administrator with the right to place Gianni on August 17, 2009. The

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court found that "immediate and urgent necessity" existed to support the removal of Gianni from his home. The Cook County Public Guardian was appointed as Gianni's guardian *ad litem* (GAL) and attorney. The court also ordered supervised visits for Kristofer and Nicole and parentage testing for Kristofer and Gianni.

¶ 5 On September 16, 2009, based on the DNA test, the court entered a written order finding that Kristofer was the natural father of Gianni.

¶ 6 On November 10, 2009, Francee Henley, a child welfare specialist and the family case worker, and her supervisor, Carla Szabo, completed an integrated assessment (2009 assessment) of Gianni's case. In regard to Kristofer, Henley and Szabo noted concerns about his parenting abilities due to his being "very controlling and domineering" and being "overly focused" on Nicole. Also of concern was the 2005 indicated report that Kristofer sexually abused his grandson and reports of Kristofer physically abusing Nicole. They recommended that Kristofer participate in a substance abuse screening, a domestic violence offender assessment, and a psychosexual evaluation to determine if Gianni was at risk of sexual abuse. Henley and Szabo recommended that Nicole participate in substance abuse services, a psychological evaluation, domestic violence services, and individual therapy.

¶ 7 On May 11, 2010, the court entered an adjudication order finding that Gianni was abused or neglected due to an injurious environment, that the abuse was inflicted by his parents, Kristofer and Nicole, and that Gianni was a drug-exposed infant. The court's findings were "[b]ased upon anticipatory neglect and mother's drug use and prior indicated reports of mother and father. Also minor tested positive for opiates and had signs of withdrawal."

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¶ 8 On May 14, 2010, Kristofer participated in a mental health assessment conducted by therapist John Sperry. Sperry diagnosed Kristofer with narcissistic personality disorder and sexual abuse of a child. He recommended that Kristofer receive individual therapy to address his involvement with DCFS, explore effective parenting strategies to ensure the safety and well-being of Gianni, and learn behavioral interventions that would help Kristofer interact with others in a productive way. Sperry further recommended that Kristofer have a psychological evaluation.

¶ 9 On June 23, 2010, Dr. Bill Moor completed a psychological examination of Kristofer. In his written report, dated July 9, 2010, Moor stated he was in "full agreement" with Sperry's diagnostic assessment of Kristofer. Moor diagnosed Kristofer as having narcissistic personality disorder "with avoidant and impulsive features." He also diagnosed Kristofer with reactive attachment/dependency disorder, physical abuse of adult (as reported), and sexual abuse of a child (as indicated). Moor recommended Kristofer continue weekly therapy sessions with Sperry and concluded that "before any consideration can be given to Kristofer [ ] having unsupervised access to his children possibly as a step in pursuing custody, he would have to demonstrate considerable sustained and meaningful progress in his individual therapy." Moor also stated that Nicole's "own severe limitations and how that relates to [Kristofer] and her as a couple having any likelihood of reunification with his/her children seems an immediately impenetrable and confounding obstacle."

¶ 10 On July 23, 2010, the trial court conducted a permanency hearing. Gianni's caseworker, Francee Henley, submitted a court report in which she reported that she had supervised visits with Kristofer and Gianni and observed that Kristofer was comfortable and able to play with and

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feed Gianni. However, Henley expressed concern about Kristofer's relationship with Nicole because visits with both Kristofer and Nicole were "typically more chaotic and require frequent redirection." Kristofer told Henley that he had control over Nicole and was frustrated that he had no control over whether Nicole followed through with her services when Nicole was not in his presence. Henley also noted that Kristofer became visibly anxious when Nicole left the room during visits. Henley recommended a permanency goal of returning Gianni home pending status due to "unsatisfactory progress towards return home."

¶ 11 The same day, the court entered a dispositional order finding that reasonable efforts had been made to prevent or eliminate the need for removal of Gianni, but that appropriate services aimed at family preservation and reunification had been unsuccessful. The court concluded it was in the best interest of Gianni to remove him from the custody of his parents. The temporary custody order was terminated and Gianni was placed in the custody and guardianship of a DCFS Guardianship Administrator with a right to place the minor. The court also entered a permanency order finding that neither Kristofer nor Nicole had made substantial progress toward reunification. The court set a goal for Gianni to return home pending a status hearing which was set for October 15, 2010.

