2012 IL App (4th) 120009-U

Filed 4/30/12

NO. 4-12-0009

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: N.F., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	McLean County
v.	)	No. 09JA71
STEPHANIE FRIEDLEIN,	)	
Respondent-Appellant.	)	Honorable
	)	Kevin P. Fitzgerald,
	)	Judge Presiding.

JUSTICE APPLETON delivered the judgment of the court.
Justices McCullough and Cook concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court's finding that respondent is an "unfit person" within the meaning of section 1(D)(p) of the Adoption Act (750 ILCS 50/1(D)(p) (West 2010)) is not against the manifest weight of the evidence.

¶ 2 Respondent, Stephanie Friedlein, appeals from a judgment in which the trial court terminated her parental rights to her son, N.F. (The court also terminated the father's parental rights, but he is not a party to this appeal.) She challenges the court's finding that she is an "unfit person" within the meaning of section 1(D)(p) of the Adoption Act (750 ILCS 50/1(D)(p) (West 2010)) in that she has mental illnesses which incapacitate her from performing her parental responsibilities and which will continue to do so for more than a reasonable duration of time. She does not specifically challenge the best-interest finding. (In the statement of facts, respondent's appellate counsel directs us to consider a minor, "N.H.," and then a shelter hearing involving "Aiden and Alyssa," none of

whom have an apparent connection to this case.) After carefully reviewing the record, we conclude that the finding of parental unfitness as to N.F. is not against the manifest weight of the evidence. Therefore, we affirm the trial court's judgment.

¶ 3 I. BACKGROUND

¶ 4 A. The Petition To Terminate Parental Rights

¶ 5 In its petition to terminate parental rights, filed on December 20, 2010, the State alleged that respondent was an "unfit person" within the meaning of section 1(D)(p) of the Adoption Act (750 ILCS 50/1(D)(p) (West 2010)) in that she had a mental or psychological disability that made her unable to carry out her parental responsibilities and this inability would extend beyond a reasonable period of time.

¶ 6 B. The Fitness Hearing

¶ 7 On September 28, 29, and 30, 2011, the trial court held a fitness hearing, in which the following witnesses testified.

¶ 8 1. *Mary M. Zashin*

¶ 9 a. Her Diagnoses

¶ 10 Mary M. Zashin was a self-employed clinical psychologist. Since 1999, she had been an approved provider for the Illinois Department of Children and Family Services (DCFS). Since 2003, she had performed approximately 600 psychological evaluations and approximately 160 combined parenting skills assessments and psychological assessments.

¶ 11 In October 2010, at the request of DCFS, Zashin performed a psychological evaluation of respondent. The evaluation consisted of a long personal interview, a review of records, and a battery of psychological tests. The psychological tests were the Wechsler Adult Intelligence

Scale III, the Bender Motor Gestalt Test, the Millon Clinical Multiaxial Inventory III, the Rorschach test, and the Child Abuse Potential Inventory.

¶ 12 On the basis of the interview, the records, and the test results, Zashin diagnosed respondent as suffering from two mental illnesses: bipolar I disorder and a borderline personality disorder. Zashin opined that these mental illnesses caused respondent to be unable to discharge her parental responsibilities and that this inability would extend beyond a reasonable period of time.

¶ 13 b. Specific Information on Which Zashin Based Her Diagnoses

¶ 14 i. *Difficulty Holding a Job*

¶ 15 Respondent told Zashin she had been employed as a youth director at a church and as a data-entry clerk in a bank. The church had discharged her because of her mental illnesses, and the bank had discharged her because of excessive absences due to hospitalizations. The hospitalizations were for suicide attempts or suicidal ideations.

¶ 16 ii. *Suicide Attempts*

¶ 17 According to Zashin, one of the characteristics of borderline personality disorder was "a tendency to make suicidal gestures and threats." Zashin testified that between 10% and 15% of people diagnosed with borderline personality disorder actually committed suicide and that the combination of bipolar disorder and borderline personality disorder increased the risk. Impulsiveness was a characteristic of both mental illnesses.

¶ 18 Respondent confirmed to Zashin that she had attempted suicide "numerous times." Her first hospitalization for attempted suicide was at age 14, when she overdosed on aspirin. She had been struggling with suicidal thoughts ever since she was eight years old. She also had a history of cutting herself that went back to adolescence.

¶ 19 iii. *Respondent's Homicidal Ideations Toward N.F.*

¶ 20 The documents that Zashin reviewed recorded "numerous" instances in which respondent talked about murdering N.F. or expressed a yearning for his death. Respondent told Zashin she had been having these thoughts for two years but that "it was never a serious intention of hers."

¶ 21 In September 2009, respondent was hospitalized "[b]ecause she was having intensified suicidal thoughts. Her coping skills were not helping her and she was also having thoughts about murdering her child."

¶ 22 From January 2 to 12, 2010, respondent was in the hospital again. According to hospital records, she stated on January 2, 2010, that "she continued to have thoughts of killing her son because he would be better in heaven."

¶ 23 On January 4, 2010, respondent drew a person hanging from a tree and wrote that she wished her son were dead because death was best for him. The assistant State's Attorney asked Zashin:

> "Q. On January 4th, she drew a figure hanging from a tree titled Death is Peaceful, indicated she wants her son to die so she can die, wants him to be happy and free?
>
> A. Yes.
>
> Q. Wishes she and her son would not wake up?
>
> A. Right.
>
> Q. And that she once had a conversation with him about her hopes for his future and that he would be in heaven and not remain

here on Earth, correct?

A. Yes."

¶ 24 On January 5, 2010, according to hospital records, respondent reported that she still was having homicidal thoughts toward N.F. She said "she wished that he would go to sleep and not wake up so he could be in heaven." She added, however, that she "wouldn't do anything to harm him."

¶ 25 On January 6, 2010, respondent "said she wanted to kill her son, but she felt that he should just go to sleep and not wake up so he can be free."

¶ 26 On February 3, 2010, at McFarland Mental Health Center, respondent attempted to escape by throwing a chair through a window. She said that she was a "horrible mother" and that she wanted her son to go with her if she died.

¶ 27 On February 8, 2010, however, while still at McFarland, respondent explained that she would never carry out her homicidal ideations regarding N.F.

