2014 IL App (2d) 130723-U
Nos. 2-13-0723, 2-13-0724, 2-13-0725, & 2-13-0726
Order filed April 28, 2014

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re DESHAWN T-W., MARKELE W., DE'ANDRE W., and MARSHONE W.,	)	Appeal from the Circuit Court of Winnebago County.
Minors.	)	Nos. 09-JA-07, 09-JA-08, 09-JA-09, 09-JA-10
(The People of the State of Illinois, Petitioner-Appellee, v. Nakisha W. Respondent-Appellant).	)	Honorable Mary Linn Green, Judge, Presiding.

JUSTICE JORGENSEN delivered the judgment of the court.
Presiding Justice Burke and Justice Hutchinson concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's unfitness finding was not contrary to the manifest weight of the evidence. Affirmed.

¶ 2 Respondent, Nakisha W., appeals the trial court's August 17, 2013, finding that she is unfit to parent four of her five children, DeShawn T-W., Markele W., De'Andre W., and Marshone W. We affirm.

¶ 3 I. BACKGROUND

¶ 4 As general background, we note that respondent lives in Rockford and is the mother of five children: Flora (born June 2, 2000), Marshone (born November 11, 2002), De'Andre (born

January 29, 2005), Markele (born December 28, 2006), and DeShawn (born January 11, 2008). Respondent's parental rights as to Flora are not at issue in this appeal. We further note that respondent has a hearing impairment, requiring, depending on the situation, the use of an aid to provide captioning services, hearing aids, or the ability to face a speaker in order to read lips.

¶ 5 A. Pre-Protective Custody

¶ 6 On May 4, 2008, the Department of Children and Family Services (DCFS) investigated a hotline call alleging that respondent had abused Flora by cutting off her hair for no reason and, further, that she had neglected to seek medical attention for a burn on De'Andre's stomach. The investigation, however, revealed that Flora had asked respondent to cut her hair. Respondent's mother, Marilyn W., was upset by it and tried to stab respondent. According to a DCFS statement of facts contained in the record, Flora reported that: "My grandma pulled a knife on my mom and tried to kill her. I watched my grandma do this, [and] I was scared." Respondent confirmed Flora's report that Marilyn was upset, pulled a knife on her, and tried to choke her. Further, Flora told investigators that De'Andre was burned by his cousin, who put a light bulb on his stomach. Respondent was not in the room at the time, but she treated the burn with Vaseline and peroxide and bandaged it. Marshone corroborated Flora's statements. The investigator noted that the children were dressed in clean clothing and had good hygiene; however, the investigator noted that the home needed to be cleaned, and, according to one of the service plans admitted into evidence, the "home environment was filthy dirty." Flora and Marshone reported that the police were frequently called to the residence because of fights between respondent and Marilyn, and that Marilyn drinks and abuses drugs. The investigator located cocaine and a razor blade on a piece of glass in Marilyn's bedroom, accessible to the minors.

¶ 7 DCFS created a safety plan to protect the children from Marilyn. The plan required that Marilyn not have any contact with the children and that respondent obtain an order of protection against Marilyn. Respondent obtained the order of protection. DCFS did *not* take protective custody of the children at that time.

¶ 8 B. Protective Custody and Neglect Proceedings

¶ 9 Around eight months later, on January 6, 2009, DCFS received a report that respondent left her infant nephew in Flora's care (Flora was eight years old), when, at the time, respondent was supposed to be the nephew's caregiver. The nephew was taken to the emergency room for a puncture wound to his scrotum. DCFS learned that Flora had stabbed the infant with a pencil. DCFS immediately took protective custody of respondent's children. According to a DCFS statement of facts contained in the record, the home at this time was "filthy" and had evidence of vermin.

¶ 10 The State filed a neglect petition the next day, alleging that, by allowing Flora to supervise and injure the nephew, respondent had placed all the children at a risk of harm. Respondent waived her right to a shelter care hearing. By agreement of all parties, respondent retained guardianship and custody of all children, but Flora was placed with respondent's grandmother. The boys remained with respondent, and all contact between Flora and the children was to be at DCFS's discretion. On February 27, 2009, this arrangement was essentially formalized in an order of continuance under supervision.