¶ 12 On August 17, 2010, Henley initiated a client service plan in which she found that Kristofer had made "unsatisfactory" progress toward reunification with Gianni. Henley also rated Nicole's progress as unsatisfactory, noting that Nicole refused drug screenings, failed to provide evidence of attendance at Narcotics Anonymous meetings, self-reported heroin use in June 2010, and only attended 10 of 18 scheduled visits with Gianni. In addition to observing that

Kristofer continued to maintain a relationship with Nicole, Henley documented an August 12, 2010, conversation she had with Kristofer suggesting that he visit Gianni separately from Nicole.

¶ 13 On February 8, 2011, Sperry completed a service summary and individual treatment plan review of Kristofer's therapy sessions from October 8, 2010, through January 27, 2011. Sperry noted that Kristofer was consistent in attending his sessions and was "steadfast in his determination to be united with his son." Sperry changed the focus of the sessions from the 2005 indicated report of sexual molestation to addressing Kristofer's areas for potential growth. Kristofer continued to deny sexually molesting his grandson and "[s]ex offender services are not effective in individuals who deny they have perpetrated, or in individuals who have legitimately not perpetrated." Sperry found Kristofer's progress "satisfactory" but felt more therapeutic exploration was needed because Kristofer had relapsed to earlier behaviors and Sperry had difficulties redirecting Kristofer's emotion reactions "as he seems to be resigned to his continued apparent victimization."

¶ 14 On February 15, 2011, after a hearing, the court entered another permanency order, setting a goal for substitute care pending court determination on termination of parental rights, explaining that Gianni was "one-and-a-half years old and in a preadoptive non-relative foster home. The mother and father have not made substantial progress towards reunification." This court denied Kristofer's petition for leave to appeal from the trial court's February 15, 2011, permanency order.

¶ 15 On February 22, 2011, Henley initiated a client service plan in which she found that Kristofer had made "unsatisfactory" progress toward reunification with Gianni. Specifically,

Henley noted that Kristofer had made "minimal progress in achieving his therapeutic goals" and continued his relationship with Nicole. Henley also found Nicole had made unsatisfactory progress as she continued to test positive for opiates.

¶ 16 On August 4, 2011, the State filed a motion for the appointment of a guardian with the right to consent to adoption, in which it alleged that both Kristofer and Nicole were unfit to parent Gianni because they had failed to maintain a reasonable degree of interest, concern, or responsibility as to Gianni's welfare and they had failed to make reasonable efforts to correct the conditions which were the basis for the removal of the child from them.

¶ 17 On September 8, 2011, the State filed a pleading indicating that the allegations in their motion for the appointment of a guardian was based on the specific time period of February 11, 2011 to November 11, 2011, and the time period of March 11, 2011, to December 11, 2011.

¶ 18 On the case management conference order dated October 13, 2011, the State and GAL listed nine witnesses. Kristofer listed no separate witnesses and no expert witnesses. Discovery was to remain open through November 8, 2011.

¶ 19 Originally, the trial court scheduled the unfitness hearing for December 8 and 9, 2011. However, on December 8, 2011, the trial court was informed that Kristofer's attorney had a medical emergency and the matter was continued. On January 11, 2012, the court appointed a new lawyer for Kristofer and scheduled the unfitness hearing for March 29 and 30, 2012. On March 12, 2012, Kristofer's counsel filed a written request for a continuance to give him more time to review evidence, which the court granted. The court rescheduled the unfitness hearing for May 21, 2012.

¶ 20 On May 21, 2012, just before the unfitness hearing began, Nicole signed a final and irrevocable consent to Gianni's adoption, which was accepted by the court. The State amended their motion to terminate parental rights to withdraw allegations of unfitness against Nicole.

¶ 21 At the unfitness hearing, Doctor Heather Cintron, an expert in clinical psychology and a clinical psychologist at the Cook County Juvenile Court Clinic, testified that she completed a report in response to the trial court's request to offer clinical information about whether Kristofer would make gains allowing for Gianni to return home. She completed her evaluation on January 3, 2011. She was asked to identify risk factors and protective factors in Kristofer's ability to protect and care for Gianni. Cintron explained that risk factors indicate whether a child would be at risk and whether the parent could provide care to keep the child safe, while protective factors focus on a parent's ability to protect their child adequately while meeting the child's physical and emotional needs. Cintron based her opinion on a forensic evaluation of DCFS medical records and mental health records, clinical interviews with Kristofer, parent-child observation, and discussions with Sperry and Henley.