¶ 28 Respondent said the same thing to Zashin. Zashin testified:

"She again talked about her statement of wanting to take her son with her. She said she just thought, she had those thoughts but she would just never do it. She had thoughts before that if her son's father tried to take him, he would be better off dying with her. She knows that's not best, and she would never do that, but those are the kinds of thoughts she was having."

¶ 29 On February 24, 2010, respondent "was having a bad day[,] and she just began to think about killing her son." It scared her to have that thought.

¶ 30 In her interview with Zashin, though, respondent denied ever actually threatening to kill N.F. She merely had entertained the thought that death would be advantageous for N.F., considering that he would go straight to heaven. Zashin testified:

> "[S]he reported to me that [']they said I threatened to kill him. I didn't. I just said maybe he could fall asleep and be better with God. I wanted to leave the hospital and get [N.F.] and start, start over.[']
> She denied that she had ever harmed him; that she had ever planned to harm him or that she wanted to harm him. And her past comments she felt had been exaggerated and taken out of context."

¶ 31 Zashin did not think that respondent was deliberately lying by denying her homicidal ideations toward N.F., which were extensively documented in the hospital records. Instead, Zashin believed that these thoughts were so disturbing, so horrifying, to respondent that she rationalized or minimized them so as to make them "as psychologically acceptable to herself as she could."

¶ 32 As far as Zashin knew and as far as had been reported, respondent had never actively harmed N.F. and had never intentionally placed him at risk.

¶ 33 iv. *Lack of Understanding of the Mutuality of Relationships*

¶ 34 According to Zashin, respondent had "little understanding of the need for mutuality in relationships." The assistant State's Attorney asked Zashin:

> "Q. And if she does not understand that mutuality, what does she perceive is appropriate in a relationship, the giving or taking?
>
> A. That she, she really does, really needs to have someone take care of her. She can maintain a relationship as long as she

> believes that the person is there for her and is meeting her needs. But when the person fails to meet her needs, she's likely to react with a great deal of anger, disappointment. And, again, this is a borderline characteristic again."

Thus, according to Zashin, one of the features of respondent's borderline personality disorder was a self-centered neediness in relationships. Zashin testified that this neediness carried over into the parent-child relationship.

¶ 35 v. *Some Risky Behaviors With N.F.*

¶ 36 (a) The Risperdal Overdose

¶ 37 In her interview with Zashin, respondent denied having any intention to kill herself when she overdosed on Excedrin and Risperdal in May 2009 (the incident that caused N.F. to be taken into custody). Respondent explained that she had merely wanted to go to sleep so as to "stop the racing thoughts in her head." Even though N.F. was in the bedroom with her when she took the overdose, respondent did not think she thereby put him at risk of any harm, "because she believed other people in the house would take care of him."

¶ 38 (b) The Tramadol Overdose

¶ 39 In February 2009, respondent drove N.F. in a car after taking too much Tramadol. This was a medication for migraine headaches, "an opioid similar to codeine." The prescribed dose was 50 milligrams every 4 hours. Respondent took 900 milligrams, after which she drove N.F. from Champaign to LeRoy. Although she was immediately hospitalized for the overdose, she insisted she had not placed N.F. at any risk of harm, because she "had a high tolerance for this medication." According to hospital records, this was not the first time respondent had taken a large dose of an

opioid and driven N.F. in the car.

¶ 40 The assistant State's Attorney asked Zashin:

> "Q. Do you believe that her inability to understand the risk of harm that [N.F.] was in during these incidents is a result of her mental illness?
>
> A. Yes.
>
> Q. In what way?
>
> A. I believe that one of the characteristics of her Borderline Personality Disorder is an inability to look beyond her own needs and look beyond her own perceptions and take account of, of, of the impact her behavior might have on someone else.
>
> Q. And is that a condition that you believe is one of the characteristics that is preventing her from appropriate parenting?
>
> A. Yes. I believe that also indicates that her judgment is often quite poor when it comes to placing her child at risk. She minimizes these incidents and does not believe that she does so."

¶ 41 Zashin thought that the risk that respondent would intentionally harm N.F. was "low," though "not nonexistent." In an acute phase of her bipolar disorder, respondent might intentionally harm him. But the greater risk, in Zashin's opinion, was that respondent "would place him at risk through reckless behavior"—such as by transporting him in a vehicle after swallowing 900 milligrams of Tramadol.

¶ 42 vi. *Continued Lack of Stability*

¶ 43 After her interview with Zashin in October 2010, respondent continued to have problems, according to progress notes that Zashin reviewed when writing her report. For example on November 9, 2010, the therapist wrote that respondent's mood was agitated, that it had been a rough week, and that respondent was "being stubborn with her distorted thinking." On November 10, 2010, the therapist wrote that respondent was in a "rut of negativity." On December 20, 2010, respondent had a "flat affect," her head was spinning, and she was "tired of trying to fight her thoughts." On February 9, 2011, she "[felt] vulnerable to hopeless feelings." On March 2, 2011, she was "overwhelmed about moving, but happy to move." Also, she was neither eating nor sleeping. Not eating and not sleeping suggested to Zashin that respondent was "entering an acute phase of her Bipolar Disorder." From these progress notes, Zashin got the impression that respondent was not yet able to "maintain a consistent level of emotional stability." In Zashin's view, it would "be fair to say that [respondent] had not been stable since March of 2010."

¶ 44 When considering these reports of later difficulties, Zashin was reinforced in her belief that returning N.F. to respondent's custody would put him at risk—even though respondent had not been hospitalized since May 2009. Zashin explained:

> "Her, her pattern and history is to be able to maintain a certain level of stability for six months to a year and then to suddenly and rather drastically decompensate. I would want to see her maintain a genuine level of stability, stability to medication, stability with treatment, genuine therapeutic progress for a couple of years I would think. I'm putting—I'm trying to figure out there, but I would not trust, assuming stability had lasted only since March, seven months. She's done that

before."

So, in Zashin's opinion, given respondent's history, any period of relative stability for less than two years would not reasonably justify the conclusion that respondent had broken from her lifelong pattern of periodic decompensation and attempted suicide.

