No. 2—11—0107
Order filed May 26, 2011

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re Breonna C. and Kevon C., Minors	)	Appeal from the Circuit Court
	)	of Winnebago County.
	)	
	)	Nos. 07—JA—219
	)	Nos. 07—JA—220
	)	
	)	Honorable
	)	Mary Linn Green, and
(The People of the State of Illinois, Petitioner-Appellee, v. Keith C., Respondent-Appellant).	)	Patrick L. Heaslip,
	)	Judges, Presiding.

JUSTICE ZENOFF delivered the judgment of the court.
Justices Schostok and Hudson concurred in the judgment.

ORDER

Held: Where the trial court's determinations that respondent was an unfit parent and that it was in the minors' best interests to terminate respondent's parental rights were not against the manifest weight of the evidence, the trial court's order terminating respondent's parental rights was affirmed.

Respondent, Keith C., appeals from the termination of his parental rights to the minors, Breonna C. and Kevon C. Respondent argues that the trial court's determinations that he was an unfit parent and that it was in the best interests of the minors to terminate his parental rights were against the manifest weight of the evidence. For the following reasons, we affirm.

BACKGROUND

Respondent is the biological father of the minors, Kevon C., born March 31, 2005, and Breonna C., born September 16, 2006. The biological mother was a respondent in the trial court; however, on August 27, 2010, after the State filed motions to terminate respondent's and the mother's parental rights, the mother voluntarily surrendered her parental rights and consented to Kevon's and Breonna's adoption. Three other minors and other biological fathers were the subject of the trial court proceedings, but their cases are not part of this appeal.

On August 27, 2007, the State filed neglect petitions regarding the minors on grounds, *inter alia*, that the minors' environment was injurious to their welfare because respondent and their mother engaged in domestic violence in their presence. The basis of the neglect petitions included reported incidents in which the minors witnessed respondent hitting their mother, as well as an incident in which respondent broke a glass window above Kevon's playpen. Kevon, who has cerebral palsy, was in the playpen at the time, and glass from the shattered window hit him. That day, after both parents waived their right to a shelter care hearing, the trial court found probable cause to believe that the minors were neglected and granted temporary guardianship and custody to the Department of Children and Family Services (DCFS). The trial court granted DCFS discretion to place the minors with a responsible relative or in traditional foster care, and discretion to allow visitation.

At the October 19, 2007, pretrial conference, both parents stipulated to the alleged neglect of the minors, and the minors were adjudicated neglected. After discussion regarding provisions to allow DCFS discretion to place the minors with the mother, the trial court found that it was in the best interests of the minors and for their safety and welfare that permanent custody and guardianship be granted to DCFS, with discretion to place the minors with their mother, a responsible relative, or

in traditional foster care, and discretion to allow visitation. Breonna and Kevon were placed in a specialized foster home because of Kevon's special needs.

At the April 15, 2008, initial permanency review, Sarah Blair, the Camelot Community Care (Camelot) caseworker for Kevon and Breonna, testified that the minors were doing well in their placement. She testified that respondent visited with Kevon and Breonna two hours a week and attended their doctors' appointments. Susan Mahoney, the Children's Home and Aid Society (CHASI) family caseworker and the caseworker for Breonna's and Kevon's three siblings, testified that respondent had completed parenting classes, obtained a substance abuse assessment, and was recommended for an outpatient treatment program. She also testified that respondent started a new job, regularly visited the minors, and did well with the minors. Her recommended permanency goal was return home within 12 months. During the State's questioning, Mahoney testified that respondent complied with the seven or eight requested "drug drops"—the results of which were negative, although one test yielded a high creatinine level. The State requested the trial court to find that respondent had not made reasonable efforts toward the permanency goal; the minors' attorney concurred. The State pointed out,

> "The caseworker's report regarding [respondent] was significantly different than her testimony. She reported inconsistent visits with the minors. They had to be changed after he began threatening Mom in front of the minors. She said he did not attend outpatient drug treatment through probation. He has not provided verification of his attendance at AA/NA. He's not attending DV counseling, which is why the case was brought into care."