¶ 11 One month later, however, on March 27, 2009, the State petitioned to revoke the order of continuance under supervision because, on March 23, 2009, police responded to a call that two women were fighting in the residence. DCFS learned that respondent had left the children in Marilyn's care. When respondent returned home, she and Marilyn began drinking alcohol.

When respondent refused to give Marilyn money to buy more alcohol, the two women engaged in a physical altercation. Except for Flora, all children were home during the fight. According to a DCFS statement of facts, there was a strong smell coming from the house and the children were dressed in dirty clothes and appeared filthy. The court granted DCFS temporary guardianship and custody of the children. The four boys were placed with respondent's grandmother, and Flora was placed with an aunt.

¶ 12 On September 9, 2009, the State filed dependency petitions as to each child, alleging that the minors were without proper care because respondent's hearing disability and her developmental delays prevented her from properly caring for the children. Respondent stipulated to the petitions' factual allegations. The court adjudged the minors dependent and granted DCFS guardianship and custody. Respondent was ordered to cooperate with DCFS services.

¶ 13 C. Review Periods

¶ 14 Between September 9, 2009 and January 3, 2012, there were five review periods.[1] In all five, the court found that respondent made reasonable *efforts*. Indeed, the court emphasized, as did the State, that respondent tried to do what was asked of her, exercised visitation, and clearly loved her children. However, in the last two review periods, the court found that respondent had failed to make reasonable *progress* toward the goal of returning the children home to her care.

¶ 15 Specifically, respondent's services included individual counseling, parenting coaching, participating in "ARC" services (ARC is apparently an entity that assists individuals with

[1] The dates of the review periods were: (1) September 9, 2009, to March 9, 2010; (2) March 9, 2010, to September 7, 2010; (3) September 7, 2010, to March 8, 2011; (4) March 8, 2011, to August 30, 2011; and (5) August 30, 2011, to January 3, 2012.

managing budgets) and a substance abuse evaluation (respondent was not, however, referred for any substance abuse treatment). She followed the recommendations.

¶ 16 Respondent was also referred for a psychological evaluation. That evaluation was conducted on June 7, 2010, by Dr. Kelly Vinehout. Vinehout diagnosed respondent with mild mental retardation and an intelligence quotient (I.Q.) of 64. She further found that respondent is functionally illiterate and is able to read and write at only a first-grade level. Vinehout found that respondent's prognosis for living alone with the children was "poor." However, respondent's prognosis for living with the children with adult assistance, such as from her grandmother, was "good." Finally, Vinehout found that respondent's I.Q. and functioning might improve with hearing aids.

¶ 17 In the third review period, a DCFS caseworker reported that respondent's visits with the children were chaotic and that she struggled to maintain control over them. According to the caseworker, respondent did not often have planned activities for the children, and most of the visits consisted of the children watching television and playing video games. In addition, respondent struggled to maintain her finances with ARC, which had become the payee for her social security benefits. She had a $700 cable bill and had not tendered to ARC her gas and electric bills for payment. According to the caseworker, respondent's developmental delays made it very difficult for her to manage money or understand budgeting.

¶ 18 In the fourth review period, the boys were removed from respondent's grandmother's care because she had whipped one of them with a dog leash. They were placed in a foster home in Aurora. In addition, in June 2011, respondent was discharged from parenting coaching because the parenting coach had determined that she was no longer making any progress toward the goals outlined by the service provider. In addition, she continued to have trouble controlling

the children during visits. A caseworker reported that respondent continued to struggle with basic parenting skills and maintaining a safe and healthy home. It was reported that her home was often dirty and smelled of pet urine. Finally, respondent began living with her paramour, who was unemployed and had a history of depression, suicide attempts, and unstable relationships.

¶ 19 On July 27, 2011, respondent participated in a parenting capacity assessment with Ellen Frank, a licensed clinical social worker. The results of that assessment were filed with the court in the final review period. According to Frank, although respondent and the children were attached to one another, respondent did not meet minimal parenting standards and would be unlikely to do so in the reasonably-near future. She recommended that respondent be removed from consideration as a permanent placement for the children. Also during the final review period, the caseworker reported that respondent continued to struggle to enforce boundaries during visits. Her September 8, 2011, service plan was rated "unsatisfactory progress."