¶ 45 vii. *Response to Dellorto's Criticisms*

¶ 46 At the request of the assistant public defender, another DCFS-approved clinical psychologist, Mary Dellorto, performed a psychological evaluation of respondent in February 2011 and gave a second opinion. In her report, Dellorto made some criticisms of Zashin's psychological evaluation of respondent. In her testimony, Zashin responded to these criticisms.

¶ 47 First, Dellorto criticized Zashin for meeting with respondent in respondent's home instead of having respondent come to Zashin's office. Dellorto called this practice "nonstandard." Zashin acknowledged that the practice of conducting the psychological evaluation in the client's home was unusual, but she disagreed that the practice was "nonstandard," because that word incorrectly implied there was in fact a "standard" in this regard. Zashin typically met with clients either in their home or in the office of the agency that had referred them. Respondent had agreed to undergo the evaluation in her home; it was more convenient for her; it saved her a drive—a long drive if the evaluation had been conducted in Zashin's office in a suburb of Chicago.

¶ 48 Second, Dellorto criticized Zashin for using the Wechsler Intelligence Scale III instead of the Wechsler Intelligence Scale IV, which Dellorto had used. Zashin responded that using version III of the test instead of version IV made no practical difference, because respondent received roughly the same score in both versions: 108 in version III and 102 in version IV. Both scores were in the average range, and the difference between them was within the margin of error.

¶ 49 Third, Dellorto criticized Zashin for not administering any test to measure respondent's academic skills. Zashin responded that unless the client was a child or a mentally retarded adult or unless the referral specifically requested an academic achievement test, one typically was not given. In fact, in its referral, DCFS gave Zashin permission to skip even the Wechsler test if there was no question of mental retardation—and there was no question of mental retardation in respondent's case.

¶ 50 Fourth, Dellorto criticized Zashin for reading aloud the questions in the Millon Clinical Multiaxial Inventory III and in the Child Abuse Potential Inventory instead of allowing respondent to read the questions on her own. Zashin agreed this was nonstandard procedure, but when reading aloud the questions to clients, Zashin was careful not to influence their answers—and she had reasons for administering the test this way: (a) by reading the question to clients, Zashin could confirm that they understood the questions, thereby ensuring that their answers were not the product of confusion or misinterpretation, and (b) the questions could serve as springboards for further discussion.

¶ 51 Fifth, Dellorto criticized Zashin for characterizing respondent's score of 158 on the Child Abuse Potential Inventory as being "significant." This score, in Dellorto's opinion, was too low to be considered significant. Zashin responded that, according to the instruction manual for this instrument, two different scores could be significant, 215 or 166, depending on the circumstances. The rate of false negatives was higher in this instrument than the rate of false positives, and by lowering the threshold, one reduced the possibility of a false negative. Also, one had to keep in mind, Zashin explained, that the Child Abuse Potential Inventory was merely a screening tool. It would be a misuse of the instrument to conclude, merely on the basis of a raw score, that the client

either was or was not a child-abuser. One had to consider the score in combination with the history, the interview, and the clinical information, and that is what Zashin did.

¶ 52 2. *Gail Rafferty*

¶ 53 Gail Rafferty was an emergency medical technician (EMT) for LeRoy Ambulance Service, and she had known respondent "pretty much since birth just from living in LeRoy." Rafferty got to know respondent even better, and developed a friendship with her, after respondent overdosed at age 14. Rafferty was the EMT in the ambulance that took respondent to the hospital on that occasion.

¶ 54 There were "[s]everal other ambulance calls" for respondent. Although Rafferty could not "estimate how many times [she had] responded in a professional capacity" when respondent was suicidal, she thought that "there were two times by overdose." One overdose was of pills, and the other was of alcohol.

¶ 55 Sometimes, when respondent was "having a bad day," she telephoned Rafferty. "Over the years, this would happen when she was starting to spiral down." On April 9, 2009, respondent gave Rafferty a call. Respondent was at work at the time. From respondent's "speech patterns and tone of voice," Rafferty suspected she had taken too many pills. She told Rafferty "she had taken some but that they would be worn off *** before she was due to drive home." Rafferty knew that N.F.'s daycare was down the road from where respondent worked and that respondent would be driving him home. Rafferty "had had contact with [respondent] in the past when [respondent] had been under the influence of an overdose of drugs." Respondent had admitted to Rafferty that, on previous occasions, she had driven N.F. in the car after taking more than the prescribed dosage of drugs. Rafferty was worried that this was another "bad day" when respondent would be transporting

him after taking too many pills.

¶ 56 A few days earlier, around the time of respondent's birthday on April 5, 2009, Rafferty got together with her and noticed that she was "down a little," that she was "starting to go downhill again." While they were in a car together, on their way to Bloomington, respondent brought up "the [Connolly] father and boys," a topic that had been much in the news lately. Rafferty testified: "The, the [Connolly] father had abducted his two sons. He had not returned them at the end of a weekend visitation to the mother in LeRoy. The mother and sons lived in LeRoy. And they disappeared. And I think it was about three weeks later the father and the two sons were all found. He had murdered the sons and committed suicide himself." As Rafferty understood from the media, the father had hanged himself.

¶ 57 Respondent "made the comment [to Rafferty] that she could understand why the father did what he did." Rafferty was stunned. She testified:

> "A. I didn't say anything for a few minutes. I was trying to determine what she meant. And I was really upset. And when I did speak, I remember just making a comment that no parent has a right to do anything like that to their children.
>
> Q. Did she make these types of comments to you on more than one occasion in that short time frame?
>
> A. I, I don't know if it was in that time frame. There was a time that she also commented that she didn't ever want to be without [N.F.]; that he needed to be with her all the time."

¶ 58 3. *Rita Mikel*

¶ 59 Rita Mikel, a court-appointed special advocate, testified that on October 29, 2009, she had an appointment to meet with a caseworker and respondent. As Mikel and respondent were waiting for the caseworker to arrive with N.F., Mikel struck up a conversation. She asked respondent whether "she really [felt] that she could understand why Mr. [Connolly] felt that he could, should take his two boys with him."