¶ 22 The first risk factor Cintron identified was Kristofer's difficulty expressing empathy and thinking about others. She said that because of this, Kristofer "more likely than not would have difficulty being in tune to Gianni's emotional needs as Gianni grows and develops. \*\*\* Should Gianni himself make attempts to seek support from his father, there is the possibility that, because [Kristofer] has difficulty developing empathy, then Gianni would be at risk for not having his needs met and getting his needs met." Cintron next identified Kristofer's history of aggression as a risk factor, specifically referring to the multiple orders of protection that Nicole



took out against Kristofer. Kristofer had also been arrested for domestic battery. Another risk factor of concern to Cintron was Kristofer's lack of progress in services. Cintron explained that from reading the records provided and her talks with Sperry, "it did not appear that [Kristofer] was able to develop insight into his behaviors. He continues to blame others for what had been occurring to him." Cintron also believed Kristofer's diagnosis of narcissistic personality disorder was a risk factor. Narcissistic personality disorder causes the individual to lack empathy and the ability to look outside of himself. The individual feels like a constant victim and lets his own needs supercede the needs of others. Cintron believed the diagnosis spoke "to [Kristofer's] ability to be in tune to Gianni's emotional needs." Cintron confirmed Moor's diagnosis for narcissistic personality disorder through her own observations.

¶ 23 Cintron further believed that Kristofer and Nicole remaining together as a couple was a risk factor. Kristofer had a history of aggression with Nicole and exercised an element of control over her. When Gianni was acting out and self-harming, Kristofer and Nicole minimized the issue. Both Kristofer and Nicole had unresolved childhood issues stemming from growing up in abusive households. Cintron also observed that Kristofer minimized the domestic violence that occurred between him and Nicole, stating that the reports of domestic violence were lies but eventually admitted to one incident of picking up Nicole and putting her over his shoulder.

¶ 24 Cintron stated that Kristofer's 2005 indicated report for sexual molestation was not in the scope of her evaluation, but she did briefly speak to Kristofer about it. Kristofer denied having molested his grandson. Cintron was not concerned about the report because Kristofer's therapist did not indicate that Kristofer was a risk factor to Gianni because Kristofer was in therapy and

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was working out the sexual issues.

¶ 25 Cintron gave Kristofer a parental questionnaire. Kristofer's responses indicated that he held inappropriate developmental expectations for a child Gianni's age and that "he believes children of Gianni's age should be able to provide care and emotional support for their parents instead of the parent being able to provide that support to the child." Although Cintron acknowledged that Kristofer had taken care of his siblings, she believed there was "a difference between having empathy for somebody and having support for a family member."

¶ 26 Cintron's conclusion, based upon a reasonable degree of psychological certainty, was that Kristofer's risk factors "significantly" outweighed the protective factors.

¶ 27 Francee Henley testified that she was Gianni's caseworker and had been since August 27, 2009. Henley explained that, based on the 2005 indicated report, she requested a psychosexual evaluation for Kristofer. However, her request was rejected by DCFS because Kristofer had already been indicated for sexual molestation and, therefore, DCFS offered sexual perpetrator services instead. Henley referred Kristofer to Sperry, who had expertise with people who were indicated as sexual abusers.

¶ 28 Henley confirmed that Kristofer had supervised visits with Gianni at her agency. On October 12, 2009, Henley testified that Kristofer repeatedly attempted to close the door to the visitation room despite Henley's request to leave the door open. Kristofer also carried Gianni toward the door in a manner that convinced Henley he was trying to leave the room with Gianni. There had also been reports of Kristofer making comments to Nicole about attempting to flee with Gianni. Due to these incidents, Kristofer's visitation was suspended for four weeks

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beginning on October 15, 2009. When they resumed, the visits had moved from Henley's agency to the juvenile courthouse, which had more security. During a visit on November 23, 2009, Kristofer pulled out a photograph of his grandson, Julius, while he was holding Gianni. Then Kristofer began to stroke Gianni's back "forcibly" and gave Gianni a stuffed animal that had belonged to Julius, which concerned Henley due to the 2005 indicated report.