Respondent's attorney requested the trial court to find respondent's efforts reasonable:

> "According to the caseworker's testimony, she has been satisfied with his progression. The State notes he hasn't been engaged in DV counseling. I believe that's outlined in the report. It's currently in the report that he engaged in Clarity Counseling for domestic violence. He was seeing Mr. Logan but had a problem with another party that he was attending group counseling with, had to be switched over to Clarity. But he has been going to domestic violence counseling. These visits go well. He's been able to secure employment."

The trial court found that respondent made reasonable efforts to follow the service plan and achieve the goal of returning the minors home within 12 months.

At the October 14, 2008, permanency review, Mahoney (the CHASI caseworker for the family and siblings) testified that respondent was engaged in domestic violence classes, underwent a substance abuse assessment and was not recommended for treatment, and complied with continued drug drops, the results of which were negative. According to the caseworker, respondent regularly visited the minors and was appropriate during the visits. During the State's questioning, Mahoney testified that respondent was in jail for two months during the review period for probation violations. According to Mahoney, the minors' mother obtained an order of protection against respondent in May 2008. The mother reported that in March, respondent punched her and tried to kick in her door; in April, respondent threatened to beat her; and in May, threatened her and her cousin and tried to kick in the door of her house. Mahoney further acknowledged that the respondent had not completed domestic violence counseling. During questioning by respondent's attorney, Mahoney acknowledged that respondent had been in domestic violence counseling since his release from custody and that respondent's "jail time was from actions that occurred in the past and he had

warrants out for him and he was just picked up for this period." Blair (Breonna's and Kevon's caseworker) testified regarding the minors' continued progress in their foster home.

The State requested the trial court to find that respondent had not made reasonable efforts toward the permanency goal in light of the continued domestic violence incidents. Respondent's attorney requested the trial court "to set the goal of return home within five months and adopt caseworkers' recommendation as to [respondent's] reasonable efforts, that they've been reasonable." According to respondent's attorney, the "times [respondent's] been out of custody he's engaged in domestic violence counseling. He's completed all drug drops and they have been negative, he's completed Rosecrance assessment as per recommendations, and he visits regularly and consistently with his kids." The minors' attorney requested the trial court to adopt the caseworkers' recommendation of the goal of return home within 12 months and find that the parents had made reasonable efforts. The trial court found that it was in the minors' bests interests to maintain a permanency goal of return home within 12 months and that respondent had made reasonable efforts toward the goal.[1]

Prior to the next permanency review, respondent's attorney scheduled a status hearing to address purported disruptions in respondent's visitation schedule. According to respondent's attorney,

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[1]In their respective appellate briefs, both respondent and the State inexplicably represent that at the October 14, 2008, permanency review, the trial court found that respondent had *not* made reasonable efforts toward the permanency goal. The transcript of the hearing and the trial court's order show otherwise.

> "[Respondent's] concerns are the kids are sickly. His visits are set up for Monday mornings, I believe, at like 8:30. My understanding is the procedure is dad is to call between 6:30 and 7:30. The problem, I think, is that due to the kids' medical issues, their being sick very often, [respondent] has expressed quite a deal of frustration over knowing whether or not these visits are going to occur, not occur, if the children will be available at the visits or not available. [Respondent] has to take two or three buses to get to the visit, nand [*sic*] there's simply not enough time in the morning to communicate as to whether there will be a visit. [Respondent] is also, I guess, requesting that the visitation be changed to any other day of the week. He is currently trying to get a job. Due to the visits being on Monday morning he can't get a first shift job."

The trial court instructed the caseworker that the visitation schedule should be changed to accommodate respondent's work schedule if he obtained employment.

At the April 13, 2009, permanency review, Mahoney (the CHASI caseworker for the family and siblings) testified that respondent maintained weekly unsupervised visits with the minors, acted appropriately at the visits, and attended the minors' doctors' appointments. The caseworker also testified that respondent was taking domestic violence classes, was participating in individual counseling, joined an anger management group, and was subjected to continued drug testing. During respondent's attorney's questioning, she further explained that respondent successfully completed domestic violence classes and had requested more information on Kevon's cerebral palsy to better care for him. In response to the minors' attorney's questioning, Mahoney agreed that respondent was progressing well. According to Mahoney, respondent "expressed desire to have the kids with him," which was a possibility if he could obtain a suitable place for the minors.