¶ 60 The assistant State's Attorney asked Mikel:

> "Q. Why did you ask her that question?
>
> A. Because I had read it and there was no—I had read that she had said, it, but there was no back-up verification of it. Really, I was hoping she would deny it, but she didn't deny it.
>
> Q. What did she say[?]
>
> A. She said[,] [']I certainly do understand why he felt he would, should take the boys with him.['] I, I was shocked. I said, [']Stephanie, you don't.['] She said, [']I know a whole lot more about this case then you'll ever know.['] She said, ['A]ll you know is what you read in the paper. I know the background of the whole thing. I do understand, and I don't want to talk about it anymore.['] And truthfully, I was so shocked, neither did I."

¶ 61 4. *Justin Lightbody*

¶ 62 Justin Lightbody was a caseworker at Catholic Charities. He testified that in the fall of 2009, he started checking respondent's medication while N.F. was at her residence for visits. He was concerned that she would skip the prescribed dosages in order to "hoard up to overdose." He

had her lay out her pills, and together they counted them. On several occasions, she did not have the correct amount of medication. In December 2009, for instance, he counted 21 extra pills in her possession.

¶ 63 Since 2009, though, Lightbody had been unable to count respondent's pills because when he noted in a report that she had extra medication, she claimed this was a lie, and henceforth unannounced visits—"surprise visits," so to speak—stopped happening. There was no answer at the door anymore whenever Lightbody and another caseworker stopped by unexpectedly. (After respondent accused him of dishonesty, he thought it was wise to bring along another caseworker to confirm whatever he saw.) "Even with her van in the driveway, with her purse in the van nobody answered the door." So, the only current information Lightbody had as to whether respondent was taking her medication in the prescribed dosages was respondent's word—which, in his experience, was not always accurate. (Respondent had lied to him, for example, by denying that her utilities had been shut off and by telling him that she was current in paying her utility bills—when he knew better.)

¶ 64 5. *Mary Dellorto*

¶ 65 Mary Dellorto was a licensed clinical psychologist approved by DCFS, and she performed a psychological evaluation of respondent on February 10, 2011. In the report of her evaluation, Dellorto expressed the concerns to which Zashin had responded in her testimony.

¶ 66 Dellorto agreed with Zashin, however, that respondent suffered from bipolar I disorder and a borderline personality disorder. But Dellorto was more optimistic about respondent's progress and stability. Although respondent had "at least a couple of hospitalizations in the winter of 2009/2010" and "one lengthy stay that ended in March of 2010," she had not been hospitalized

again between her release from the hospital in March 2010 and Dellorto's interview of her in February 2011. Dellorto testified:

> "A. I think that speaks to the—her being a lot more stabilized, that what she's doing is working with the medication and the therapy and whatever she's doing on her own, her support system.
>
> Q. And if you were to learn today here in late September of 2011 that there still hasn't been any additional hospitalizations, what significance would you give that?
>
> A. I mean, I think it shows that she's doing very well.
>
> Q. Now, that period of time is somewhere in the neighborhood of a year and a half.
>
> A. Uh-huh.
>
> Q. Is that enough to indicate to you that she could be in remission at this time?
>
> A. I don't know that we talk about it in remission, but certainly that she's got a period of stability."

¶ 67 As for the note that respondent wrote in January 2010 while in the hospital, in which she contemplated taking her son with her when she committed suicide, Dellorto had had many clients over the years who suffered from bipolar disorder, and these "intrusive thoughts" were inherent in the disorder; but Dellorto never "had a client act on [these suicidal thoughts]." About 10% to 15% of the people who committed suicide suffered from bipolar disorder, and usually "those [were] people who [were] male and use[d] weapons." People who hurt children usually—though not

always— had a psychotic disorder. Dellorto did not think that respondent had the "thought process" of someone who would murder her own child. To assess the psychological significance of respondent's identification with Connolly (which, evidently, Dellorto learned about for the first time at trial), Dellorto would "want to know what part did she identify with."

¶ 68 The assistant public defender asked Dellorto:

> "Q. *** Do you have a professional opinion as to whether or not [respondent] has an inability to parent because of a mental disorder or a mental illness that either isn't remediated or can't be remediated within a reasonable period of time?
>
> A. I don't see her mental disorder as affecting, negatively impacting her parenting, no.
>
> Q. Does she represent, in your opinion, a danger to her son, [N.F.]?
>
> A. Not at this time."

¶ 69 On cross-examination, Dellorto admitted her report contained no mention of the incident in which respondent overdosed and then drove with N.F.—even though, Dellorto acknowledged, she had been asked to render an opinion on the issue of whether N.F. was safe in respondent's care. Dellorto agreed that driving a child in a car after taking an overdose of drugs was risky behavior.

¶ 70 Dellorto admitted that the absence of hospitalization, in and of itself, did not mean someone was completely stable. One might refrain from reporting symptoms precisely in order to avoid hospitalization.

¶ 71 Dellorto further admitted that the chances of actually committing suicide increased every time one attempted suicide.

¶ 72 The assistant State's Attorney asked Dellorto:

> "Q. If [respondent] had said, well, I—you know, I understand why he took those kids with him when he killed himself, that is concerning, isn't it?
>
> A. That would be concerning."

Because respondent, however, did not say as much to Dellorto and because Dellorto did not "have the nuances of that," such as whether the thought was "continuing to roll over and over in her head," she thought "it would be inappropriate for [her] to comment further professionally" other than to say it was a "concern."

¶ 73 Dellorto did not have the "day-to-day documents of what happened at McFarland," although that information "[c]ertainly" "could have been useful." Nor did Dellorto "have everything from each of the hospitalizations."

¶ 74 On redirect examination, however, Dellorto testified that although detailed information about what had happened at McFarland "would have been nice to know," it "wouldn't change [her] opinion." In fact, nothing that had been "insinuated" on cross-examination would change her recommendation to the trial court.

¶ 75 On recross-examination, the assistant State's Attorney asked Dellorto:

> "Q. You also talked about this Connolly connection and it would be important to know in what context [respondent] was talking, correct?

A. Yes.

Q. If indeed she had indicated that he had killed himself and she understood why he took his children with him, and she indicated in April [2009] and then in October [2009] been confronted about that—

A. Uh-huh.

Q. —and defended that position, that would not be just a fleeting thought, correct?

A. Right."

¶ 76 6. *Gil Abelita*

¶ 77 Gil Abelita was a psychiatrist who began treating respondent in April 2010. He agreed that respondent had bipolar disorder and borderline personality disorder, but he also diagnosed posttraumatic stress disorder. Abelita had prescribed medications for respondent, who had been "compliant a hundred percent, especially with her appointments."