¶ 20 The court found that respondent made reasonable efforts, but not reasonable progress. Accordingly, it changed the goal from return home to substitute care pending court determination of parental rights.

¶ 21 D. Petition to Terminate and Fitness Hearing

¶ 22 On March 2, 2012, the State filed under the Adoption Act (Act) (750 ILCS 50/1 *et seq.* (West 2012)) a four-count termination petition. The petition to terminate alleged that respondent was unfit for: (1) failure to maintain a reasonable degree of interest, concern, or responsibility as to the children's welfare (750 ILCS 50/1(D)(b) (West 2012)); (2) failure "to protect" the children from conditions within their environment injurious to their welfare (750 ILCS 50/1(D)(g) (West 2012)); (3) failure to make reasonable progress toward the return of the children within any nine-

month period after the first nine months following adjudication (750 ILCS 50/1(D)(m)(iii) (West 2012)); and (4) because she is unable to discharge her parental responsibilities (supported by competent evidence from a psychiatrist, licensed clinical social worker, or clinical psychologist of a mental impairment, mental illness or mental retardation or developmental disability) and there is sufficient justification to believe that the inability to discharge parental duties shall extend beyond a reasonable time (750 ILCS 50/1(D)(p) (West 2012)).

¶ 23 The fitness hearing commenced on August 17, 2013. The State provided evidence from three witnesses. First, Cara Kimble, respondent's counselor, testified that, from 2009 to 2011, she counseled respondent on personal issues, childhood abuse, victimization, and issues related to daily functioning. Kimble discharged respondent from counseling when "it appeared she had reached maximum benefit of services" through the agency. Kimble prepared a discharge report at the end of respondent's counseling. The report stated that respondent had "no change" in her progress for meeting the minimal basic needs of her children, including maintaining a clean and safe home, providing nutritious meals, medical care, and social and educational goals, and that she continued to be "significantly limited" in managing her finances, job skills, and family support.

¶ 24 As respondent points out on appeal, some of Kimble's testimony is seemingly inconsistent or unclear. For example, Kimble testified that she was concerned about respondent's parenting abilities, and her report stated that there was no change in respondent's abilities to meet basic needs, but then she also testified that basic needs were being met. Although her report stated that respondent's abilities to maintain a clean and safe home had not changed, Kimble testified that respondent's skills in that area were "appropriate" and she was, in fact, able to maintain a clean and safe home. When asked to explain how respondent failed to

demonstrate progress in housing, she answered "Just having limited abilities to be able to advance within the community." In most of the areas in which respondent had limitations, Kimble testified that her progress had not changed: "there was no decrease in progress, and there was no increase in progress." Kimble agreed that respondent made some progress in the goals of: (1) discussing and gaining knowledge of her own sexual abuse and how it affected her; (2) recognizing patterns of conflict in relationships and choices of partners; (3) developing alternate coping strategies to compensate for cognitive limitations; (4) treating her hearing and vision diagnoses (by obtaining hearing aids and glasses); (5) identifying resources in the community and taking advantage of those resources; and (6) understanding her vulnerability to exploitation and obtaining an awareness that she needs to protect her children from that risk.

¶ 25 Kimble testified that she observed respondent with the children about 15 times. During those visits, respondent would interact with the children, prepare meals, attempt to help them with homework, engage in social activities and games, and sometimes watch movies. On a few visits, the two older boys acted out because they wanted to do something other than play with their younger brothers. Kimble testified that respondent "tried her best," but had difficulty handling those situations, noting that respondent had limited abilities to get them to settle down, to listen, and not to run away. Kimble explained that redirecting the boys and getting them to comply with timeouts and settle down could take respondent more than 15 minutes. She agreed, however, that it is not unusual for it to take 15 minutes to settle down children who are acting out. Kimble agreed that respondent was not *always* unable to control them and that she could, if given enough time, usually redirect them. When asked if it would be difficult for any parent to handle the older boys' behavioral, social, and emotional challenges, Kimble agreed that it "could be." Kimble testified that, after a visit with the family, she would, in individual sessions with

respondent, discuss with her the areas of concern and the areas in which she still needed to improve. Kimble concluded that it would be very challenging for respondent to manage a household with her five children without committed support from a relative.