¶ 29 Henley said that Kristofer was typically accompanied by Nicole for his visits with Gianni. Kristofer's interactions with Gianni were typically appropriate, but Kristofer spent a large portion of the visits speaking to Henley about the status of his case.

¶ 30 In a service plan dated August 17, 2010, Henley rated Kristofer's progress as unsatisfactory. She stated that Kristofer "was consistently engaged in services; however, Mr. John Sperry indicated progress was marginal at that point. [Kristofer] was noted as definitively hostile; maintaining strong persecutory beliefs; unable to identify risk factors in conjunction with that." Henley was also concerned about Kristofer's continued relationship with Nicole. Henley rated Kristofer's visitation as satisfactory because he was participating in weekly visits. Kristofer had weekly supervised visits with Gianni from August 17, 2010, to February 22, 2011. However, Kristofer was not making progress in his visits because Nicole was present for more than half of them. His visits remained supervised and were not increased because Kristofer had not made substantial progress in regard to his individual therapy. The issues Kristofer presented in his mental health assessment were still present: he was guarded, defensive, lacked insight, failed to provide empathy, failed to identify risk factors, and failed to form appropriate boundaries. Kristofer was unable to place Gianni's needs before his own demonstrated by Henley's repeated

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conversations with Kristofer to visit Gianni without Nicole. Kristofer continued to visit with Nicole because he loved her even though visiting with Nicole was detrimental to Gianni.

Kristofer spent the majority of his visits with Gianni speaking to Henley about his case. In addition, Kristofer spent a large portion of his individual therapy sessions speaking about the issues he felt were relevant rather than focusing on the issues that Sperry identified.

¶ 31 In the February 22, 2011, service plan, Henley had found that Kristofer had made unsatisfactory progress. She testified that, specifically, Sperry had "noted that [Kristofer] was continuing to make marginal progress towards addressing his therapeutic diagnostic goals." Henley rated Kristofer as satisfactory in his visitation because he was consistently attending his visits. However, no progress was being made because Nicole's presence compromised the quality of the visits. Kristofer "did not assume a primary role in those visits. He typically sat back and allowed [Nicole] to parent Gianni."

¶ 32 Henley testified that she expressed her concerns about Kristofer's relationship with Nicole to Kristofer on four occasions: April 27, 2010, July 23, 2010, August 12, 2010, and December 15, 2010. Specifically, on April 19, 2010, Henley discouraged Kristofer from continuing his relationship with Nicole and told him she believed it "caused a barrier towards reunification." She also told Kristofer she noticed a difference in his interactions with Gianni when Nicole was present. On August 12, 2010, Henley and Sperry both informed Kristofer that if Nicole was actively using drugs and was not participating in reunification services, it would pose a barrier to Gianni being returned to Kristofer and Nicole as a couple.

¶ 33 Henley also noted that Kristofer displayed difficulty in understanding that, due to drug

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exposure at birth, Gianni was extremely irritable and agitated due to withdrawal. When the withdrawal symptoms became more subdued, he was physically aggressive and displayed self-injurious behavior. Kristofer was upset and confused about Gianni's negative behavior.

Kristofer never improved his handling of Gianni's behavior and, in fact, Henley noticed an increase in Kristofer's difficulty in managing Gianni's behavior between October 15, 2010, and February 7, 2011.

¶ 34 At the conclusion of Henley's testimony, Kristofer made an oral motion for a continuance. His counsel explained that Kristofer had undergone a psychosexual risk evaluation with Doctor Mark Brenzinger. He wanted to call Brenzinger as a witness, but Brenzinger was not available to testify for two weeks. The evaluation had not been available until the previous evening because Kristofer had been unable to pay for the evaluation until then.

¶ 35 The GAL made an oral motion *in limine* to prevent Brenzinger from testifying and Brenzinger's evaluation being entered into evidence, arguing that it was an "unfair surprise for this witness to testify in regard to the case." The State objected to Brenzinger's testimony and evaluation being considered because the report was based on recent therapeutic intervention and "[t]here's many nine-month periods in which we can base the termination of parental rights on that would not require the time that [Kristofer] has spent under the therapeutic services of [Brenzinger]." The State also pointed out that Kristofer's current counsel had been on the case since January 2012, but only indicated that "potentially he would be having this doctor testify" at a pretrial conference on May 18, 2012.

¶ 36 The trial court denied Kristofer's oral motion for a continuance. The court explained:

"Originally this matter was set to go to hearing on March 29, 2012.