¶ 78 Although there was no cure for bipolar disorder, "if you give the patient medications that are effective, it will prevent a patient from relapsing frequently." Respondent had gone through highs and lows since becoming Abelita's patient, but her crises had been resolved without hospitalization. Abelita testified:

"But during the time when I've been seeing her, her problems have never resulted in complete decompensation that would have ended in hospitalization. So a lot of times, because she['s] reaching out, she calls and she's got a good connection with her therapist, and so they

> review I think coping mechanisms, I adjust her medication so the outcome is she has never been hospitalized since her last hospitalization at McFarland."

Looking at notes from April 2010 to August 2011, Abelita counted three or four "moderate" crises. "[T]hey were not full-blown severe crises that ended up in the hospital. It was always resolved one way or another."

¶ 79 So, respondent appeared to be breaking the rule that "a lot of bipolar is complicated by [post-traumatic stress disorder] and borderline personality." Abelita's prognosis was "guarded." He believed that she had the capacity to maintain this progress. She had been "stable" for nine months—meaning that although she still suffered, now and then, from anxiety, racing thoughts, and depression, she could take care of her basic needs, with the assistance of therapy and medication. "Stability," in other words, meant that the patient could be treated as an outpatient.

¶ 80 As long as respondent did not "suffer from extreme of moods," as long as she applied what she had learned in her counseling sessions, and as long as she kept in contact with her therapist in times of stress so as to review the coping mechanisms, Abelita did not think respondent's mental illnesses would prevent her from parenting a child. Abelita, of course, could not predict the future, but on the basis of his observations, he did not think any child in respondent's care would be at risk of harm.

¶ 81 On cross-examination, Abelita testified he was aware that respondent had been hospitalized over 8 times, beginning at age 14, and that she had a history of suicidal ideation. He was unaware, however, that she also had a history of homicidal ideation going back two years. He agreed that if respondent had had any thoughts about harming N.F., those thoughts should be

explored before N.F. was returned to her custody.

¶ 82 Abelita was aware of only one instance in which respondent drove with N.F. after overdosing on pills: the trip from Champaign to LeRoy. He had never known anybody to take 900 milligrams of the opioid Tramadol—that was "a large dose."

¶ 83 Abelita was aware that on December 22, 2009, respondent's previous psychiatrist, Dr. Hawley, wrote a letter stating "he had absolutely no concerns about respondent harming herself or her child" and that, around the same time, her long-term therapist, Jenny Essinger, said the same thing—after which, 10 days later, respondent "made a serious suicide attempt." Abelita believed, however, that the present situation was different because respondent had "been stable from April, 2010, up to now."

¶ 84 On cross-examination by the attorney for DCFS, Abelita testified that 75% of his patients had both bipolar I disorder and borderline personality disorder and that over 90% of those patients had suicidal ideations. Of those patients, 15% to 25% had made at least one suicide attempt, 10% to 15% had made multiple serious suicide attempts, and only 1% or 2% had homicidal ideations toward their children. So, Abelita agreed that respondent was "unique" in his experience.

¶ 85 In fact, respondent was so unique that possibly less than 1% of Abelita's patients with bipolar disorder and borderline personality disorder were comparable to her. The assistant State's Attorney asked Abelita:

> "Q. *** You are also asked to give sort of how many people have bipolar and—you went down to one to two percent which would include [respondent], bipolar, borderline personality disorder, suicidal with homicidal thoughts of their children; is that correct?

A. That's correct, or less than one percent."

¶ 86 Abelita had had only one patient who committed murder-suicide. The patient killed his children and then hanged himself. Before this happened, Abelita wrote a letter to the judge stating he had no concern about this patient's being with his children. It appeared, at the time, that "the person was not doing too bad, so [Abelita] figured out that he was in good control and [he] didn't hear anything from anyone to say that anything differently."

¶ 87 7. *Jenny Madison*

¶ 88 Jenny Madison was an outpatient therapist at the Center for Human Services. She had been working in the field for 18 years. She testified she had been respondent's outpatient therapist since April 2010. Respondent's attorney asked Madison:

"Q. Do you use a particular technique?

A. Oftentimes I focus on three primary, cognitive behavioral therapy, dialectic behavioral therapy, and solution-focused therapy.

Q. Now, what's the goal of your therapy? Is it behavior modification, is it—

A. The goal of therapy is to stabilize and change unhealthy behaviors."

¶ 89 Respondent had been punctually showing up for her appointments. Her attendance was excellent. She had been cooperative with the treatment. There had been some disruptions, some crises, but Madison and respondent had worked through them. There had been significant ups and downs, including "unhealthy ideations," but with Madison's help, respondent had managed to get through them without the need for hospitalization. Madison testified: "[Respondent] has

demonstrated ability to learn and use skills consistently, and she—I would report that she's one of my most successful clients in managing her symptoms." Respondent was "highly motivated." Madison agreed with Abelita that she was "stable" at this time.

¶ 90 On cross-examination by the assistant State's Attorney, Madison discussed a period of time, from August 4 through September 10, 2010, when she was concerned that respondent was having a period of instability. On August 4, 2010, respondent reported sleeplessness, racing thoughts, and impulsive feelings—"manic-like symptoms." "[S]he was having difficulty with her emotional regulation and distress tolerance and allowing herself to think that if she changes her medication or goes to the ER, that Catholic Charities will look at that as negative and she will have her rights terminated."

¶ 91 On August 11, 2010, respondent "presented as tearful, reported to have had continued negative attitude. She reported she was not suicidal but did not like the thoughts she was having." She was "still continually having a struggle with how to manage her symptoms and it not be negative in her DCFS case, or at least with Catholic Charities." When Madison attempted to probe more deeply into the manic behavior, respondent became "vague."

¶ 92 On August 18, 2010, respondent called in to the crisis intervention center and said "she had been struggling with strong negative and racing thoughts, she had not gone to work that day, she had not taken her medication that morning, and she judged herself as, quote, being crazy and [']I think I'm not good for [N.F.']" The record for that date "indicates the client has been at high risk of harm for a week or so." Madison recommended that respondent go to the hospital, to be evaluated by the crisis team in the ER. Respondent refused to go to the hospital. "She reported uncertain of what she would do for the rest of the day, but to be by herself, and not verbalize what

she really wanted to do."