Inocencia Gomez, the new Camelot caseworker for Breonna and Kevon, testified that the minors' foster parents were meeting the minors' special needs, including physical therapy for Breonna's feet and physical and speech therapy for Kevon's cerebral palsy, and that the minors were doing well there. In response to respondent's attorney's questioning, Gomez testified that respondent was attending and participating in the minors' physical therapy and requested additional information on Kevon's cerebral palsy.

The State requested the trial court to maintain the permanency goal of return home within 12 months and find that respondent made reasonable efforts toward the goal; respondent's attorney agreed. The minors' attorney likewise agreed and requested that respondent "be granted discretion to place." The trial court again found that it was in the minors' bests interests to maintain a permanency goal of return home within 12 months and that respondent made reasonable efforts toward the goal.

At the fourth permanency review on October 13, 2009, Mahoney (at this point, the former CHASI caseworker for the family and siblings) testified that with respect to Breonna's and Kevon's sibling, respondent did not have overnight visitation with her because of "concerns about his paramour" who had "previous involvement with the Department" and whose children were not returned to her. Mahoney's recommendation was that respondent had made reasonable efforts toward the permanency goal and that the goal should be return home of the children within 12 months. During questioning by the State, Mahoney acknowledged that an additional concern with respect to respondent was that "he was collecting LINK for his son, his oldest son who has a sexual abuse charge for [Breonna's and Kevon's older sister] who is the oldest child."

Stephanie Landon-Stepler, the new CHASI family caseworker and caseworker for Breonna's and Kevon's three siblings, testified that she did not have additional information with respect to respondent's paramour. In response to respondent's counsel's questioning, Landon-Stepler testified that respondent was attending counseling and extra domestic violence classes.

Blair (who returned as the Camelot caseworker for Breonna and Kevon) testified that Breonna and Kevon were doing well in their foster home. During the State's questioning, she testified that she was concerned with returning Kevon to respondent if other minors were in the home because Kevon is nonverbal and not able to walk. During questioning by respondent's attorney, Blair stated that respondent had involved himself in Kevon's care and that respondent's visitation was going to be increased and would include unsupervised visitation. Blair acknowledged that placement of the minors in respondent's home was a possibility within the next six months.

The State requested the trial court to find that respondent made reasonable efforts and to maintain the goal of return home within 12 months but stated that issues with respect to Kevon's special needs and respondent's home would need to be resolved. The minors' attorney agreed and noted that he was "against the discretion to place" at that point. The trial court again found that it was in the minors' best interests to maintain a permanency goal of return home within 12 months and that respondent had made reasonable efforts toward the goal.

At the April 12, 2010, permanency review, Penny Hurlbut, Camelot Regional Director and the supervisor assigned to Breonna's and Kevon's cases, testified that respondent had been visiting the minors, but beginning November 30, 2009, respondent "pretty much fell off the—off the face of the earth." The supervisor explained, "[Respondent] would schedule a visit; not schedule a visit. So he did not have any visits with Kevon and Breonna between the 30th of November and the 22nd

of March of 2010." She recommended that the minors' goal be changed to termination of parental rights. During questioning by the State, Hurlbut relayed that the minors' mother had decided to surrender her parental rights. During questioning by respondent's attorney, Hurlbut further explained, "[Respondent] had visits scheduled Monday. And then he was supposed to complete a drug drop in November, which he never did. And then he, as the report details—I can refer back to it—he would call and schedule a visit or no show, and then he would call and schedule another visit and no show."

Respondent testified and explained his missed visitation:

> "December 8th, [the mother] put a—filed a report on me and a warrant came out, and I called my caseworker and told her at that time, 'I need to take care of something. Soon as I get done I'll be at the visits.' She said, 'Okay. Just call me when you're done.' Well, between time they set up a family meeting. And they set the meeting up and they called the police. So right then I couldn't go to nothing until I took care of that."