I reserved the entire day beginning at 10:30 and the next day I

reserved beginning at 9:00 o'clock, the whole day, March 30th.

But [Kristofer's counsel] did come in with a written motion to

advance and reset the trial on March 12th and indicated he needed

more time to review all of the documents that had been previously

tendered. \*\*\*

I can tell you right now in two weeks the Court doesn't have  
a day available. The week after that I don't have a day available.

The week after that I'm on vacation. When I get back from  
vacation, my docket is full pretty much through the end of July and  
for most of August. I'm not going to continue this case indefinitely  
until this doctor who just recently, I guess, yesterday tendered a  
report is available to testify. This is a case where the State's  
motion that the Court is hearing right now was filed on August 4,  
2011. I probably should not have granted the last continuance, but  
I'm not going to grant one in the middle of trial not an oral  
motion."

¶ 37 Kristofer called as witnesses his daughter Kristol, his sister Sheroz, and his brother Michael. Kristol testified that nothing happened to her son, Julius, when he was five years old and that she lived with Kristofer until she was 22 years old. Sheroz and Michael testified that

Kristofer helped raise his seven younger siblings.

¶ 38 Kristofer testified that he found out Nicole was pregnant with Gianni in either January or February 2009, during an appointment at a methadone clinic. They were not living together at the time, but sometimes Nicole stayed with him. Kristofer took Nicole to appointments once a week during her pregnancy because she was in a methadone clinic, on methadone, and taking heroin and crack cocaine. Kristofer began visiting Gianni in September 2009 and Nicole began accompanying Kristofer on his visits with Gianni in October 2009. Kristofer admitted to closing the door to the visitation room on October 12, 2009, because he wanted privacy. Kristofer's first priority was to raise Gianni with Nicole. Kristofer testified that Henley only told him that it would be difficult to reunify with Gianni if he stayed with Nicole one time, in December 2010. Kristofer continued his relationship with Nicole until April or May 2012. In March 2012, Kristofer began a psychosexual evaluation with Doctor Brenzinger because he did not like the reports completed by Sperry and Moor.

¶ 39 At the conclusion of his testimony, Kristofer renewed his motion for a continuance to allow Brenzinger to testify. As an offer of proof, Kristofer stated that Brenzinger would testify that, at the time of his evaluation, Kristofer did not meet the criteria for narcissistic personality disorder and that he was a low risk for sexually victimizing others. The court again denied Kristofer's request for a continuance, finding the delay was not in Gianni's best interest.

¶ 40 In presenting its findings, the court said it found Cintron was a credible witness and specifically noted that Cintron did not place great significance on Kristofer's 2005 indicated report for sexual molestation in reaching her conclusions. The court also found Henley to be

credible. The court acknowledged inconsistencies between Henley and Kristofer's testimony in regard to the number of conversations about his relationship with Nicole, but found Henley to be more credible with regard to the inconsistencies. The court ruled that, based upon clear and convincing evidence, Kristofer had not made reasonable progress toward Gianni's return home within nine months after the adjudication or during the subsequent nine-month period. The court recognized that Kristofer had been consistent in his visitation with Gianni and had shown interest and concern. However, the court ruled that Kristofer had failed to maintain a reasonable degree of responsibility based on Kristofer's lack of progress and his insistence on maintaining his relationship with Nicole "even long after it was obvious that doing so would preclude him from having the child returned to his care." The court found that Kristofer was an unfit parent.

¶ 41 The court held a best interest hearing on June 21, 2012, and took judicial notice of all the evidence that was presented at the unfitness hearing. Henley testified that Gianni had lived at his current foster home, with Aline and Johnnie H., since August 27, 2009. Henley visited the home twice a month and always found it safe and appropriate without signs of abuse or neglect. Gianni referred to Aline and Johnnie as "mamma and daddy" and verbalized his love for them. Henley observed Aline comforting Gianni and attending to his needs. Henley believed it was in Gianni's best interest that the court terminate Kristofer's parental rights because Gianni had lived with Aline and Johnnie since his release from the hospital and would suffer great emotional harm if he were removed from the home.

¶ 42 Aline H., Gianni's foster mother, testified that Gianni was part of their family and Aline and Johnnie loved Gianni as their own son. They wished to adopt Gianni because he was their



son and a part of their lives.

