

NOTICE  
Decision filed 05/09/22. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2022 IL App (5th) 210400-U  
NOS. 5-21-0400, 5-21-0401, 5-21-0402 cons.

NOTICE  
This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

IN THE  
APPELLATE COURT OF ILLINOIS  
FIFTH DISTRICT

---

<i>In re</i> M.M.D., A.O.D., and M.A.S., Minors	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Jefferson County.
	)	
Petitioner-Appellee,	)	
	)	
v.	)	Nos. 18-JA-26, 18-JA-27, &
	)	19-JA-121
A.S.,	)	
	)	Honorable Evan L. Owens,
Respondent-Appellant).	)	Judge, presiding.

---

JUSTICE CATES delivered the judgment of the court.  
Justices Welch and Moore concurred in the judgment.

**ORDER**

¶ 1 *Held:* The trial court's findings that Mother was an unfit person, and that the termination of her parental rights was in the children's best interest, were not contrary to the manifest weight of the evidence.

¶ 2 Respondent, A.S. (Mother), appeals the judgment of the circuit court of Jefferson County terminating her parental rights to her minor children, M.M.D, A.O.D., and M.A.S., claiming the trial court's findings of unfitness and best interest were in error. For the following reasons we affirm.

¶ 3

## I. BACKGROUND

¶ 4 A.S. is the biological mother of M.M.D., born August 30, 2016, A.O.D., born August 2, 2017, and M.A.S., born November 18, 2019. She is also the biological mother of two other children who are not parties to this appeal.<sup>1</sup> The children's biological fathers, S.D. and L.S., are also not parties to this appeal. S.D., and Mother's second oldest child, M.B., born January 15, 2008, will only be discussed as necessary to provide relevant background for the issues presented.

¶ 5 On March 12, 2018, the State filed juvenile petitions regarding the minors, M.M.D. and A.O.D., pursuant to the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/1-1 *et seq.* (West 2016)).<sup>2</sup> The petitions alleged that the minors were neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act. 705 ILCS 405/2-3(1)(b) (West 2016). The petition alleged that Mother failed to provide for all of the minors' medical needs. A.O.D., then seven months old, was diagnosed with a heart murmur that needed to be monitored. A.O.D.'s pediatrician called the Department of Children and Family Services (DCFS) after Mother had failed to attend two of A.O.D.'s cardiology appointments. Mother had failed to administer psychiatric medication to M.B. and she would not allow M.B.'s caretaker to provide for his medical needs. Mother also failed to take her own psychiatric medications. The petition referred to a 2011 DCFS report where Mother was indicated by DCFS for abuse or neglect due to anxiety and uncontrollable rage.

---

<sup>1</sup>Mother's oldest child turned 18 during the course of the proceedings.

<sup>2</sup>On March 12, 2018, the State filed juvenile petitions for Mother's two older children as well. M.A.S. was born on November 18, 2019, after the initial petitions were filed.

The petition also alleged that Mother had not provided a safe home environment due to allegations of domestic violence, including an incident where S.D. had threatened M.B. with a knife.

¶ 6 A shelter care hearing was held the same day as the juvenile petitions were filed. The trial court found probable cause for neglect based on Mother's prior indicated DCFS report where Mother had failed to correct conditions regarding her anxiety and uncontrollable rage. Temporary custody of the minors was given to the Guardianship Administrator of DCFS. The court also appointed a guardian *ad litem* (GAL). Mother appeared for the hearing and agreed to the entry of the orders.

¶ 7 The trial court appointed a court appointed special advocate (CASA) on March 28, 2018, pursuant to section 2-17.1 of the Juvenile Court Act (705 ILCS 405/2-17.1 (West 2016)). The CASA worker was granted authority to complete an intensive investigation and access to DCFS records and files. The CASA worker was additionally granted authority to submit written reports to the trial court outlining findings and recommendations, appear for court proceedings, and "insure that the best interests of the child(ren) are related to the court."

¶ 8 On June 11, 2018, the court entered an agreed order for continuance under supervision pursuant to section 2-20 of the Juvenile Court Act (705 ILCS 405/2-20 (West 2016)). The court discharged DCFS's temporary custody and returned M.M.D. and A.O.D. to Mother. Mother was ordered to fully cooperate with all DCFS recommendations.

¶ 9 On December 7, 2018, the State filed a petition to revoke the continuance under supervision. The State alleged that Mother failed to maintain contact with Caritas Family

Solutions (CFS), an agency that works with DCFS and employs caseworkers to assist with family reunification. The State additionally alleged that Mother had failed to cooperate with parenting, substance abuse, and mental health counseling services. Mother additionally was neglecting medical attention for the minors.

¶ 10 On January 16, 2019, it was reported to DCFS that Mother was residing in a home with A.O.D. Mother was allegedly placing A.O.D. at risk by residing in a home with a “heavy flow of adult traffic” and that was characterized as a “known crack house.” The other children were staying with their grandmother. It was also alleged that Mother was selling stolen goods to purchase crack cocaine. Mother was again indicated for abuse or neglect by DCFS after the DCFS investigation.

¶ 11 On January 23, 2019, the State refiled the petition to revoke the continuance under supervision and filed a petition for shelter care. The petition for shelter care expanded on the allegations of neglect that the State had asserted in the juvenile petition filed on March 12, 2018. In addition to the initial allegations of neglect, the State alleged that Mother had failed to maintain contact with CFS, failed to comply with services, and failed to comply with drug tests.