¶ 26 Second, social worker Frank testified that she completed respondent's parenting assessment, which includes a review of records and respondent's history, interviews with respondent and the caseworker, observations of respondent with the children, and two tests. The psychological testing, which includes intelligence testing, is beyond Frank's expertise, but she is familiar with such reports and considered respondent's psychological evaluation as one piece in the global assessment. Frank testified that her observations were consistent with the findings in the psychological report and that there was evidence to support the diagnosis of mild mental retardation. For example, Frank explained that part of parenting is being able to correctly interpret information from a child's actions and to anticipate a coming problem.

> "In this particular case, the eldest girl was talking about drinking a gallon of Mountain Dew at one sitting; [respondent] doesn't respond. This is also a very simple example. But parenting requires increasingly sophisticated analysis of the world and good judgment about shaping your children's lives, saying yes or no, and how to respond to things.
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> She—because two reasons, her mentation, her thought process were slow and very basic. There were elements in real world things occurring that she was missing, and it's exacerbated by her hearing impairment. It was impossible to tell at moments if she either didn't hear it or didn't understand it. But in the real world, it makes no difference because they would both impact.

> There's a third factor in this, which is education. Unfortunately, she had no hearing aids—according to the background, no hearing aids for many years of her school education. So she basically didn't hear what was going on in the classroom. That showed up in her knowledge of the world in the clinical interview.
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> So does she have impairments that affect her parenting? The answer is yes."

¶ 27 When asked whether respondent's impairments were likely to exist beyond a reasonable period, Frank testified that the diagnosis of mild mental retardation is defined to exist for a lifetime. Similarly, the hearing impairment and educational deficiencies will not change or improve soon, if ever. Frank testified that there were situations she discussed with respondent where it seemed that, while respondent understood that they were "bad," she did not show higher abstraction or grasp the "ripple" effects those situations would have upon the children (such as when Marilyn tried to commit suicide in front of them or when the police had to be called because of respondent's and Marilyn's fights). In addition, Frank testified that there was evidence that respondent had difficulty taking care of herself. "The dining room reeked of urine. There were bags of stuff everywhere. It was not clean[.]" Finally, in her observations of respondent with the children, Frank noted that the children (particularly one of the older boys, who was aggressive, impulsive, and showed signs of emotional problems) dominated the visit and, at one point, locked respondent out of the house. "They did not respect her authority. She was trying. She loves them; they love her. They're in charge. And in a family structure where the children are the ones in charge, that's the most dysfunctional pattern that you see and it would likely get worse as the children got older."

¶ 28 Finally, Loni Wilson, a child welfare specialist for Lutheran Social Services (an agency contracted with DCFS), testified that, since June 2011, she has worked as the family worker

assigned to the case, responsible for overseeing and providing services and maintaining service plans. She explained that she was responsible for maintaining the family's service plans. The State moved to admit all of respondent's service plans based on Wilson's testimony. Over respondent's objection, the court admitted the plans.

¶ 29 At the State's request, the court took judicial notice of the file. In addition, the State asked that the court admit into evidence as a business record the psychological assessment completed in June 2010 by Vinehout. Respondent objected because the assessment was not certified and the signature line was blank. Further, instead of certifying the assessment, Vinehout included a handwritten note on the bottom of the certification page that the evaluation was completed by her, but that it was "considered obsolete." The court overruled respondent's objection and admitted the evaluation into evidence.

¶ 30 Respondent testified that she attended her meetings with her caseworkers, as well as her classes. She had a difficult time in parenting class because she could not understand all of the "big words." Respondent has some good and some bad visits with the children and parenting coach. She believes she can parent them with help from her grandmother. Respondent agreed that, in 2008, she knew Marilyn had a drug problem, but that she did not use drugs in the house. She admitted that Marilyn was violent with her in front of the children and tried to cut her wrists when they were home. However, respondent called an ambulance and secured the children in a separate room to protect them. She has not contacted Marilyn since 2008.