¶ 43 The trial court found the State had shown by a preponderance of the evidence that it was in Gianni's best interests to terminate Kristofer's parental rights. The court noted that although Kristofer clearly loved Gianni, Gianni viewed Aline and Johnnie as his mother and father and would be emotionally traumatized if Gianni were removed from their home.

¶ 44 Kristofer filed a motion asking the trial court to reconsider its unfitness and best interest findings based on his desire to call Brenzinger as a witness. Kristofer attached Brenzinger's written report to his motion. The report, dated June 4, 2012, showed that Brenzinger evaluated Kristofer on four separate dates between February and May 2012. In his evaluation, Brenzinger considered many documents, including Kristofer's 2005 indicated report, the 2009 assessment, Sperry's mental health assessment, Moor's psychological evaluation, and Cintron's report.

Brenzinger concluded that "at this time" Kristofer did "not meet the diagnostic criterion for" narcissistic personality disorder. Furthermore, Brenzinger found that "at this time" Kristofer was a low risk potential for sexually victimizing others in the community, including Gianni.

Brenzinger recommended that Kristofer's risk potential for sexually victimizing others in the community be reassessed every six to twelve months and said "[i]t is important to note that the risk and intervention recommendations are dynamic in nature" and could fluctuate. Therefore, reassessment was the "best practice approach."

¶ 45 The trial court denied Kristofer's motion to reconsider.

¶ 46 On appeal, Kristofer's first contends that the trial court erred in denying his oral motion for continuance on the second day of the unfitness hearing.

¶ 47 A party has no absolute right to a continuance and the trial court's decision to deny a continuance will only be reversed if the court abused its discretion. *In re Tashika F.*, 333 Ill. App. 3d 165, 169 (2002). Specifically in regard to child custody cases, the Illinois legislature has recognized "that serious delay in the adjudication of abuse, neglect, or dependency cases can cause grave harm to the minor \*\*\* and that it frustrates the healthy, safety, and best interest of the minor and the effort to establish permanent homes for children in need." 705 ILCS 405/2-14 (West 2008). Therefore, unless the complaining party has been prejudiced by the denial of a continuance, it will not be a ground for reversal. *In re K.O.*, 336 Ill. App. 3d 98, 104 (2002).

¶ 48 According to section 2-1007 of the Code of Civil Procedure, a continuance may be granted "on good cause shown, in the discretion of the court and on just terms." 753 ILCS 5/2-1007 (West 2008). As applied to the Act, the term "good cause" is strictly construed in accordance with Supreme Court Rule 231(a) through (f). See Ill. S. Ct. R. 231 (discussing procedure with regard to motions for continuance); *In re Stephen K.*, 373 Ill. App. 3d 7, 28 (2007). This court has reasoned that, "as a result, a court may continue the hearing 'only if the continuance is consistent with the health, safety, and best interests of the minor.' " *In re Stephen K.*, 373 Ill. App. 3d at 28 (quoting 705 ILCS 405/2-14(c) (West 2008)).

¶ 49 In the present case, we find the trial court did not abuse its discretion in denying Kristofer's motion for a continuance. First, Kristofer is unable to show he was prejudiced by the court's denial of his request. Kristofer argues that, by denying his request, the trial court did not allow him to present evidence that the State failed to meet its burden by clear and convincing evidence. However, in seeking to terminate Kristofer's parental rights, the State specifically

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based its findings on the time period of February 11, 2011 to November 11, 2011, and the time period of March 11, 2011, to December 11, 2011. Moreover, the court specifically found Kristofer an unfit parent based on his lack of reasonable progress during the nine-month period subsequent to the entry of adjudication, May 2010 to February 2011, and the subsequent nine-month period, February 2011 to November 2011. Kristofer did not meet with Brenzinger for his psychosexual assessment until March 2012, three months after the time period on which the State specifically based its allegations of unfitness, and four months after the time periods relevant to the court's ultimate finding of unfitness. In addition, the court based its finding that Kristofer failed to maintain a reasonable degree of responsibility to Gianni based on Kristofer's continuing his relationship with Nicole. Henley testified that she informed Kristofer on four separate occasions between April and December 2010 that his relationship with Nicole would create a barrier to his reunification with Gianni. Kristofer testified that he only had one such conversation with Henley in December 2010, but admitted that he nonetheless continued his relationship with Nicole until April or May 2012. The court resolved the discrepancy in testimony in favor of Henley and stated that, even in light of Kristofer's consistent visits with Gianni and his interest and concern for Gianni, it was unreasonable for Kristofer to continue his relationship with Nicole so "long after it was obvious that doing so would preclude him from having the child returned to his care." Kristofer has not presented evidence that Brenzinger's testimony or his report would have any impact on the court's finding that he failed to maintain a reasonable degree of responsibility to Gianni based on his relationship with Nicole.