¶ 12 During the shelter care hearing on January 24, 2019, Mother agreed to an order for DCFS to have temporary custody of M.M.D. and A.O.D. Mother stipulated that she had failed to attend a scheduled drug test. M.M.D. and A.O.D. were again removed from Mother’s care and the Guardianship Administrator of DCFS was granted temporary custody of the minor children.

¶ 13 On February 20, 2019, Mother picked up M.B. from school, alone, although she was not allowed to have unsupervised visitation. Mother took M.B. from school to Walmart and had encouraged M.B. to shoplift approximately \$400 worth of baby supplies. M.B. was apprehended while leaving the store with the merchandise and charged with retail theft. Mother was arrested for contributing to the delinquency of a minor and retail theft.

¶ 14 An adjudicatory hearing was held on February 25, 2019, at which time Mother stipulated that she had violated the order of continuance under supervision. The trial court found that the allegations of the juvenile petitions filed on March 12, 2018, had been proved by a preponderance of the evidence.

¶ 15 On March 11, 2019, CFS filed a report prepared by Sarah Chamness, a foster care case manager employed through CFS. CFS had completed an updated service plan in an effort to correct the conditions that led to the removal of the children from the home. Mother's plan recommended that she engage in domestic violence, substance abuse, psychological, and psychiatric services, family therapy, and obtain employment. Chamness expanded on the mental health portion of the service plan to address Mother's "mood swings." Chamness noted that "[Mother] is either extremely high or extremely low, [Mother] does not have just normal, regular mood days." At that time, Mother was enrolled in mental health counseling at Spero Counseling, and she was working well with her mental health counselor. Mother had tested negative for all substances during a March 7, 2019, drug test. Visitation was also going well. Mother remained unemployed.

¶ 16 CASA also filed a report, prepared by Janet Sheets, prior to the dispositional hearing. The CASA report, dated March 14, 2019, referenced the Walmart shoplifting

incident where Mother was arrested for contributing to the delinquency of a minor and retail theft. The police report regarding this incident was attached to the CASA report. CASA recommended that the children remain in the placement with their foster parents.

¶ 17 On March 22, 2019, the court held the dispositional hearing in M.M.D. and A.O.D.'s cases. Mother was present with counsel. Chamness and Sheets were also present at the hearing. The trial court found that Mother was unable to care for M.M.D. and A.O.D. The service plan was found to be appropriate. The court granted the State's petition and M.M.D. and A.O.D. were made wards of the court. Custody and guardianship of M.M.D. and A.O.D. were placed with the Guardianship Administrator of DCFS.

¶ 18 Prior to a September 16, 2019, status conference, CFS filed a report dated August 28, 2019, prepared by Chamness. The CFS report provided an update on Mother's progress with her service plan. Mother missed several appointments with her mental health counselor and substance abuse services. She also started a new parenting class after she was previously closed out for noncooperation. Chamness reported that she had requested that Mother complete a psychological evaluation, but Mother was denied services after completing an intake. The CFS report recommended that the court order a psychological evaluation for Mother. The trial court ordered a psychological evaluation for Mother during the September 16, 2019, status conference.

¶ 19 Mother gave birth to M.A.S. at home on November 18, 2019. Mother and M.A.S. were transported to Good Samaritan Hospital in Mt. Vernon, Illinois, where M.A.S. tested positive for cocaine in his meconium. Mother had discarded her urine after she was notified

that the hospital was going to administer a urine drug screen. M.A.S. was placed in protective custody.

¶ 20 On November 19, 2019, the State filed a juvenile petition regarding M.A.S. pursuant to the Juvenile Court Act. The State alleged that M.A.S. was neglected as he was in an environment injurious to his welfare pursuant to sections 2-3(1)(b) and (c) of the Juvenile Court Act (705 ILCS 405/2-3(1)(b), (c) (West 2018)) because of his positive drug test. The petition also referenced Mother's ongoing issues with substance abuse and her history with DCFS, including the open placement cases for her other children.

¶ 21 On November 20, 2019, the court held a shelter care hearing regarding M.A.S. Mother appeared and requested an attorney. The court granted temporary custody of M.A.S. to the Guardianship Administrator of DCFS. Mother was appointed counsel and a rehearing was set on December 2, 2019. Mother appeared on the December 2, 2019, hearing date with counsel and waived her right to the rehearing. Temporary custody of M.A.S. remained with DCFS.

¶ 22 On February 10, 2020, M.A.S.'s case was set for an adjudicatory hearing. At the start of the proceeding, the court stated that the GAL assigned to Mother's case was no longer available and appointed Joshua Reeves as the new GAL. During the hearing, Mother stipulated to testing positive for cocaine on November 18, 2019, after M.A.S.'s birth. M.A.S. was adjudicated as a neglected minor.

¶ 23 Prior to the dispositional hearing in M.A.S.'s case, CFS filed a report on February 26, 2020, prepared by Chamness. The report included Mother's progress with her service plan. Mother had been evicted from her housing and was unemployed. Mother stopped

attending mental health services at Spero Counseling, and domestic violence services had been incorporated into those sessions. Spero Counseling stopped scheduling sessions after Mother failed to show for a month of services. Mother was also unsuccessfully discharged from a substance abuse program after she stopped attending and she had tested positive for cocaine on February 7, 2020. Mother also failed to visit with her children on multiple occasions. Mother had completed a parenting class and was scheduled for a psychological exam. CFS recommended that the court order Mother to comply with her service plan and cooperate with the agency. CFS also recommended that M.A.S. remain in his foster care placement, with the agency to have discretion over his placement and visitation. CFS further recommended that the court set a permanency hearing in six months.