He stated that he had resumed consistent visitation in the last month and "resolved" the warrant issue. Respondent testified that he had contacted the caseworkers to apprise them of his address, and that he was only required to take one drug drop in the last six months, which was negative. He testified that he completed all requested services, including services for domestic violence and anger management. Respondent testified that he wanted the minors returned to his care.

The State requested the trial court to find that respondent had not made reasonable efforts and change the goal to substitute care in light of respondent's noncompliance with visitation. The minors' attorney agreed and requested that the goal be set at substitute care pending the trial court's

determination of parental rights. Respondent's attorney requested the trial court to maintain the goal of return home within 12 months despite that "things have been a bit crazy this last six-month period." He pointed out that respondent was visiting the minors prior to this time period, had resumed visitation, and had completed numerous services. The trial court found that respondent had not made reasonable efforts toward the goal of the minors' return and changed the goal to substitute care pending its determination of parental rights.

On June 11, 2010, the State filed motions to terminate respondent's (and the mother's) parental rights. The State alleged that respondent was unfit because he failed to maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare and failed to protect the minors from conditions within their environment injurious to the minors' welfare. On August 27, 2010, the mother signed consents for Breonna's and Kevon's adoption.

The trial commenced on December 8, 2010. Respondent was present but in custody of the county jail. Through his attorney, respondent requested to be excused from the hearing. The following colloquy ensued:

"THE COURT: Do you wish not to be present in the courtroom while we have this hearing?

RESPONDENT: Yes, ma'am.

THE COURT: Do you understand what the hearing is about?

RESPONDENT: Yes, ma'am.

THE COURT: Do you understand the ramifications that could be caused by you not being here to participate personally?

RESPONDENT: It's been decided already.

THE COURT: Have you had a chance to discuss this with your attorney?

RESPONDENT: Yes, ma'am.

THE COURT: Are there any objections by any of the parties?

MS. WELLS [Assistant State's Attorney]: Judge, I would just ask that the record be extremely clear that the issue being decided today is termination of parental rights. That the issue has not been decided, that's why we're here for hearing. And while [respondent] has a right to be present, he also has a right not to be present, and as long as the Court has already inquired as to if he's aware of the ramifications, but I was concerned about his comment that it's already been decided.

THE COURT: Thank you. Anyone else?

MS. ZALUD [Court Appointed Special Advocate]: No. I would agree with the State. We need the record to be clear for any appeal issues.

THE COURT: Okay. [Respondent], you understand that the hearing we're having today, the issue is termination of parental rights. Do you understand that, sir?

RESPONDENT: Yes, ma'am.

THE COURT: And as the attorney noted, that decision has not been made yet because we have not had the hearing and heard all the evidence. Do you understand that?

RESPONDENT: Yes, ma'am.

THE COURT: Knowing that, do you still wish not to participate in the hearing?

RESPONDENT: Yes, ma'am.

THE COURT: Okay. Okay. How do you wish to proceed?

> MS. WELLS: Judge, it is my understanding that, well, it's not my understanding, I am aware that mother has signed specified consents [to adoption] as to Breonna and Kevon ****.
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> * * *
>
> MS. WELLS: But I would be proving up unfitness as to both fathers as to the fathers of those children today, if mom stipulates; and as to the other two children [Breonna and Kevon], Judge, we would be wanting to go forward with both unfitness and best interests as to the two that mother has already signed consents on."

Amanda Edler, the foster care manager at CHASI assigned to the family, testified that, as set forth in the service plans, the issues that prevented placement of the minors with respondent were substance abuse, domestic violence, failure to provide for and visit the minors, and noncompliance with the criminal justice system. The five service plans for the time period under review were admitted into evidence without objection.

Breonna and Kevon's foster mother testified that Breonna and Kevon had been living with her since October 8, 2007. She met respondent in November 2007 and gave respondent her address and telephone number. Respondent telephoned her and visited the minors early in the case, but he had not visited them at her home or telephoned them in the last year. She testified that respondent periodically attended Kevon's weekly physical therapy sessions but had not attended a session since approximately August 2010. During questioning by respondent's attorney, the foster mother testified that respondent attended about 16 of Kevon's physical therapy sessions since Breonna and Kevon became her foster children in 2007.