¶ 93 On February 16 and 23, 2011, respondent told Madison that she was in the process of moving and that not only was she "feeling overwhelmed by the packing and planning," but her mother was "being needy" and respondent was "working hard on setting limits" to this importunity. Her mother's neediness was causing respondent to feel stressed. "And setting limits with people who are needy is sometimes necessary if we're not in a position that we should be meeting those needs," Madison testified.

¶ 94 On March 2, 2011, respondent reported that she had stopped sleeping and eating. In the past, not sleeping and not eating had been signs of an impending breakdown.

¶ 95 Madison agreed with Abelita, however, that respondent was now stable and that she presented no risk of harm to N.F. The 14 months during which Madison and respondent had worked together "allowed [respondent] to be stable enough to take on parenting." Madison would "advocat[e] for further sessions," however.

¶ 96 The guardian *ad litem* asked Madison if the funding for respondent's therapy would run out sometime soon. (Respondent was receiving supplemental security income because of her mental illnesses and hence was on Medicaid.) Madison denied that the funding would run out; nevertheless, beginning in July 2011, the State would limit Medicaid patients to "10 therapy sessions [per year] and ongoing community support." After the 10 therapy sessions, Madison would have to "request *** more therapy sessions"—she would have to "advocat[e] for further sessions."

¶ 97 Madison testified: "Unfortunately, due to State guidelines she may not be able to continue with us in therapy because there are limits in our sessions, new ones. So if she was to continue with us, there are limits in therapy from this point on. So depending on how much time we

have or where we're at in the year, she may have to—that's why I refer to other agencies to help her with some of the continued coping skills that she needs to continue to . . ."—it appears that Madison trailed off at this point. The assistant State's Attorney followed up with this question:

> "Q. So if she doesn't bring it up in the time period that you've been allotted for funding, if any issue is not brought up, then it probably won't—
>
> A. It may not."

¶ 98 8. *Terry Brown*

¶ 99 Terry Brown, a family support team leader at The Family and Community Resource Center, testified that respondent's home was clean and free of safety hazards and that it was "a place [N.F.] could return to." Brown had visited respondent's home once.

¶ 100 9. *Respondent*

¶ 101 Respondent testified she was born on April 5, 1984, and that she was 27 years old. Her son, N.F., was born on March 19, 2007, and he was 4 1/2 years old.

¶ 102 According to respondent, she had been hospitalized approximately 15 times in the past 10 years for mental-health problems. All of the hospitalizations "involv[ed] suicidal thoughts, but med changes were needed during those to help with the suicidal thoughts. So going in for a med change was necessary."

¶ 103 Only one hospitalization, the hospitalization at McFarland, "involved some form of homicidal thoughts, harm to someone else." Respondent explained that although she had homicidal thoughts toward N.F. while at McFarland, she "never wanted to kill him"; she "didn't want harm towards him." Instead, "[n]ot being with him ha[d] been the hardest thing in the world for [her],"

and she "wanted to know that he would be taken care of." To her, heaven was "a glorious place, and [she] wanted him to be free[,] and [she] knew that God and some very close relatives who had passed away would take care of him up there."

¶ 104 The guardian *ad litem* asked respondent:

> "Q. And are there other times that you've had some form of homicidal thoughts that have not led to hospitalization?
>
> A. I believe there was one, one other time.
>
> Q. And do you recall when that occasion would have been?
>
> A. I believe it was in April of '09."

On recross-examination by DCFS's attorney, respondent testified that the homicidal ideation in April 2009 regarded N.F.

¶ 105 The guardian *ad litem* asked respondent:

> "Q. What was the reason or purpose for making some connection with the Connolly issue?
>
> A. Um, I—I knew the family. I knew that it had been an extremely messy divorce, and I kind of looked at it—I could see it in the kids' perspective of the parents fighting for the children. And I know that the dad had been ripped up one side and down the other and I knew he felt like crap. And I don't think a child should be taken from anybody, and I think—and I knew the children wanted to see their father. And in looking at that, I don't want to say I wasn't allowed, but I didn't see my father when he had left, and I guess I just

> understood knowing that he wanted to see his children. I—I don't relate to him. I don't accept what he did, that—I mean, I would never wish for somebody to kill their child. That—that is not acceptable.
>
> I understood, and I don't know if it was misinterpreted or, you know, from other people, but I just understood that—that he wanted to see his kids and that he was not allowed to because of his mental illness."

Respondent testified: "*** I didn't understand why he killed his kids. I understood his need to want to see them and the kids to want to see their dad."

¶ 106 10. *Carmen Chase*

¶ 107 Carmen Chase testified she was a psychiatrist at Advocate BroMenn Medical Center and that she "saw [respondent] for six days two years ago," in May 2009, when respondent was admitted there for an overdose of Risperdal. Chase described respondent, at the time, as having a chronic death wish, being very unstable, and exhibiting self-injurious behavior.

¶ 108 Several times in her notes, Chase also described respondent as "gamy." "[W]e use that term," Chase explained, "when someone is manipulative and seems to understand what we want them to say rather than what we are asking, and so they'll say something misleading." Respondent wanted to be released from BroMenn so she could attend a shelter-care hearing, and she "[knew] what to say to get out." Chase testified: "I think that the fact that she was on a mental health unit and we were asking her very probing questions would lead her to minimize because she wanted to get out of the hospital. I think that would be a normal response for any one of us."

¶ 109 According to Chase, if someone made a suicide attempt, there was a 25% to 50%

chance that the person would attempt suicide again—and that the probability increased with each additional suicide attempt. In a progress note dated June 1, 2009, Chase wrote, "[']I don't feel [respondent] will ever be entirely safe because of her borderline personality disorder.[']" The bipolar disorder, combined with the borderline personality disorder, made her even more unstable.

¶ 110 Even so, Chase acknowledged it was possible for someone with a borderline personality disorder to safely raise a child. DCFS's attorney asked Chase what made respondent different. Chase answered:

> "A. At that time—
>
> Q. Right.
>
> A. —Ms. Friedlein was still considered relatively unstable. When she went home, I felt she could take care of herself. She could see her therapist, she could learn more coping skills and hopefully remain safe for not harming herself.
>
> Um, I felt that the stress of parenting might worsen that and was somewhat glad at the time that she didn't have that stress added to her other issues of homelessness and things like that."