¶ 24 CASA filed a report on February 27, 2020, prepared by Sheets, prior to the dispositional hearing in M.A.S.'s case. According to the report, Mother was not compliant with her service plan and canceled visitation frequently. CASA also indicated that M.A.S. was placed with his foster family since birth and was thriving. CASA recommended that M.A.S. become a ward of the court, guardianship be placed with DCFS, and he remain in his current placement.

¶ 25 On March 9, 2020, a dispositional hearing was set in M.A.S.'s case. Mother did not appear for the hearing. Mother had been released from the county jail the morning of the hearing. (She had been arrested for the retail theft incident.) The trial court considered the dispositional hearing reports filed by CFS and CASA. The court found that it was in the best interest of M.A.S. to be made a ward of the court. Custody and guardianship of M.A.S. was placed with the Guardianship Administrator of DCFS.



¶ 26 On September 15, 2020, the State filed motions to terminate Mother's parental rights in M.M.D. and A.O.D.'s cases. The State alleged that Mother was an unfit parent based on multiple sections of the Adoption Act (750 ILCS 50/1(D) (West 2020)). The allegations included that Mother failed to maintain a reasonable degree of interest, concern, or responsibility for the child's welfare under section 1(D)(b) (750 ILCS 50/1(D)(b) (West 2020)), and Mother suffered from habitual drunkenness or addiction to drugs under section 1(D)(k) (750 ILCS 50/1(D)(k) (West 2020)). Mother also failed to make reasonable efforts to correct the conditions that were the basis for removal of the children, and she failed to make reasonable progress towards the return to the children during any nine-month period following adjudication under sections 1(D)(m)(i) and (m)(ii) (750 ILCS 50/1(D)(m)(i), (m)(ii) (West 2020)). The State further alleged that it was in the children's best interest for Mother's parental rights to be terminated and requested that DCFS have guardianship of the minors with the power to consent to adoption.

¶ 27 The State additionally filed supplemental pleadings regarding the motion to terminate Mother's parental rights of M.M.D. and A.O.D. The supplemental pleadings gave notice of two nine-month periods after the adjudication date of February 25, 2019, where Mother had allegedly failed to make reasonable progress toward the return of M.M.D. and A.O.D. Specifically, the State claimed that Mother failed to make reasonable progress from February 26, 2019, through November 26, 2019, and from November 26, 2019, through August 26, 2020.

¶ 28 On June 10, 2021, the State filed a motion to terminate Mother's parental rights of M.A.S. The State alleged the same four reasons as in the petitions filed regarding M.M.D.

and A.O.D. Since M.A.S. had an adjudication date of February 10, 2020, the State asserted different nine-month periods where Mother failed to make progress toward the return of M.A.S. The State claimed that Mother failed to make progress toward the return of M.A.S. during the time periods of February 11, 2020, through November 11, 2020, and September 9, 2020, through June 9, 2021.

¶ 29 The State filed a supplemental pleading regarding M.M.D. and A.O.D. on June 10, 2021. The State claimed that Mother had failed to make reasonable progress toward the return of M.M.D. and A.O.D. during a third nine-month period from August 27, 2020, through May 27, 2021.

¶ 30 A permanency hearing was held on May 18, 2020. Chamness testified that Mother had only completed a parenting class at Spero Counseling and had stopped engaging in other services in February 2020. The permanency goal for all of the children was to return home within 12 months. The trial court found that Mother was not consistently engaged in services. Custody and guardianship of the minors remained with DCFS.

¶ 31 The next permanency hearing was held on October 8, 2020. At that time, the trial court found that the appropriate permanency goal for M.M.D. and A.O.D. was substitute care pending the court's decision on whether Mother's parental rights should be terminated. The permanency goal for M.A.S. was to return home within 12 months. The court found that Mother had not engaged in services and was not consistent with services.

¶ 32 On February 2, 2021, a psychological report, dated December 17, 2020, and prepared by Dr. Terri Guilford, was filed with the court. Mother had arrived 2½ hours late for her assessment and smelled of marijuana. Dr. Guilford observed that Mother appeared

amused at the beginning of the evaluation, her eyelids were low, and she ate snacks from her purse during the evaluation. The report included that Mother's use of marijuana met the criteria for a diagnosis of "mild cannabis use disorder" and Mother had admitted to the use of substances to cope with her problems.

¶ 33 Dr. Guilford opined that Mother struggled with "lack of insight and self-awareness." Mother's "emotional difficulties have impeded her ability to make healthy and safe decisions." It was also noted in the report that Mother "does not have adequate understanding of her children's need[s] and of her parenting responsibilities or sufficient skills to satisfy these needs and responsibilities." Mother was able to recognize harm and to intervene for her children's safety.

¶ 34 Dr. Guilford recommended that Mother participate in individual mental health counseling, and successfully complete parenting classes and receive a one-on-one parenting coach. Regular drug screening was highly recommended as Mother's poor decision-making was due to drug use. Dr. Guilford also recommended continued appointments with a psychiatrist for medication monitoring of depression symptoms. Mother was encouraged to attend vocational training to learn job skills as well.

¶ 35 During the February 4, 2021, permanency hearing, the trial court admonished Mother to cooperate with DCFS and comply with the terms of her service plan. The court found that Mother had not made reasonable efforts or substantial progress. The permanency goal for all of the children was substitute care pending the court's decision on whether Mother's parental rights should be terminated.

¶ 36 The trial court conducted a fitness hearing on September 23, 2021. Chamness testified that she had worked on Mother's case from January 25, 2019, until July 1, 2020. Chamness testified to multiple service plans that she had created or had knowledge of during her time as a caseworker, including plans dated January 22, 2019, June 18, 2019, December 12, 2019, January 15, 2020, February 28, 2020, and July 8, 2020. Mother's recommended services included completion of programs for mental health, psychological, substance abuse, domestic violence, and parenting issues. The service plan also recommended that Mother's medication should be monitored, and Mother was to participate in visitation with the children, obtain housing, and obtain income. The service plans were admitted into evidence without objection.

