

NOTICE

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2022 IL App (5th) 210420-U
NOS. 5-21-0420, 5-21-0421, 5-21-0422,

21-0423 cons.

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

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).

<i>In re</i> C.M.M., K.L.K., K.N., and K.N., Minors)	Appeal from the
)	Circuit Court of
(The People of the State of Illinois,)	Randolph County.
)	
Petitioner-Appellee,)	
)	
v.)	Nos. 21-JA-9, 20-JA-15, 18-JA-10,
)	17-JA-11
Chelse M.,)	
)	Honorable Richard A. Brown,
Respondent-Appellant).)	Judge, presiding.

JUSTICE MOORE delivered the judgment of the court.
Justices Welch and Cates concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court did not abuse its discretion in denying mother's motion to remove DCFS service provider's caseworker and the circuit court's judgment terminating mother's parental rights was not against the manifest weight of the evidence.

¶ 2 The respondent, Chelse M., appeals the December 14, 2021, judgments of the circuit court of Randolph County which found her to be an unfit parent pursuant to section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2020)), and found that it was in the best interests of her minor

children, C.M.M., K.L.K., K.N. (Ka.N.), and K.N. (Ky.N.), that her parental rights be terminated.¹

For the following reasons, we affirm.

¶ 3

I. BACKGROUND

¶ 4

A. Ka.N.

¶ 5 On May 10, 2017, the State filed an adjudication of wardship as to Ka.N., born August 3, 2016. According to the petition, Ka.N. was taken into protective custody by the Department of Children and Family Services (DCFS) on May 8, 2017. The petition alleged that Chelse, along with Willie Nesby, who DCFS believed to be Ka.N.’s father,² presented to Carbondale Memorial Hospital on that date, complaining of “green things coming out of their ears and noses.” Furthermore, the petition alleged that the parents reported seeing bugs on Ka.N. The hospital determined that these complaints were untrue, and that Chelse and Mr. Nesby were under the influence of an unknown substance. Later that morning, Chelse and Mr. Nesby were involved in a serious motor vehicle accident with Ka.N. in the vehicle. Both Chelse and Mr. Nesby were airlifted to a hospital in St. Louis and tested positive for amphetamines. The circuit court entered an order granting DCFS temporary custody of Ka.N.

¶ 6 On June 29, 2017, the circuit court entered an order adjudicating Ka.N. as a neglected minor due to an injurious environment and making her a ward of the court. A service plan was created requiring Chelse to participate in substance abuse treatment, random drug testing, mental health counseling, and domestic violence services. In a dispositional order dated August 10, 2017, the circuit court entered a permanency goal of “return home within twelve months.” A permanency

¹C.M.M.’s father is unknown. K.L.K.’s father is Cory Kramer. Ka.N.’s father is Bryan Jones. Ky.N.’s father is Willie Nesby. The fathers’ parental rights to these children were also terminated by the circuit court. However, they are not parties to this appeal.

²Willie Nesby was later excluded as Ka.N.’s father by a DNA test and Bryan Jones was determined to be her father.

order entered on March 8, 2018, noted that Chelse was making some progress on her service plan and maintained the permanency goal of “return home within twelve months.”

¶ 7

B. Ky.N.

¶ 8 On April 4, 2018, the State filed a petition for adjudication of wardship as to Ky.N., who was born to Chelse and Willie Nesby on April 1, 2018. The petition requested that Ky.N. be brought into shelter care because Willie Nesby, who the State still believed was the father of Ka.N. at that time, had made no progress on his service plan, and Chelse, who had made some progress, had not made sufficient progress to allow for the return of Ka.N. On April 5, 2018, the circuit court entered an order granting DCFS temporary custody of Ky.N. On June 7, 2018, the circuit court entered an order adjudicating Ky.N. as a neglected minor due to an injurious environment and making her a ward of the court. However, the circuit court granted Chelse’s motion for temporary custody of Ky.N. at that time. Thereafter, on July 12, 2018, the State filed a petition for shelter care for Ky.N., alleging that DCFS had received information that Chelse was using methamphetamine, that Ky.N. was left in the care of someone who had an indicated report of sexual abuse of a child, and that Chelse had failed to appear for her scheduled drug test and missed her last two visits with Ka.N. On July 13, 2018, the circuit court entered an order placing Ky.N. back into the temporary custody of DCFS. The circuit court entered a dispositional order for both Ka.N. and Ky.N. on September 6, 2018, with a permanency goal of “return home within 12 months.”

¶ 9 DCFS filed a service plan for Chelse on December 6, 2018, in which it outlined several areas of concern regarding Chelse’s progress, including her refusal to repeat a substance abuse assessment due to her relapse on methamphetamine. An April 4, 2019, dispositional order maintained the permanency goal as to both Ka.N. and Ky.N. At a permanency hearing on October

10, 2019, Janel Chamness, Chelse's lead caseworker from Caritas Family Solutions (Caritas), testified that Chelse had made no progress on any of her service plan recommendations and was incarcerated in Perry County jail for most of the months of May and June 2019 for possession of methamphetamine. Ms. Chamness indicated that the case was being referred to DCFS for legal screening, but the permanency order entered that date maintained the permanency goal of "return home within 12 months."