¶ 111 Chase admitted that if respondent had been undergoing treatment for the past 1 1/2 years, her impression might be different today if she saw her again. Chase had not seen her since June 2009, and she could not predict what her impressions would be now if she reexamined respondent.

¶ 112 11. *Dawn Heath*

¶ 113 a. Respondent's Minimization of the Heaths' Help

¶ 114 The State called N.F.'s foster mother, Dawn Heath, as a rebuttal witness. Dawn testified she had listened to respondent's testimony and that, in her view, respondent had minimized the extent to which Dawn and her husband, Rick, had assisted in taking care of N.F. during respondent's hospitalizations. (The Heaths and respondent were close acquaintances through attending the same church.) It was true, as respondent had testified, that respondent's mother watched N.F. during the hospitalization in June 2008. But it was false, according to Dawn, that respondent's mother watched N.F. during the entire period of hospitalization in November 2008. In actuality, Dawn testified, respondent's mother watched N.F. only two nights during that hospitalization, and the Heaths watched him the remaining five nights. The Heaths arranged for child care during the day, when they both had to work.

¶ 115 Likewise, according to Dawn, respondent's testimony was false in its assertion that respondent's family watched N.F. during the next hospitalization, in April 2009. Dawn testified that instead she and her husband watched N.F. during that hospitalization—as well as during the next hospitalization, in May 2009.

¶ 116 b. Respondent's Sojourn With the Heaths

¶ 117 While respondent was in the hospital in April 2009, the Heaths offered to allow her and N.F. to move in with them, rent-free. (Respondent was not getting along with her mother.) Respondent's therapist thought this was a good idea, and respondent accepted the offer.

¶ 118 Respondent and the Heaths agreed on a routine they would follow while respondent lived with them. The Heaths would keep respondent's medication in a lockbox, and whenever it was time for respondent to take the medication, they would give her the prescribed dosage and watch her take it. One of the prescribed medications was Risperdal. The problem was, respondent had to take

a dose of Risperdal at noon, and she worked during the day. So, Rick gave her five pills on Monday with the understanding that she would take those five pills to the bank, where she worked; lock them in her desk; and take them out, one each day, only when it was time to take the noon dosage.

¶ 119 In May 2009, the Heaths had been concerned about respondent for a couple of weeks. One night, they stayed up late talking with her in a kind of counseling session. It was "fairly standard" for them to stay up late talking with respondent during the 5 1/2 weeks she lived with them (Dawn also communicated with her by email during the day, giving her encouragement and monitoring her emotional weather). They talked with her about her therapy, urging her to use her "DBT [(dialectic behavioral therapy)] skills" and not to succumb to negative impulses. She assured them she had been taking her medication. Even so, she appeared to be especially troubled that night, and the trigger appeared to be her sister's departure after traveling to the area for a visit. Respondent told the Heaths that she was thinking about doing something, but she would not specify what. She said she had a plan but that if she divulged the plan, she would have to come up with a different plan.

¶ 120 As long as Dawn had known her, respondent had a therapist. And she had been going to her therapeutic appointments every day. The Heaths had a working relationship with the therapist, and they resolved to confer with the therapist the next day.

¶ 121 The Heaths and respondent retired at 11 p.m., the Heaths to their bedroom and respondent to the bedroom she shared with N.F. At 1:30 a.m., respondent called Rick's cell phone, but he had the ring tone turned off and consequently did not hear the call. Later, respondent called Dawn's cell phone, and Dawn and Rick heard the phone vibrating on the nightstand.

¶ 122 Dawn and Rick sprang out of bed and ran to the front of the house. They found respondent lying on the bathroom floor, by the toilet. She was limp and could not get up. She was

incoherent; her speech was slurred. She told them she had taken some pills.

¶ 123 N.F. was asleep in the bed that he shared with respondent. An empty bottle of Excedrin was on the bedroom floor.

¶ 124 At the hospital, respondent said she had taken 20 Excedrin pills and 10 Risperdal pills. Dawn was present when respondent said this. Respondent would have had to save up 10 noon dosages of Risperdal.

¶ 125 c. Description of N.F.

¶ 126 According to Dawn's testimony, N.F. is a very intelligent, loving, and kind boy. He has no behavioral problems to speak of, although he has to be disciplined occasionally. He does not throw "tantrums," exactly, but like many children, he protests when he is placed in "time-out," in his little rocking chair in his bedroom. Perhaps the most demanding aspect of watching N.F. is fielding his relentless questions. He has a "very detail oriented mind." Dawn testified: "[H]e asks questions about everything to a degree that no other children I've ever been around has asked." He is active, requiring constant supervision and attention. He is "high maintenance"; he is "on" from the moment he wakes to the moment he falls asleep.

¶ 127 C. The Trial Court's Finding of Unfitness

¶ 128 1. *Believing Zashin Over Dellorto*

¶ 129 At the conclusion of the fitness hearing, the trial court made some remarks from the bench. The court found Zashin and Dellorto to be equally qualified by education and experience, but the court deemed it "somewhat significant" that Dellorto lacked a complete history before arriving at her conclusion that N.F. could be immediately returned to respondent's custody. Dellorto did not know that, on repeated occasions, respondent had driven N.F. in a vehicle after overdosing.

Nor was Dellorto aware of respondent's history of homicidal ideations toward N.F. Although the risk of respondent's intentionally harming N.F. was perhaps small, the consequences, the court reasoned, would be grave. Therefore, the court found Zashin's opinions and conclusions to be more credible than those of Dellorto.

¶ 130 2. *The Elements of Section 1(D)(p) of the Adoption Act*

¶ 131 Under section 1(D)(p) of the Adoption Act (750 ILCS 50/1(D)(p) (West 2010)), one of the grounds of unfitness is an "[i]nability to discharge parental responsibilities supported by competent evidence from a psychiatrist, licensed clinical social worker, or clinical psychologist of *** mental illness ***, and there is sufficient justification to believe that the inability to discharge parental responsibilities shall extend beyond a reasonable time period."