¶ 37 Chamness testified that Mother's plan progress was repeatedly rated unsatisfactory. Mother's own mother had passed away in September of 2019, and this event interrupted Mother's progress. Mother stopped participating in services and visitation. After the birth of M.A.S., Mother reengaged with her service plan, but remained "halfway" involved in services due to her infrequent participation.

¶ 38 According to Chamness, Mother had been unsuccessfully discharged from mental health and domestic violence counseling for sporadic participation. After Mother had reengaged in services, her attendance with mental health counseling was still inconsistent. However, Mother made some significant changes. Mother would communicate when she was upset instead of using avoidance. The counselor also helped Mother work through issues related to the passing of her mother.

¶ 39 Chamness had a difficult time getting approval for Mother to have a psychological exam because Mother was not engaging in services. Mother was rated unsatisfactory on psychological treatment because no one would complete the evaluation.

¶ 40 Chamness testified that Mother did not cooperate with drug screenings. Chamness would leave messages for Mother to take a drug test and offer transportation. Mother would typically respond the day after the missed drug test. Mother was required to attend substance abuse classes twice a week and she was only attending once a month. While Chamness was the caseworker, Mother had been removed from substance abuse services for noncompliance on two occasions. Chamness also testified to an incident on February 7, 2020, where she took Mother, without notice, to a random drug test while driving Mother to visitation with the children. Mother tested positive for cocaine and stated that she “had a problem.” Mother enrolled in inpatient substance abuse services after that incident.

¶ 41 Mother had satisfactorily addressed some of the domestic violence goals on her July 8, 2020, service plan. She had not been involved in a domestic violence situation since the case was opened. Mother had been discharged from the combined mental health and domestic violence program for failing to attend sessions.

¶ 42 Chamness testified that Family Foundations, the agency administering parenting classes, closed out Mother’s services due to lack of communication in May of 2019. Mother was referred to a new parenting class, Project 12 Ways, but she was not accepted into the program because she failed to comply with random drug tests. Mother was required to pass four to five drug tests before she would be admitted into the parenting program.

¶ 43 Chamness had a difficult time determining if Mother was compliant with her medication. The July 8, 2020, service plan indicated that Mother was not taking her medication and had not taken steps to receive a new prescription.

¶ 44 Mother was unemployed for a long period of time. Chamness had provided Mother with a list of places that were hiring, but Mother did not believe those jobs were worth her time. Mother also had been evicted from her housing. Mother then moved in with her father and her service plan remained unsatisfactory for housing because she did not have bills in her own name.

¶ 45 Visitation was not consistent. When Mother had visitation with M.A.S. it went well when her other children were not present. Mother had a difficult time dividing her attention during visitation with all of the children.

¶ 46 Chamness testified that Mother started to make progress and become compliant with services after her February 28, 2020, service plan. Overall, Mother had shown an improvement from when she started services in comparison to the last service plan, dated July 8, 2020, with which Chamness had been involved. Even though Mother was making progress, Chamness testified that it was her opinion that Mother did not make reasonable efforts to correct the conditions that brought her children into care. Chamness was also of the opinion that Mother had not made reasonable progress toward the goal of returning her children home.

¶ 47 Mattie Kuhnert, a CFS foster care case manager, testified that she was Mother's caseworker from July 2020 until March 2021. Kuhnert testified to the service plan dated January 7, 2021, and rated Mother's progress with the plan as unsatisfactory because

Mother was inconsistent with services. This plan was admitted into evidence without objection.

¶ 48 Kuhnert explained that Mother completed her psychological evaluation on November 5, 2020, with Dr. Guilford. Kuhnert had reviewed Dr. Guilford's report and stated that Dr. Guilford indicated the children would be in immediate risk of harm if returned to Mother because she did not have an understanding of her children's needs. The psychological evaluation recommended an additional one-on-one parenting course.

¶ 49 Kuhnert testified that Mother was not referred to the parenting class because she was not consistent with her mental health and substance abuse services. CFS did not have a consent from Mother to verify whether she completed mental health services. According to Kuhnert, Mother had failed to complete outpatient substance abuse services.

¶ 50 Kuhnert also testified that Mother did not cooperate with drug screenings. Kuhnert explained that Mother was only marked as failure to appear when she was informed about a drug test and did not complete the test. From July 2020 until March 2021, Kuhnert was unable to contact Mother. Therefore, Kuhnert would not schedule drug tests.

¶ 51 When Kuhnert was assigned to Mother's case, Mother was inconsistent with visitation. Kuhnert testified that Mother consistently participated with visitation from January 2021 through March 2021. Mother did not have stable employment according to Kuhnert.

¶ 52 Kuhnert testified that it was her opinion that Mother did not make reasonable efforts to correct the conditions that brought her children into care. Kuhnert was also of the opinion that Mother had not made reasonable progress toward the goal of her children returning

home. She also believed that CFS made reasonable efforts to keep the family intact during the time she was the caseworker. Kuhnert did not believe that the children would be safe if they returned home.

¶ 53 Sarah Ivy testified to the time period of March 2021 to May 2021, when she worked as the caseworker with Mother's family. Ivy testified that Mother completed a mental health counseling program through Chestnut Health Systems without notifying CFS. Chestnut Health Systems did not have documentation from CFS to assess Mother's needs. After Ivy submitted documentation to the service provider, Mother was required to complete a new assessment. Chestnut Health Systems had a waiting list and Mother did not return for services. Ivy was also unable to confirm that Mother had completed domestic violence counseling.