¶ 31 E. Trial Court's Findings

¶ 32 On March 11, 2013, the trial court found on all four bases in the petition that the State proved by clear and convincing evidence that respondent was unfit to parent the five children (although Flora is not part of this appeal).[2] The court's specific factual findings follow:

> "-[Respondent] was given an adequate time to cure the conditions which brought the cases into care: 2009-2012.
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> -Prior to, and at the time the cases came into care, there was a history of several domestic violence incidents between [respondent] and the Grandmother [Marilyn]. There was not one isolated incident.
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> -[Respondent] continued to live with, and allow the Grandmother to care for the Minors, knowing that the Grandmother was using alcohol and cocaine.
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> -The Police found razor blades and cocaine residue in the home, within the Minors' reach.
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> -The Minors and the home were found to be dirty, with vermin in the home, and insufficient beds for the minors.
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> -There was an incident when the Minors were residing in the home, and their cousin was staying there, and the cousin was injured.
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> -There was another incident when the Minors were residing in the home, and the Grandmother cut her wrists in the presence of at least three of the Minors.

[2] Respondent filed a notice of appeal, challenging the trial court's unfitness finding. On January 3, 2014, this court ordered the trial court to issue express factual bases for its unfitness findings. In accordance with this court's order, on January 25, 2014, the trial court entered a four-page, handwritten order with findings.

-There have also been physical altercations between [respondent] and the Grandmother over money.

-There was a history here of [respondent] leaving the Minors in an environment that could have created a risk of harm.

-This case was adjudicated on September 9, 2009. The orders after Permanency Review find that [respondent] had not made reasonable progress at least for the following time periods: March 6, 2011 to July 15, 2011 and July 15, 2011 to January 3, 2012.

-[Respondent] attended one year of Parent Coaching, however she was not able to make progress in her parenting skills during that year, and the service was discontinued. It was clear to the Parent Coach that no further progress was able to be made by [respondent].

-[Respondent] just could not make progress in being able to supervise, control all of the Minors at once, and create a safe, non-chaotic environment for the Minors.

-According to the Parent Coach, [respondent] did not demonstrate any change in her level of progress with being able to identify the Minors' minimal basic needs, including housing, nutritious meals, medical care, social growth, and educational goals.

-Also, according to the Parent Coach, [respondent] had limitations in her ability to care for herself, and required some family support. Her limitations included the following areas: management of finances, job skills, educational skills and transportation.

-[Respondent] had a Psychological Evaluation in May, 2010, by Dr. Kelly Vinehout, a Doctor of Psychology.

-This Evaluation diagnosed [respondent] as having: Dysthymic Disorder, Mild Mental Retardation, and serious adaptive and academic deficits.

-This Evaluation also found that [respondent] would be unable to live independently, without significant support. (Prognosis Poor).

-This Evaluation also found that [respondent] becomes easily confused by stimuli she does not understand, and is unable to protect herself from exploitation by others.

-This Evaluation diagnosed [respondent] to be at the following levels: severe cognitive and academic deficits, with cognitive functioning in the mildly mentally retarded range, academic skills ranging from the preschool to very early second grade level, and overall low adaptive functioning that is below the 1st percentile compared to her peers. She is also functionally illiterate.

-This Evaluation concluded that [respondent] would be overwhelmed living alone with her five children, and the older her children become, the more difficulties she would have.

-[Respondent] had a Parenting Capacity Assessment in July, 2011 by Ellen Frank, a Licensed Clinical Social Worker and D.C.S.W.

-This Assessment recommended that [respondent] be removed as a return home option for the Minors.

-This Assessment found that [respondent] has an inability to meet minimum parenting standards, and an incapacity to maintain the safe care of the Minors, now or in the reasonable future. (This was based on the History, Interview of [respondent], and observation of the [respondent] and Minors).

-This Assessment further found that [respondent] does not respond to her children in an appropriate manner, and clearly is not able to manage her children or parent them.

> -This Assessment further found that [respondent] would not be able to cognitively realize the things that her children should not be doing, and would be unable to protect them. (An example given was when her daughter told her that she had drunk one gallon of Mountain Dew in one sitting, and [respondent] barely reacted to this information).
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> -Finally[,] this Assessment revealed that [respondent] demonstrated minimal insight into the circumstances leading to D.C.F.S. involvement. She blamed it on the grandmother, even though [respondent] was the one who allowed the Minors to live in that environment. Even in the presence of drugs, domestic violence and attempted suicide, [respondent] did not remove the Minors immediately. Respondent still does not understand how she created any risk of harm to the Minors.
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> -Both the Psychological Evaluation and the Parenting Capacity Assessment, both of which were completed by qualified clinicians, reveal that [respondent] has a mental impairment, because of which she will not be able to discharge her parental responsibilities for an extended period of time, if ever."