¶ 132 The trial court found, by clear and convincing evidence, that respondent had two mental illnesses, bipolar disorder and borderline personality disorder, and that these mental illnesses currently incapacitated her from discharging her parental responsibilities. In this connection, the court noted Abelita's agreement that it would be unsafe to return N.F. to respondent's custody before her homicidal ideations toward N.F. had been explored. Also, Zashin opined it never would be safe to return N.F. to respondent's custody. Those opinions were "competent evidence from *** psychologist[s]." 750 ILCS 50/1(D)(p) (West 2010).

¶ 133 As for the second element of section 1(D)(p), *i.e.*, whether there was sufficient justification to believe that the inability to discharge parental responsibilities would extend beyond a reasonable time, the trial court found that element to be proved as well, for three reasons. First, the two mental illnesses, bipolar disorder and borderline personality disorder, had a synergistic effect on each other, producing multiple suicide attempts and multiple homicidal ideations. Second,

respondent had 15 or 16 hospitalizations over a relatively short period of time. Third, her mental illnesses had been of long duration; she had been struggling with suicidal impulses for at least 13 years.

¶ 134 The trial court did not disagree with Abelita and Madison that respondent had been doing relatively well for the previous 12 months. But she had experienced rather long periods of stability in the past—from 2001 to 2005, for instance—only to rapidly decompensate. Also, during this latest period of relative stability, she had been able to focus only on herself and her treatment, without the responsibilities of raising a child. The court agreed with Zashin that a "very long period of stability," at least two years, was required before one could legitimately conclude that respondent was able to discharge her parental responsibilities.

¶ 135 Respondent's current stability was, in the trial court's view, rather tenuous and fragile, considering that it was highly dependent on her compliance with medication and therapy and considering that there was some question about her eligibility for services in the future. It did not appear that the limit of 10 therapy sessions would be enough for her. Also, she had a history of minimizing her symptoms and hoarding medication.

¶ 136 For these reasons, the trial court found respondent to be an "unfit person" within the meaning of section 1(D)(p) of the Adoption Act (750 ILCS 50/1(D)(p) (West 2010)).

¶ 137 II. ANALYSIS

¶ 138 Respondent does not dispute that she has two mental illnesses, bipolar I disorder and borderline personality disorder, and that these mental illnesses, if untreated, would prevent her from discharging her parental responsibilities. But she points out that she has received treatment, and she argues that the treatment has been effective, as evidenced by the 18 months of "stability" she had

experienced as of the time of the fitness hearing. Consequently, she argues that the following clause in section 1(D)(p) (750 ILCS 50/1(D)(p) (West 2010)) was unproved by clear and convincing evidence: "there is sufficient justification to believe that the inability to discharge parental responsibilities shall extend beyond a reasonable time period," and she argues that the trial court made a finding that was against the manifest weight of the evidence when it found that clause to be proved (see *In re Gwynne P.*, 215 Ill. 2d 340, 354 (2005)).

¶ 139 A finding is against the manifest weight of the evidence only if "the opposite conclusion is clearly apparent." *Gwynne P.*, 215 Ill. 2d at 354. Therefore, we should reverse the trial court's judgment only if it is clearly apparent, from the evidence adduced in the fitness hearing, that the State failed to prove, by clear and convincing evidence, the following two propositions: (1) respondent's mental illnesses currently caused her to be unable to discharge parental responsibilities, and (2) this inability would extend beyond a reasonable duration of time. See 750 ILCS 50/1(D)(p) (West 2010); *In re C.M.*, 319 Ill. App. 3d 344, 360 (2001).

¶ 140 One parental responsibility is not to desire the child's death. Respondent's mental illnesses, which are permanent, incapacitate her from consistently discharging that parental responsibility. It may well be that she does not constantly desire N.F.'s death, but there is evidence that whenever she enters an acute phase of her bipolar disorder, she desires his death (purportedly for his own good), even if it means murdering him herself.

¶ 141 This homicidal ideation toward N.F. is not a one-time fleeting thought. Respondent experienced this ideation in September 2009, January 2010, and February 2010. And even when she apparently is not in an acute phase, she is open to the idea of a parent's murdering the child if the parent is desperate enough. On two occasions—April 5, 2009, according to Rafferty's testimony,

and October 29, 2009, according to Mikel's testimony—respondent identified with Connolly's behavior in murdering his two sons before committing suicide.

¶ 142 Even though, in Zashin's opinion, the risk of respondent's acting on this homicidal ideationsis low, Zashin believed there was nevertheless some risk that she would do so in an acute phase of her bipolar disorder. The existence of that risk, in any degree, is inconsistent with parental responsibility—as is the homicidal ideation itself, regardless of whether it is ever acted on.

¶ 143 Granted, when she is relatively stable, respondent is more ambivalent about sending her son to heaven. Her stability, however, does not necessarily inspire confidence, because even when she has only herself to worry about, even when others are taking care of her child, this stability has to be continually and heroically maintained with frequent therapy sessions and changes of medication. Respondent's psychological needs are so formidable and all-consuming that it is difficult to see how she would be able to turn enough of her attention away from herself so as to be able to take care of a rather demanding child—especially after state-funded therapy sessions come to an end. If respondent felt stressed out by her mother's neediness, her mother would be nothing compared to N.F. And when respondent is subjected to the stress of day-to-day parenting, it is unclear that she will have access to a therapist with which to review her coping skills. Even Abelita testified that respondent's stability was dependent on her continued access to a therapist. Unfortunately, until she ends up in a hospital again, it is unclear whether and to what extent respondent will have that access once she has exhausted her ration of 10 therapy sessions. It is unclear that "community support" will serve as an adequate substitute for the therapy sessions.

¶ 144 So, given that respondent's current stability is something that has to be continually and elaborately shored up under the ideal condition of having only herself to worry about, the trial

court could reasonably believe Zashin's opinion that respondent's inability to discharge her parental responsibilities, by reason of her mental illnesses, still exists and has extended beyond a reasonable duration of time. See 750 ILCS 50/1(D)(p) (West 2010). That finding is not against the manifest weight of the evidence. See *Gwynne P.*, 215 Ill. 2d at 354.

¶ 145 III. CONCLUSION

¶ 146 For the foregoing reasons, we affirm the trial court's judgment.

¶ 147 Affirmed.