¶ 54 Ivy testified to a conversation she had with Mother in March of 2021, to schedule a drug test. Mother had informed Ivy that she wanted to take a drug test. Ivy agreed to schedule a drug test and informed Mother that she was going to contact her again with the exact date and time for the test. After the drug test was scheduled, Ivy was not able to reach Mother. Ivy called Mother's cellphone, home phone, her son's phone, and went to Mother's house. Mother's father informed Ivy that Mother was not home. Ivy then emailed Mother the information for the drug test. Mother did not appear for the test. Ivy also testified that Mother was inconsistent with visitation.

¶ 55 Alison Wharton, a caseworker with CFS, also testified. Wharton was appointed as a caseworker on Mother's case in August of 2021. Wharton testified to the service plan dated June 25, 2021, and the plan was admitted into evidence without objection.



¶ 56 Wharton identified areas in the service plan that had been incorrectly marked unsatisfactory. For example, although Mother was rated unsatisfactory on the task of medication management, the service plan narrative described that Mother had been taking psychiatric medication since May 2020. Wharton also did know why Mother's plan marked her as unsatisfactory for failing to sign consents where Mother had signed consents.

¶ 57 Wharton noted that Mother was rated satisfactory for the domestic violence portion of her plan. Mother was also rated satisfactory for disciplining her children with use of physical punishment. Mother had completed a parenting course but was rated unsatisfactory for failing to complete a one-on-one course that she had not been referred to.

¶ 58 Mother was also rated unsatisfactory on the substance abuse portion of her plan. Mother had completed inpatient treatment and was referred for outpatient treatment. Wharton testified that Mother completed the outpatient treatment. However, Mother had failed to appear for a March 2021 drug test. Mother appeared for a June 2021 test, but the results were not available prior to the hearing.

¶ 59 Mother found housing and Wharton had not completed a home safety check on the house but believed the house should pass the stable housing requirement of the plan. Mother was also employed.

¶ 60 Mother did not present any evidence or testify on her own behalf. The GAL also did not present evidence.

¶ 61 After the close of the evidence, the State gave its closing argument. The State argued that Mother should be found unfit. Mother was inconsistent with her service plans. The

State acknowledged that Mother was making some progress now, but she failed to correct the conditions within the nine-month time periods alleged in the State's petition. Mother had a child that tested positive for cocaine at birth while her older children were in care. The psychological evaluation stated that the children would not be safe if put back in Mother's care.

¶ 62 Mother's counsel argued that she should not be found unfit for any of the four reasons stated in the motion to terminate Mother's parental rights. Mother had demonstrated interest and concern for her children by continuing to appear in court. The evidence did not show that Mother was unfit based on her interest and concern about her children. Mother's counsel argued that there was no evidence presented about habitual drunkenness or addiction to drugs. There was no evidence of positive drug tests that spanned for more than a year or expert testimony of a drug addiction. Mother's counsel argued that Mother had a difficult time engaging in services in the beginning and had a setback when she grieved the loss of her own mother. However, once she started to participate in services, she showed effort and improved. Mother was rated for tasks on her service plan that were out of her control due to the unavailability of service providers or lack of referrals for services.

¶ 63 The GAL stated that his position was similar to the State's position. Mother had a slow start on her service plan. Although Mother was making progress, he did not believe it was reasonable progress.

¶ 64 The court found that Mother was unfit as defined by the Adoption Act. Mother had failed to maintain a reasonable degree of interest, concern, or responsibility for her

children. The court found that Mother did not have the skills necessary to be there for the children when they needed her and stated that after Mother's mother passed away, Mother lost control and had a baby that tested positive for cocaine at birth.

¶ 65 The court stated that Mother was a cocaine addict when the case began, she gave birth to a child that tested positive for cocaine, and then she played "addict games" with her caseworkers throughout the case to avoid drug tests. The trial court found that the periods of time Mother had made herself unavailable for drug tests were unacceptable. The court found that the State met its burden and Mother was found unfit based on an addiction to drugs for at least one year immediately prior to the commencement of the unfitness proceedings.

¶ 66 The trial court also addressed the allegation that Mother failed to correct the conditions that brought the children into care. The children were brought into care because Mother did not monitor her children's health conditions. The trial court considered the psychological evaluation and was concerned that Mother did not have the ability to determine the needs of her children. The trial court also found that Mother continued to be removed from services for failing to participate. The court did not fault the agency for not offering one-on-one parenting services where Mother had failed to comply with other services. The court found that the State had proven the allegations in its petition by clear and convincing evidence that Mother was unfit.

¶ 67 On November 4, 2021, the court held the best interest hearing. Wharton had visited the children in their foster placements. Wharton testified that she had visited M.M.D. in his foster home seven or eight times. She visited A.O.D. and M.A.S. in their foster homes three

times. She believed that all of the children were doing well overall. The school aged children were doing well at school. The children had adequate shelter, food, clothing, and toys. Wharton did not have any concerns with the children being separated from each other because the foster families worked to facilitate contact amongst the children. According to Wharton, the children were attached to their foster parents.

¶ 68 Wharton testified that the last visit Mother had with the children was on October 26, 2021. The children seemed happy to visit with Mother and Mother was appropriate with the children. Wharton believed that Mother was working on having the children return home and was against the possibility of adoption. However, Wharton gave the opinion that that the termination of Mother's rights would be helpful to the development of the children's identities and recommended terminating Mother's parental rights.