¶ 33 The court also found it in the children's best interests that respondent's parental rights be terminated. Respondent appeals, challenging only the unfitness finding.

¶ 34 II. ANALYSIS

¶ 35 Respondent argues on appeal that the trial's court's unfitness findings were contrary to the manifest weight of the evidence. She asserts that the State did not meet its burden of proof on any of the alleged bases of unfitness. See *In re F.S.*, 322 Ill. App. 3d 486, 489 (2001) (the State bears the burden to prove a parent's unfitness by clear and convincing evidence).

¶ 36 Specifically, respondent argues first that the State did not establish that she failed to maintain a reasonable degree of interest, concern, or responsibility as to the children's welfare,

because she consistently visited the children and maintained a parenting role during those visits, she engaged in all services requested of her, her service plans reflected satisfactory progress during the first three review periods, and the court found at each permanency review hearing that she had made reasonable efforts. 750 ILCS 50/1(D)(b) (West 2012). Second, respondent argues that the State did not establish that she failed to protect the children from an environment injurious to their welfare, because there was no evidence regarding the children's condition before they were removed from her care, and she protected them from Marilyn's suicide attempt by placing them in a separate room and calling emergency services. 750 ILCS 50/1(D)(g) (West 2012). Third, respondent argues that the State did not establish that she failed to make reasonable progress toward the return of the children within any nine-month period after the first nine months following adjudication, because: (1) the State did not comply with notice provisions where it did not identify the nine-month period on which it planned to rely at trial; (2) there was insufficient evidence to establish that she did not make reasonable progress during any nine-month period; and (3) the court's finding was based only on permanency orders following permanency hearings and not the substantive trial evidence. 750 ILCS 50/1(D)(m)(iii) (West 2012). Finally, respondent argues that the State did not establish by competent evidence that she is unable to discharge her parental responsibilities due to a mental impairment, because the only evidence submitted to prove mental retardation was a diagnosis in a psychological evaluation that was obsolete and not properly certified and, in any event, the evidence did not reflect that mental retardation prevented her from discharging parenting duties. 750 ILCS 50/1(D)(p) (West 2012). We disagree.

¶ 37 Even if we were to find persuasive some of respondent's arguments, we give great deference to the court's findings of unfitness, and *any one ground*, properly proved, is sufficient

to affirm an unfitness finding. *In re Janine M.A.*, 342 Ill. App. 3d 1041, 1049 (2003). The court's finding that the State met its burden of establishing unfitness will not be reversed unless it is contrary to the manifest weight of the evidence (*i.e.*, unless the opposite conclusion is clearly evident or the finding is not based on the evidence). *Id.*; see also *In re A.B.*, 308 Ill. App. 3d 227, 240 (1999). Here, at a minimum, the court's finding that respondent failed to protect the children from conditions within their environment injurious to their welfare, is not contrary to the manifest weight of the evidence. 750 ILCS 50/1(D)(g) (West 2012).[3]

¶ 38 A parent may be found unfit under section 1(D)(g) of the Act for the same conduct that resulted in the initial removal of the child. *In re C.W.*, 199 Ill. 2d 198, 212, 216 (2002) (disagreeing that a court is precluded from finding unfitness based on the conduct that led to the child's removal, and noting "there is no requirement under section 1(D)(g) that a parent be permitted a period of time to correct or improve an injurious environment before he or she may be found unfit on this ground"). See also *In re Janine*, 342 Ill. App. 3d at 1050 (evidence that, prior to their removal, the respondent allowed the children to live in a home with domestic abuse was sufficient to uphold unfitness finding under section 1(D)(g)); *In re D.T.*, 338 Ill. App. 3d 133, 145-46 (2003) (evidence that, before his removal, the child was beaten by the respondent's boyfriend and the respondent did not immediately seek medical care was sufficient to uphold

[3] In its response brief, the State appears to argue that, pursuant to section 1(D)(m)(i) of the Act (750 ILCS 50/1(D)(m)(i) (West 2012)), the court properly found that respondent failed to make reasonable efforts to correct the conditions that were the basis for the removal of the child. Section 1(D)(m)(i) was not, however, a count alleged in the termination petition. Rather, in count two, the petition alleged that respondent failed "to protect" the children from an environment injurious to their welfare, which falls under section 1(D)(g) of the Act.

unfitness finding under section 1(D)(g)) (reversed in part on other grounds, *In re D.T.*, 212 Ill. 2d 347 (2004)).