¶ 50 In his report, Brenzinger concluded that "at this time" Kristofer did not meet the

diagnostic criterion for narcissistic personality disorder. Although Brenzinger reviewed the reports from Sperry, Moor, and Cintron, he neither contradicted their findings nor stated that their evaluations were incorrect. Brenzinger also found that "at this time" Kristofer was a low risk potential for sexually victimizing others in the community. However, Brenzinger did not provide an opinion on the DCFS indicated report that Kristofer sexually molested his grandson. Furthermore, Brenzinger recommended that Kristofer's risk potential for sexually victimizing others be reassessed every six to twelve months due to the dynamic nature of such assessments. Notably, in finding Cintron a credible witness, the trial court specifically observed that she did not give much weight to Kristofer's 2005 indicated report for sexual molestation. As Brenzinger's report has little bearing on the relevant time period and the bases of the court's unfitness findings, Kristofer was not prejudiced by the court's denial of his continuance.

¶ 51 In addition, Kristofer has not shown good cause for delaying the unfitness proceedings. We first observe that Gianni was put in a foster home in August 2009, when he was just over one month old. At the time of the best interest hearing, which began May 21, 2012, the case had been going on for almost three years. Gianni had only lived with Aline and Johnnie H., ever since his release from the hospital. He called them "mamma and daddy" and said he loved them, and Aline and Johnnie loved Gianni as their own son. In denying Kristofer's request for a continuance, the trial court observed that it had already granted a request for continuance from Kristofer in March 2012, continuing the case until May 21, 2012. Furthermore, if the court granted the continuance, it would not be able to schedule a date to finish the hearing until the end of July or August. Any further delay in proceedings would not been in the best interests, health,

or safety of Gianni.

¶ 52 We also find Kristofer's contention that the trial court barred Brenzinger's testimony without merit. The record is clear that the court did not bar Brenzinger as a witness, but merely denied Kristofer's oral motion for a continuance. We acknowledge that Kristofer was not in possession of Brenzinger's report until June 4, 2012, the day before he requested the continuance. However, Kristofer began his psychosexual evaluation with Brenzinger in February 2012, three months before the unfitness hearing began. The record fails to show any effort Kristofer made to notify the State or GAL that he might call Brenzinger as a witness in that time. From the record, it seems that the earliest Kristofer's counsel informed the State and GAL of Brenzinger being a potential witness was on May 18, 2012, three days before the hearing. Despite knowing that he might want to call Brenzinger as a witness as early as February 2012, no further disclosure was made as to the nature of the potential testimony or the existence of any reports until June 5, 2012.

¶ 53 Kristofer next contends that the trial court's findings of unfitness were against the manifest weight of the evidence.

¶ 54 The Act provides a two-step process for the involuntary termination of parental rights. *In re Shauntae P.*, 2012 IL App (1st) 112280, ¶ 88. First, there must be a showing of parental unfitness, followed by a showing that the best interest of the child is served by severing the parental rights. *In re A.F.*, 2012 IL App (2d) 111079, ¶ 40. Before the termination of parental rights may begin, the State must show one statutory factor of unfitness by clear and convincing evidence. *In re A.F.*, 2012 IL App (2d) 111079, ¶ 40. A trial court's finding of unfitness is given great deference and will only be disturbed if it is against the manifest weight of the evidence, or

when the opposite conclusion is clearly evident. *Id.* " 'We defer to the trial court for factual findings and credibility assessments because it is in the best position to make such findings.' " *In re A.F.*, 2012 IL App (2d) 111079, ¶ 40 (quoting *In re April C.*, 345 Ill. App. 3d 872, 889 (2004) (internal quotation marks omitted)). Where an abuse or neglect finding has been made, the parent no longer has a superior right to the custody of his child, and the child's best interests become superior to all other factors. *In re Alicia Z.*, 336 Ill. App. 3d 476, 498 (2002).