¶ 69 Janet Sheets, the CASA caseworker, testified that she was assigned to this case in September or October of 2018. Sheets had been familiar with the children's foster care placements from the time she was assigned to the case. Sheets had prepared several reports with recommendations to the court throughout the case.

¶ 70 Sheets testified that M.M.D., A.O.D., and M.A.S. were attached to their foster families. A.O.D. was not only attached to her foster mother and father, A.O.D. had also connected with the son of the foster parents who was two months younger than A.O.D. M.A.S. had known his foster family since birth. M.M.D. and A.O.D.'s foster families were active in church. The foster families had expressed to Sheets that they wished to adopt the children.

¶ 71 A member from each of the foster families testified to their relationship with the children. M.M.D.'s foster parent, Joseph Willie, testified. M.M.D. is Willie's biological nephew. Willie has two children that have bonded with M.M.D. Willie testified that he had discussed with the other foster families that M.M.D. needed to bond and maintain a relationship with his biological siblings. Willie was employed and his wife is a stay-at-home mother. He testified that they were able to care for and wished to adopt M.M.D.

¶ 72 A.O.D.'s foster parent, Garry Moore, testified. He had six children and A.O.D. is the same age as his youngest son. A.O.D. loves her foster siblings and Moore testified that he wanted A.O.D. to maintain a relationship with her biological siblings as well. He described A.O.D. as sassy, intelligent, and was always "singing and dancing." His family wished to adopt A.O.D.

¶ 73 M.A.S.'s foster mother, Amanda Petrea, testified. M.A.S. was placed with Petrea three days after his birth. Petrea testified that it was important for M.A.S. to maintain a relationship with his siblings placed with other foster families. M.A.S. shares a bedroom with their five-year-old son. Petrea and her husband are both employed and have bonded with M.A.S. They wish to adopt M.A.S.

¶ 74 The GAL, Joshua Reeves, testified that in June 2021, he met with A.O.D. at Moore's house, and M.M.D. at Willie's house. He had never met with M.A.S. Reeves had met with all of the foster parents in June 2021, and believed the homes were stable. Reeves had also met with the foster parents at the courthouse before the best interest hearing. Reeves acknowledged that he never observed Mother visit with the children.

¶ 75 Mother's counsel objected to Reeves rendering an opinion regarding the termination of Mother's parental rights because the GAL was not compliant with section 2-17(8) of the Juvenile Court Act (705 ILCS 405/2-17(8) (West 2020)). The court overruled the objection and stated that Reeves had met with the children, except M.A.S. who was a baby. Reeves provided his opinion by stating, "I would echo the sentiment of the Caritas recommendations that the rights be terminated and that adoptions move forward."

¶ 76 After the close of testimony, the State argued that Mother's rights with respect to M.M.D., A.O.D., and M.A.S. be terminated as it was in their best interest. The State believed that Mother loved her children. The children were well-bonded with each of the foster families. The children had happy and stable homes with their foster families, and the children deserved permanency.

¶ 77 Mother's counsel argued for guardianships to remain in place. Mother loved her children and the children loved Mother. Mother's counsel argued that Reeves's opinion as the GAL should not be given much weight because he did not observe the children interact with Mother or make in-person contact with the children, as required by the statute. Counsel additionally argued that Mother had done the work and had a strong bond with her children.

¶ 78 The trial court found that the GAL had complied with the statute by meeting with the children within a year prior to the hearing, except for the one-year-old child. The court added that it had information from other sources regarding the one-year-old child, including CASA, the foster parents, and the caseworkers. The court then took the matter under advisement.

¶ 79 On December 1, 2021, the order terminating parental rights was entered. The trial court found that the State met its burden of proving by clear and convincing evidence that Mother was unfit based on sections 1(D)(b), (k), (m)(i), and (m)(ii) of the Adoption Act. 750 ILCS 50/1(D)(b), (k), (m)(i), (m)(ii) (West 2020). The court also found that it was in the best interest of the minors to terminate Mother's parental rights. Mother's parental rights were terminated. DCFS was appointed as guardian of the minors with the power to consent to adoption.

¶ 80

## II. ANALYSIS

¶ 81 On appeal, Mother claims that the trial court's findings that she was an unfit parent were erroneous because the State failed to prove her unfit by clear and convincing evidence. Mother additionally argues that the trial court erred by relying on the GAL's recommendation for the best interest determination where the GAL did not comply with procedural requirements under the Juvenile Court Act (705 ILCS 405/2-17(8) (West 2020)).

¶ 82 Termination of parental rights proceedings are governed by the Juvenile Court Act (705 ILCS 405/1-1 *et seq.* (West 2020)) and the Adoption Act (750 ILCS 50/0.01 *et seq.* (West 2020)). Section 2-29 of the Juvenile Court Act provides a two-step process for the involuntary termination of parental rights. 705 ILCS 405/2-29(2) (West 2020). First, the trial court must find that the parent is unfit as defined in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2020)) based on clear and convincing evidence. *In re J.L.*, 236 Ill. 2d 329, 337 (2010). The trial court's finding may be affirmed where evidence supports a finding of unfitness for any one of the alleged grounds. *In re C.W.*, 199 Ill. 2d 198, 217

(2002). Then, the trial court determines whether the State has proven that it is in the child's best interest to terminate parental rights by a preponderance of the evidence. *In re D.T.*, 212 Ill. 2d 347, 366 (2004).

¶ 83 A. Parental Unfitness

¶ 84 A determination of unfitness involves factual findings and credibility assessments, and the trial court's factual findings will not be reversed unless they are against the manifest weight of the evidence. *In re M.J.*, 314 Ill. App. 3d 649, 655 (2000). A determination is against the manifest weight of the evidence if the opposite conclusion is clearly evident. *In re Gwynne P.*, 215 Ill. 2d 340, 354 (2005).