Sarah Blair (the Camelot caseworker for Breonna and Kevon) testified that respondent had not visited the minors since August 16, 2010. She also testified that respondent had attended only one of Kevon's annual individualized education plan meetings and did not contact Blair to inquire about either the results of the meeting or Kevon's needs. Blair explained that she and the foster parent currently were responsible for overseeing Kevon's medical needs. Blair further testified that, in the last year, respondent had not requested to attend Kevon's medical appointments, although she acknowledged that her supervisor denied respondent's request for a bus pass to attend therapy "because he was coming to all of the visits, fine, and he was able to maintain a cell phone and cigarettes." During respondent's attorney's questioning, Blair acknowledged that respondent did previously have a two-hour weekly visitation with Kevon and Breonna and that one of the hours was unsupervised. During questioning by counsel for the Court Appointed Special Advocate (CASA), Blair testified that the last unsupervised visit was in spring or summer of 2009. According to Blair, the "[v]isits went back to supervised at that time because he was in a relationship with another woman at the time where there was some suspected domestic violence in the relationship. [Respondent] was leaving Kevon with the paramour and taking Breonna for walks." Blair stated that she did not consider this safe.

The State introduced, without objection, six DCFS "indicated" investigative reports for incidents that occurred between 2002 and 2007. The reports largely reflected instances of neglect and inadequate supervision and food by both parents. The State also introduced, without objection, evidence of respondent's criminal history, including felony convictions for burglary in 1989, robbery in 1993, violation of the Illinois Controlled Substances Act in 1998, and violation of the Illinois Controlled Substances Act in 2000. Pursuant to the State's request, to which there was no objection,

the trial court took judicial notice of a 2001 criminal case in which respondent was sentenced to 30 months' imprisonment after his probation was revoked, as well as the neglect petitions, orders, and docket entries in the case. CASA counsel supported the State's request to terminate respondent's parental rights, noting, "Do I believe that [respondent] had interest in his children? Yeah. Absolutely, I honestly don't think that's disputed. But has he had concern or responsibility as to those children? No. And I would definitely say it has not been reasonable."

Following closing arguments, the trial court found:

"The State [*sic*] has heard the evidence, considered the testimony given today, as well as the documentary evidence and considered arguments of counsel.

* * *

As to the minor, Kevon, and [respondent], the Court finds that the State has met its burden by clear and convincing evidence, that as to Kevon, [respondent] has failed to maintain a reasonable degree of interest, concern, or responsibility as to Kevon's welfare and also has met its burden as to Count 2 and [*sic*] in that [respondent] has failed to check—protect Kevon from conditions within his environment, injurious to his welfare. The Court makes these findings based upon the same evidence as previously stated as in regards to Keyonna ["all the documentary evidence that the State has presented today and was admitted into evidence, including indicated packets, the documentary evidence of convictions, as well as the service plans"].

As to Breonna, the Court finds that [respondent] has—that the State has met it's [*sic*] burden by clear and convincing evidence in proving Count 1 of paragraph 9, that [respondent] has failed to maintain a degree of interest, care, or concern as to Breonna's

> welfare. The Court further finds the State has met its burden in proving Count 2, that [respondent] has failed to protect Breonna from conditions within her environment injurious to her welfare."

The trial court proceeded to a best interests hearing. Blair, the minors' caseworker, opined that it was in Breonna's and Kevon's best interests that respondent's parental rights be terminated. She testified that respondent was currently incarcerated for domestic violence charges and that based on his criminal history and current incarceration, she was concerned about his ability to meet Breonna's and Kevon's needs. Blair further testified that Breonna and Kevon have a loving bond with their foster parents and "know no different." She explained that the foster parents, who received specialized training for Kevon's needs, expressed their willingness to adopt Breonna and Kevon. With respect to separation of Breonna and Kevon from their other siblings, the caseworker testified that the foster parents were committed to maintaining a sibling relationship and that "[d]ue to safety concerns with the other children's behaviors and with Kevon having the special needs that he has, it would be very difficult and I believe time consuming for all children to be placed together for all of their needs to be met."