¶ 39 Here, the court found that there existed a history of respondent leaving the minors in an environment that created a risk of harm. The evidence reflects that, in May 2008, DCFS investigated an incident wherein respondent allegedly cut off Flora's hair and did not treat De'Andre's burn. While the investigator did not find those allegations warranted removal, and although the investigator noted the children appeared clean, the children reported at that time that police were frequently called to the residence because of fights between Marilyn and respondent and that Marilyn had tried to stab or choke respondent. The investigator located cocaine and a razor blade in Marilyn's bedroom, *i.e.*, in the children's home and accessible to them. In accordance with DCFS's safety plan and requirement that Marilyn not have any contact with the children, respondent obtained an order of protection against Marilyn. However, less than one year later, in March 2009, respondent left the four boys in Marilyn's care. Police were then forced to respond when respondent returned, drank alcohol with Marilyn, and then engaged in a physical altercation with her. This event is made more egregious by the fact that, a few months prior, respondent left an infant nephew in 8-year-old Flora's care, which resulted not only in injury to the infant, but Flora's removal from respondent's home. Respondent also admitted that, while three of the children were home, Marilyn tried to slit her own wrists. Accordingly, despite the history of domestic violence between respondent and Marilyn, the existence of razor blades and cocaine in the apartment, Marilyn's suicide attempt, and the fact that Flora had already been removed from her home after DCFS involvement, respondent decided in March 2009 to not only leave her children in Marilyn's care, but to then drink alcohol with her and to engage in a physical altercation. In light of this evidence, we cannot conclude that the court's finding that

respondent failed to protect the children from an injurious environment is contrary to the manifest weight of evidence.

¶ 40 Respondent notes that there was no evidence submitted to reflect the condition of the children before they were removed from her care. However, she points to no requirement that the children suffer actual injury and, in any event, respondent reads too narrowly the statute's phrase "injurious environment." The service plans and statements of facts in the record reflect that, prior to their removal from respondent's care, the house was filthy, there was evidence of vermin in the home, and that the children were dirty. Even if we ignore those reports (which elsewhere respondent argues should not have been admitted), respondent does not dispute the core events, *e.g.*, repeated domestic violence with Marilyn and that she left them in Marilyn's care, from which the court could reasonably construe an injurious environment. Similarly, respondent alleges that she protected the children from Marilyn's suicide attempt by moving them to another room and calling emergency services. While those specific efforts are laudable, the *environment* in which respondent placed the children reflects a failure to protect them on a broader scale. Even when aware of Marilyn's drug use and the fact that she and Marilyn engaged in frequent altercations, she allowed Marilyn's continued presence. Even after the order of protection against Marilyn had been entered, respondent left the children in Marilyn's care.

¶ 41 Respondent testified that she has not contacted Marilyn since 2008 and that she can parent the children with help from her own grandmother. Setting aside that the boys were removed from respondent's grandmother's care because she had apparently whipped one of them with a dog leash and, therefore, will not likely be permitted to assist respondent in raising the children, respondent's efforts after the removal are not relevant to a section 1(D)(g) finding. *In re Janine*, 342 Ill. App. 3d at 1050 (reasonable efforts and reasonable progress after the

removal "are not affirmative defenses that can be raised by a parent to refute allegations of neglect under one of the other subsections of section 1(D)") (citing *In re D.F.*, 201 Ill.2d 476, 505 (2002)); see also *In re D.T.*, 338 Ill. App. 3d at 145-46 ("evidence of the parent's conduct after the removal of the child is irrelevant to a section 1(D)(g) unfitness finding").

¶ 42 Here, the court's finding that respondent is unfit because she failed to protect the children from an environment injurious to their welfare is not contrary to the manifest weight of the evidence.

¶ 43 III. CONCLUSION

¶ 44 For the foregoing reasons, the judgment of the circuit court of Winnebago County is affirmed.

¶ 45 Affirmed.