¶ 85 The trial court concluded that the State had proven Mother as unfit based on four grounds. Mother failed to make a reasonable effort to correct the conditions that led to the removal of M.M.D., A.O.D., and M.A.S. during a nine-month period after the adjudication of neglect (750 ILCS 50/1(D)(m)(i) (West 2020)), and she failed to make reasonable progress toward the child's return home during a nine-month period after the adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2020)). Mother failed to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare (750 ILCS 50/1(D)(b) (West 2020)). Mother additionally was considered unfit due to habitual drunkenness or addiction to drugs, other than drugs prescribed by a physician, for at least one year immediately prior to the commencement of the unfitness proceeding (750 ILCS 50/1(D)(k) (West 2020)).

¶ 86 "Reasonable efforts" relate to correcting the conditions that led to the removal of the children and are judged by a subjective standard based upon the effort that is reasonable



for a particular person involved. *In re L.J.S.*, 2018 IL App (3d) 180218, ¶ 24. The court must determine whether the parent made earnest and conscientious strides toward correcting the conditions that led to the removal of the children. *In re L.J.S.*, 2018 IL App (3d) 180218, ¶ 24.

¶ 87 “Reasonable progress” is an objective standard focused on the goal of returning the child to the parent. *In re D.D.*, 309 Ill. App. 3d 581, 589 (2000). Progress is measured by the parent’s compliance with the court’s directives, services plans, or both and requires the parent to make measurable or demonstrable movement toward the reunification goal. *In re D.F.*, 332 Ill. App. 3d 112, 125 (2002).

¶ 88 M.M.D. and A.O.D. were first brought into care after the State had filed juvenile petitions that alleged neglect where Mother failed to provide for the medical needs of her children and herself. Mother suffered from anxiety and uncontrollable rage. The petition also alleged that Mother failed to provide a safe home environment due to allegations of domestic violence including an incident where S.D. had threatened M.B. with a knife. The children returned to Mother for a short period after an order continuing the case under supervision was entered. However, the children were again brought into care after the termination of an order continuing the case under supervision because Mother was not compliant with her services. M.A.S. was later born and tested positive for cocaine, which brought him into care, and he has remained in care since his birth.

¶ 89 The State alleged three separate nine-month periods regarding M.M.D. and A.O.D. where Mother had not made reasonable progress or reasonable efforts, including: February 26, 2019, through November 26, 2019, November 26, 2019, through August 26, 2020, and

August 27, 2020, through May 27, 2021. Because M.A.S. was born during the first nine-month period alleged by the State, the State alleged different nine-month time periods of February 11, 2020, through November 11, 2020, and September 9, 2020, through June 9, 2021, regarding M.A.S.

¶ 90 A service plan was created to establish action steps and services for Mother to complete to correct the conditions that led to the removal of M.M.D. and A.O.D. and to work toward the goal of reunification. Mother's plan required her to participate in services for mental health, psychological, substance abuse, domestic violence, and parenting issues. The service plan also recommended that Mother's medication should be monitored, and Mother was to participate in visitation with the children, obtain housing, and obtain income. Mother's service plan requirements did not change after the birth of M.A.S.

¶ 91 Mother claims that she made great efforts to correct the conditions that led to the removal of the children and that a review of the entire record indicates Mother made extensive efforts to comply with her service plan. She argued that during the first nine-month time period of February 26, 2019, through November 26, 2019, she had passed drug tests, visited her children, and attended counseling. Mother further asserted that she had housing and her bills were paid. Mother maintained that she completed many items on her service plan although she struggled due to the death of her own mother during this time.

¶ 92 Mother argued that the second and third nine-month periods for M.M.D. and A.O.D. overlapped with the time periods alleged regarding M.A.S. Mother indicated that during the second nine-month time period she had made suitable efforts. Mother applied for jobs and completed a parenting course. She claimed that her service plan was rated satisfactory

regarding mental health and domestic violence treatment. Mother had learned to use healthy coping skills from her parenting classes.

¶ 93 During the third nine-month time period, Mother argued that she did not connect well with her caseworker. She claimed that her service plan should not have been relied on due to errors and her caseworker failed to refer her to required services.

¶ 94 Contrary to Mother's argument, the evidence offered at the fitness hearing clearly and convincingly established that Mother failed to make reasonable efforts to correct the conditions that were the basis for the removal of the minors. During the first nine months after M.M.D. and A.O.D. were adjudicated as neglected, Mother gave birth to a child who tested positive for cocaine. Mother's caseworker, Chamness, testified that Mother's service plan was unsatisfactory because she was not fully engaged in services. Mother was released from her parenting class due to lack of communication. Mother was not accepted into a new parenting program because she failed to cooperate and comply with random drug tests. She also remained unemployed.

¶ 95 During the second nine-month period alleged by the State, Mother's caseworker believed Mother was "halfway" involved in services. Mother continued to struggle with substance abuse and admitted that she "had a problem" after testing positive for cocaine on February 7, 2020. Although Mother's mental health counselor helped Mother overcome the death of her mother, and Mother had learned health coping skills, Mother remained inconsistent with attendance.

¶ 96 Mother had difficulty receiving a psychological evaluation throughout the pendency of her case. During the third nine-month time period alleged by the State, Mother was able

to meet with Dr. Guilford. It was Dr. Guilford's impression that the children would be in immediate risk if returned to Mother because she did not have an understanding of her children's needs. Based on the psychological evaluation, Mother was required to complete additional parenting courses. However, Mother was not able to enroll in additional services without satisfying mental health and substance abuse services. Mother did not satisfactorily complete substance abuse services within this nine-month time frame and she continued to be unavailable, or she would fail to appear, for drug screenings.