During questioning by respondent's attorney, Blair acknowledged that she observed visitation between respondent and the minors and that the visitation was always safe and appropriate. During questioning by the CASA attorney, Blair testified that Breonna told her that she would like to stay "in her home that she presently lives in." Blair explained that it would take at least 18 months for respondent to establish reasonable efforts toward the goal of returning the minors to his care.

Pursuant to the State's request, to which there was no objection, the trial court took judicial notice of the evidence and testimony from the unfitness hearing. CASA counsel supported the

State's request to terminate respondent's parental rights and requested the trial court to review the reports of CASA, Camelot, and CHASI.

Following closing arguments, the trial court found that the State proved by a preponderance of the evidence that it was in the minors' best interests to terminate respondent's parental rights:

> "The Court has considered the testimony, the documentary evidence, and the arguments of counsel as to the best interests of these minors.
>
> The Court will note that in any decision made today, certainly, I'm not suggesting that [respondent] does not love his children, but as we all know, it takes more than love, and it takes a constant attention day after day and getting up and taking care of kids with special needs. Sometimes some days are harder than others, and I think we've heard a lot of evidence about that today, but I did want to make that statement on the record.
>
> The Court also has just reviewed yesterday the CASA and the Camelot and the CHASI reports, their recent reports, and so I'm conversant with the information in them, and I've taken that into consideration as well. The Court hereby finds that it is in the best interests of the minors, Kevon and Breonna [C.], to terminate the parental rights of both [respondent] and to all whom it may concern.
>
> The Court further finds that the State has proven the best interests of the minors, based upon those statutory factors by a preponderance of the evidence. ***"

Accordingly, the trial court terminated respondent's parental rights. Respondent timely appealed.

ANALYSIS

The decision to terminate parental rights is governed by the interrelationship of the Adoption Act (750 ILCS 50/1 *et seq.* (West 2008)) and the Juvenile Court Act of 1987 (705 ILCS 405/1—1

et seq. (West 2008)). *In re B.B.*, 386 Ill. App. 3d 686, 698 (2008). The State first must establish by clear and convincing evidence one statutory ground of parental unfitness. *B.B.*, 386 Ill. App. 3d at 698; *In re M.J.*, 314 Ill. App. 3d 649, 655 (2000). Statutory grounds for parental unfitness include failure to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare and failure to protect the child from conditions within his or her environment injurious to the child's welfare. 750 ILCS 50/1(D)(b), (g) (West 2008).

If the trial court finds a parent unfit, the court must conduct a second proceeding to determine whether it is in the best interests of the minor to terminate parental rights. *B.B.*, 386 Ill. App. 3d at 698; *M.J.*, 314 Ill. App. 3d at 655. At this stage, the State is required to prove by a preponderance of the evidence that it is in the child's best interests to terminate parental rights. *B.B.*, 386 Ill. App. 3d at 699. Resolution of this issue requires consideration of the following factors: (1) the child's physical safety and welfare, including food, shelter, health, and clothing; (2) the development of the child's identity; (3) the child's background and ties, including familial, cultural, and religious; (4) the child's sense of attachments, including where the child actually feels love, attachment, and a sense of being valued, the child's sense of security and familiarity, continuity of affection for the child, and the least disruptive placement alternative for the child; (5) the child's wishes and long-term goals; (6) the child's community ties, including church, school, and friends; (7) the child's need for permanence, including stability and continuity of relationships with parent figures, siblings, and other relatives; (8) the uniqueness of every family and every child; (9) the risks related to substitute care; and (10) the preferences of the person available to care for the child. 705 ILCS 405/1—3(4.05) (West 2008); *B.B.*, 386 Ill. App. 3d at 698-99. A trial court is not required to articulate any specific

rationale for its decision or explicitly mention each factor. *In re Jaron Z.*, 348 Ill. App. 3d 239, 262-63 (2004).

A trial court's decision to terminate parental rights involves factual findings and credibility assessments that the trial court is in the best position to make. *M.J.*, 314 Ill. App. 3d at 655. We will not reverse the trial court's decision unless it is against the manifest weight of the evidence. *B.B.*, 386 Ill. App. 3d at 697; *M.J.*, 314 Ill. App. 3d at 655. A decision is against the manifest weight of the evidence only if the opposite conclusion is clearly evident or the determination is unreasonable, arbitrary, and not based on the evidence presented. *B.B.*, 386 Ill. App. 3d at 697-98; *M.J.*, 314 Ill. App. 3d at 655.