¶ 55 Here, the trial court's findings of unfitness were not against the manifest weight of the evidence. The court first found that Kristofer failed to make reasonable progress toward Gianni's return home. Section 1(D)(m) of the Adoption Act provides that a parent is unfit if he fails to make reasonable progress toward the return of his child within nine months after an adjudication of neglect or abuse, or if he fails to make reasonable progress toward the return of his child during any subsequent nine-month period after the initial nine-month period following the adjudication of neglect or abuse. 750 ILCS 50/1(D)(m)(ii), (iii) (West 2008). The reasonableness of a parent's progress toward his child's return home is an objective standard. *In re R.L.*, 352 Ill. App. 3d 985, 998-99 (2004).

¶ 56 In the 2009 assessment, Henley and Szabo noted concerns about Kristofer being "very controlling and domineering" and "overly focused" on Nicole. After a mental health assessment, Sperry diagnosed Kristofer with narcissistic personality disorder, which was confirmed by Moor after a psychological examination. In his report, Moor specifically noted that before reunification with Gianni, Kristofer would have to "demonstrate considerable sustained and meaningful progress in his individual therapy." Cintron completed her evaluation in January 2011 finding

only one protective factor for Kristofer, but a multitude of risk factors, including Kristofer's lack of empathy, Kristofer's incidents of domestic violence with Nicole, Kristofer's failure to advance in individual therapy, and the continuing relationship between Kristofer and Nicole. Cintron concluded that the risk factors "significantly" outweighed the protective factors. Cintron did not place much weight on Kristofer's indicated report for sexual molestation in coming to her conclusion. Henley testified that Kristofer was not making progress in regard to his hostile attitude, inability to identify risk factors, and his relationship with Nicole. Henley informed Kristofer on four separate occasions that his continued relationship with Nicole could create a barrier to his reunification with Gianni, the last discussion occurring in December 2010. However, Kristofer continued his relationship with Nicole until April or May 2012. Additionally, Gianni had special needs and Henley observed an increase in Kristofer's difficulties in dealing with Gianni. Henley never recommended that Kristofer be allowed unsupervised visits with Gianni because Kristofer never showed progress from the issues in his initial mental health assessment with Sperry, including his lack of empathy and his inability to put Gianni's needs before his own. The record clearly shows that Kristofer failed to make progress in services and the trial court's finding was supported by the manifest weight of the evidence.

¶ 57 The court also based its finding of unfitness on Kristofer's failure to maintain a reasonable degree of responsibility as to Gianni's welfare. Section 1(D)(b) of the Adoption Act provides that a parent who fails to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare is unfit. 750 ILCS 50/1(D)(b) (West 2008). A finding of any one of the three elements is sufficient for an unfitness finding. *In re Jaron Z.*, 348 Ill. App. 3d 239, 259 (2004).

A parent is not fit merely because he shows some degree of interest, concern, or responsibility; it must be a reasonable degree. *Id.*

¶ 58 The court stated that Kristofer had demonstrated interest and concern in Gianni's well-being, and acknowledged Kristofer's consistent visitation with Gianni. However, the court found that Kristofer's ongoing relationship with Nicole showed he failed to maintain a reasonable degree of responsibility in regard to Gianni's welfare. Testimony at the unfitness hearing consistently showed Kristofer putting his own needs before those of Gianni. Kristofer testified that his first priority was to raise Gianni with Nicole. Henley, Cintron, Sperry, and Moor all identified Kristofer's relationship with Nicole as a risk factor. Henley informed Kristofer on four separate occasions, between April and December 2010, that his continued relationship would be a barrier to his reunification with Gianni. The trial court found Henley's testimony on this point to be more credible than Kristofer's. However, even after admitting to being told that the relationship would be a problem in December 2010, Kristofer continued his romantic involvement with Nicole until April or May of 2012. Nicole continued to use drugs and failed to engage in recommended services throughout the case. Kristofer's failure to make reasonable progress in ending his relationship with Nicole is analogous to his failure to maintain a reasonable degree of responsibility as to Gianni's welfare. *In re M.J.*, 314 Ill. App. 3d 649, 656 (2000). Therefore, the court's finding that Kristofer failed to maintain a reasonable degree of responsibility as to Gianni's welfare is not against the manifest weight of the evidence.

¶ 59 For the foregoing reasons, we affirm the judgment of the trial court.

¶ 60 Affirmed.