¶ 97 Reasonable efforts were not made by Mother to complete all of the recommended services in her service plan during any of the relevant periods after adjudication. The trial court's determination that Mother had not made reasonable efforts was not against the manifest weight of the evidence.

¶ 98 The trial court additionally found that Mother had not maintained reasonable progress toward the return of the children within the nine-month time frames. Mother never satisfied the mental health or substance abuse requirements of her service plan. The psychological evaluation was concerning in that Mother did not have the ability to determine the needs of her children. Mother's most recent negative drug test submitted to the court was May 31, 2019. After that time, she had multiple positive tests and gave birth to a cocaine-exposed child. Mother's lack of cooperation to schedule drug tests with her caseworkers, provide consents, and attend services further demonstrates her lack of progress toward the return of her children.

¶ 99 "A court is duty bound to ensure that serious parental deficiencies of whatever nature have been corrected before the court permits one of its wards to be returned to that

parent's custody.” *In re L.L.S.*, 218 Ill. App. 3d 444, 464 (1991). The evidence presented clearly demonstrated that Mother failed to make a measurable movement toward the return of the children during each of the relevant time frames alleged by the State. The trial court's determination that Mother was unfit for her lack of reasonable progress was not against the manifest weight of the evidence.

¶ 100 Having held that Mother was unfit, we do not need to address whether she was unfit for failing to demonstrate a reasonable degree of interest, concern, or responsibility as to her children's welfare under section 1(D)(b) or address whether Mother was unfit due to a habitual addiction to drugs for at least one year prior to the commencement of the unfitness proceeding under section 1(D)(k). See *In re C.W.*, 199 Ill. 2d at 217.

¶ 101 B. Best Interest

¶ 102 Mother argues that the trial court erred in terminating Mother's parental rights of M.M.D., A.O.D., and M.A.S. where the trial court had relied on the GAL's opinion in determining the best interests of the children. The trial court's best interest determination will not be disturbed unless it is contrary to the manifest weight of the evidence. *In re R.L.*, 352 Ill. App. 3d 985, 1001 (2004).

¶ 103 Mother argues that the GAL failed to perform his statutory duties under the Juvenile Court Act (705 ILCS 405/2-17(8) (West 2020)). Pursuant to section 2-17(1)(a) of the Juvenile Court Act, the court shall appoint a GAL for a minor upon the filing of a petition alleging abuse or neglect. 705 ILCS 405/2-17(1)(a) (West 2016). Section 2-17(8) specifies that the GAL shall contact the children and foster parents at least once in person prior to the adjudicatory hearing, prior to the first permanency hearing, and continue contact each

subsequent year. 705 ILCS 405/2-17(8) (West 2020). The trial court may excuse face-to-face interviews where good cause is shown. 705 ILCS 405/2-17(8) (West 2020).

¶ 104 Reeves was appointed as GAL on February 10, 2020, after the start of the adjudicatory hearing for M.A.S. where Mother had stipulated to allegations of drug use. Reeves testified that he had met with all of the children in person, except M.A.S., June 2021, prior to the November 4, 2021, best interest hearing. Reeves had also met with the foster families at their homes and in court prior to the hearing. Reeves did not meet with M.A.S., who was an infant when Reeves was appointed. The trial court excused the requirement to interview M.A.S. because of his young age, as allowed by section 2-17(8). 705 ILCS 405/2-17(8) (West 2020).

¶ 105 In making a best interest determination, section 1-3(4.05) of the Juvenile Court Act requires a trial court to consider a number of factors for termination within “the context of the child’s age and developmental needs.” 705 ILCS 405/1-3(4.05) (West 2020). The trial court must consider the following factors: (1) the physical safety and welfare of the child, (2) the development of the child’s identity, (3) the child’s background and ties, (4) the child’s sense of attachments, (5) the child’s wishes, (6) the child’s community ties, (7) the child’s need for permanence, (8) the uniqueness of every family and child, (9) the risks attendant to entering and being in substitute care, and (10) the preferences of the persons available to care for the child. 705 ILCS 405/1-3(4.05) (West 2020).

¶ 106 When the trial court considered the statutory factors, it did not solely rely on the GAL’s opinion. The trial court stated that it considered evidence from the CASA worker, caseworker, and foster parents in making its best interest determination. Sheets, the CASA

worker, was appointed to investigate the children's welfare and "insure that the best interests of the child(ren) are related to the court." Sheets had met with the children at their homes numerous times throughout the case. She believed that it was in the children's best interest for Mother's rights to be terminated. Sheets also testified that the families desired to maintain a bond amongst the siblings and that the children attended church with their foster families.

¶ 107 Wharton, the CFS caseworker, testified that she had visited the children in their foster homes numerous times. She believed that all of the children were doing well in their homes and the school-aged children were doing well at school. The children had adequate shelter, food, toys, and clothing. Wharton additionally testified that she believed the termination of rights would be helpful to the development of the children's identities.

¶ 108 The court heard testimony from each of the foster families that they had bonded with the children and wished to pursue adoption. Mother did not present evidence or testify at the best interest hearing.

¶ 109 The trial court was presented with sufficient evidence to make its best interest determination. Accordingly, we find that the trial court's determination that it was in the children's best interest to terminate Mother's parental rights was not against the manifest weight of the evidence.

¶ 110 **III. CONCLUSION**

¶ 111 For the foregoing reasons, we affirm the judgment of the trial court of Jefferson County.

¶ 112 Affirmed.