Respondent argues that the trial court's finding that he failed to maintain a reasonable degree of interest, concern, or responsibility for the minors' welfare was against the manifest weight of the evidence. According to respondent, he was "in and out of custody for most of the time since he stopped having visits in 2010, and could not provide any support, provide care or contribute to alternate care." Respondent provides no record support. It is clear from the record that respondent was in custody during some of the time period under review, but the length of his incarceration is unclear. Moreover, the evidence demonstrated that respondent did not telephone or write his children during the time period when he failed to visit—actions he could have taken despite being in custody.

The record reflects that respondent had not seen Kevon or Breonna at all between November 30, 2009, and March 22, 2010. Visitation apparently resumed in March 2010, yet ceased again in August 2010. In sum, the evidence showed that respondent inexplicably did not visit the minors for much of the year preceding the termination hearing.

Respondent contends that he visited the children from 2007 to 2009 and was found to have made reasonable efforts toward his service plan goals for the majority of that time period. Indeed, respondent points out, he voluntarily attended extra domestic violence classes and obtained supplemental information on cerebral palsy. However, a parent is not fit merely because he has demonstrated *some* interest in or affection for his child. *M.J.*, 314 Ill. App. 3d at 657. The demonstration of interest, concern, or responsibility must be reasonable. *M.J.*, 314 Ill. App. 3d at 657. Here, while respondent initially was found to have made reasonable efforts toward the goal of returning the minors home, respondent's compliance with his service plan was subsequently rated unsatisfactory because he had not cooperated with the caseworker, failed to attend scheduled visitation with the minors, and failed to attend Kevon's medical or therapy appointments.

The evidence at the fitness hearing also demonstrated that respondent attended 16 of Kevon's therapy sessions during the over three-year time period that Kevon was in foster care. However, the sessions were weekly, which meant respondent did *not* attend most of the sessions. Kevon's foster mother testified at the December 8, 2010, fitness hearing that respondent had not attended a session since August 2010.

Respondent absented himself from the termination hearing for the stated reason "[i]t's been decided already." Respondent persisted in his decision not to participate in the hearing despite the trial court's admonition that the hearing involved the termination of his parental rights and that the decision would not be made until all of the evidence was presented. Respondent now states that the mother had "trumped up" the domestic violence charges against him, was herself facing "gun charges," was noncompliant with her service plan goals, and had recently surrendered her parental rights. Thus, respondent argues, "The evidence suggests that, rather than ceasing his efforts to get

the children, [respondent] was effectively obstructed by Mother, despite his on-going interest, concern, and efforts to get approval for having the minors. This explains why [respondent] believed, at the time of the termination hearing, that 'It's been decided already.' " Respondent's explanation does not make sense. The mother's noncompliance with her service goals and surrender of her parental rights did not resolve *respondent's* parental rights. The trial court's admonition to respondent made it clear that his parental rights had not yet been resolved.

Respondent contends that the evidence regarding "concerns" about his new paramour did not amount to clear and convincing evidence of unfitness, "yet that is what the State argued and the court found." The minors' caseworker testified that respondent's unsupervised visitation was terminated in the spring or summer of 2009 because respondent was in a relationship in which domestic violence was suspected and he was leaving Kevon with the girlfriend. Respondent suggests that the trial court based its unfitness determination on this evidence alone. To the contrary, the trial court did not refer to respondent's paramour in its findings and explicitly based its unfitness finding on all of the documentary evidence and testimony. The trial court's finding that respondent failed to maintain a reasonable degree of interest, concern, or responsibility for the minors' welfare was not against the manifest weight of the evidence.

In light of our holding, we need not address respondent's argument that the trial court's finding that respondent failed to protect Breonna and Kevon from conditions within their environment injurious to their welfare was against the manifest weight of the evidence. See *M.J.*, 314 Ill. App. 3d at 655 ("[O]n review, if there is sufficient evidence to satisfy any one statutory ground we need not consider other findings of parental unfitness."). Nevertheless, we hold that the trial court's finding as to this additional statutory ground of parental unfitness was not against the

manifest weight of the evidence. Respondent contends that it was "illogical to argue that [he] failed to protect the children when he had been considered as a placement for those children as recently as October 2009, and the facts adduced at trial pertain to circumstances which predate the filing of the case in 2007." According to respondent, it was "improper to offer evidence of prior conduct as evidence of unfitness, when [respondent] was successfully in services for years and had no further opportunity to place the children in the 'injurious environment' which no longer existed."

A similar argument was rejected by the appellate court in *In re G.V.*, 292 Ill. App. 3d 301, 307-08 (1997). There, the respondent argued that failure to protect the minor from conditions within the minor's environment injurious to the minor's welfare was not a proper ground for termination of her parental rights because the minor had been in foster care since being removed from the respondent's care. *In re G.V.*, 292 Ill. App. 3d at 307-08. The appellate court held that the failure to protect a child from an injurious environment may form the basis for both the removal of the child from the home pursuant to a neglect petition and a termination of parental rights. *In re G.V.*, 292 Ill. App. 3d at 308.

In this case, with respect to the initial neglect petitions filed in 2007, respondent stipulated to the factual basis of the petition—that he and the mother engaged in domestic violence in the minors' presence. At the termination hearing, the foster care manager testified that respondent's unresolved issues continued to include domestic violence, as well as substance abuse and noncompliance with the criminal justice system. Accordingly, the trial court's finding that respondent failed to protect Breonna and Kevon from conditions within their environment injurious to their welfare was not against the manifest weight of the evidence.

Respondent also contends that the trial court's finding that it was in Breonna's and Kevon's best interests to terminate respondent's parental rights was against the manifest weight of the evidence. Respondent's sole argument is that the trial court reviewed reports that "were not offered into evidence and subject to cross-examination." Respondent does not identify the reports to which he refers. Presumably he means the CASA, Camelot, and CHASI reports, which CASA counsel requested the trial court to review and to which the trial court referred in its best interests finding. These reports were not admitted as exhibits at the trial, although they bear various file-stamped dates. Respondent forfeited his argument that the trial court improperly considered the reports because he never objected to the trial court's consideration of them. See *In re Jay. H.*, 395 Ill. App. 3d 1063, 1067 (2009) (stating that the respondents forfeited their argument that the trial court improperly took judicial notice of various documents at the best interests hearing by failing to object at the hearing).

Moreover, the formal rules of evidence do not apply at the best interests hearing. *Jay. H.*, 395 Ill. App. 3d at 1070. Rather, the trial court may rely upon "all evidence helpful (in the trial court's judgment) in determining the questions before the court" to the extent of its probative value. *Jay. H.*, 395 Ill. App. 3d at 1070. The CASA, Camelot, and CHASI reports outlined the testimony and arguments set forth at the permanency reviews and parental termination hearing—information probative of the best interests factors. Respondent provides no basis upon which to hold that the trial court improperly considered this information.

In addition to the reports, the trial court stated that it considered "the testimony, the documentary evidence, and the arguments of counsel as to the best interests of these minors." The evidence presented at the best interests hearing showed that respondent was incarcerated and had not

visited the minors for much of the preceding year. The minors' caseworker testified that she was concerned about respondent's ability to meet the minors' needs based on his current incarceration and criminal history. Respondent chose not to attend the best interests hearing and presented absolutely no evidence to support his ability to care for the minors. The evidence established that Breonna and Kevon had bonded with their foster parents during the three years in their care and at this point in their young lives, "kn[e]w no different." The foster parents were willing to adopt Breonna and Kevon. The caseworker testified that even if respondent were released from incarceration, it would take at least 18 months, after the resumption of services, before it would be possible for the minors to reside with him. In light of this evidence, we cannot say that the trial court's finding that it was in Breonna's and Kevon's best interests to terminate respondent's parental rights was against the manifest weight of the evidence.

For the foregoing reasons, we affirm the judgment of the circuit court of Winnebago County.

Affirmed.