¶ 10 C. K.L.K.

¶ 11 On June 30, 2020, the State filed a petition for adjudication of wardship as to K.L.K., born June 29, 2020. The petition alleged that K.L.K. was born with methamphetamine in his urine, and that Chelse tested positive for methamphetamine on the day that K.L.K. was born as well. The petition noted that Ky.N. and Ka.N. remained in DCFS custody, and that Chelse was not making progress toward the return of the children. On July 1, 2020, the circuit court entered an order granting DCFS temporary custody of K.L.K. and placing him in shelter care. An integrated assessment for Chelse was filed with the court, recommending individual psychotherapy, a substance abuse assessment, domestic violence services, and parenting education for Chelse. A permanency order was entered on July 2, 2020, maintaining the "return home within 12 months" goal for Ka.N. and Ky.N.

¶ 12 On September 8, 2020, the circuit court held an adjudicatory hearing regarding K.L.K. At that hearing, Chelse expressed frustration to the court that she had not received a service plan as to K.L.K., despite his being almost three months old. Following the hearing, the circuit court entered an order adjudicating K.L.K. abused and neglected due to an injurious environment and his status as a drug exposed infant and adjudging him a ward of the court.

¶ 13 D. Chelse's Motion to Remove Janel Chamness as Caseworker

¶ 14 On November 12, 2020, Chelse filed a motion that Janel Chamness be removed as the caseworker for her case. According to the motion, Ms. Chamness is prejudiced against Chelse, had continually frustrated visitation attempts, and had refused and frustrated Chelse's attempts to accomplish the requirements necessary for the return of the children to Chelse. The motion alleged that as a result, a "great animosity" had developed between Janel and Chelse. Chelse attached an affidavit to her motion regarding events that transpired at the adjudicatory hearing on September 8, 2020, stating:

"Janel Chamness has claimed that [Chelse] threatened her and lunged at her, and as the result of the allegations, Caritas has refused to arrange transportation for [Chelse] to exercise her visitation rights and any other transportation to assist [Chelse] to accomplish the requirements necessary for the return of her children."

¶ 15 The dispositional hearing as to K.L.K. and the permanency hearing for Ka.N. and Ky.N. was continued until January 26, 2021, for reasons related to the COVID-19 pandemic. At the permanency hearing as to Ka.N. and Ky.N., Chelse proceeded on her motion to have Janel Chamness removed as her caseworker. Ms. Chamness testified that, at that time, Chelse was on a visitation schedule in which she was required to call 24 hours prior to a visit with the children so that Caritas could transfer the children to her location. At times, Chelse did not call to confirm, and Ms. Chamness cancelled the visit. At other times, Chelse called to confirm, Caritas transported the children for the visit, and Chelse did not appear for the visit. Ms. Chamness denied failing to send service plans to Chelse's counsel upon repeated requests. Ms. Chamness testified that Chelse had not requested transportation for services. However, Ms. Chamness did testify that because Chelse yelled on the phone, the decision was made to not transport her in the car anymore. Ms.

Chamness testified that Chelse reached for the back of Ms. Chamness's sweater at the hearing on September 8, 2020, and was transported out of the courtroom by the bailiff.

¶ 16 Chelse testified that Ms. Chamness did not return any phone call to her or her counselor. She had not helped her find any services, such as parenting classes, which she asked for in November of 2020. On cross-examination, Chelse testified that she was unable to complete substance abuse services because she was required to attend virtually, and her phone was broken. Willie Nesby, the father of Ky.N., testified that Ms. Chamness did not contact him in prison, although he repeatedly tried to contact Caritas for the three years he had been incarcerated. The circuit court denied the motion to remove Ms. Chamness as a caseworker after hearing all the testimony.

¶ 17 E. Recommended Change of Permanency Goal—Ka.N. and Ky.N.

¶ 18 Following the circuit court's denial of Chelse's motion to remove Ms. Chamness as the caseworker, the circuit court conducted a permanency hearing as to Ka.N. and Ky.N. Ms. Chamness testified that Chelse had made no progress on substance abuse, mental health, or anger management treatment. She had made no progress on parenting classes because she had not yet moved to in-home visits with the children. Due to the length of time that Ka.N. and Ky.N. had been in substitute care, and Chelse's lack of progress, Ms. Chamness recommended that the permanency goal be changed to "substitute care pending termination of parental rights." Chelse testified that she was planning to complete her services. Chelse testified that she was willing to complete the tasks on her service plan if she could get her caseworker to help her. During her testimony, the circuit court became concerned that she may be under the influence of a substance and requested that she submit to a urinalysis. She indicated that she would, but then asserted that she was unable to urinate. Despite some stated misgivings on the record, the circuit court declined

to change the permanency goal and entered a permanency order maintaining the goal of “return home within 12 months.”

¶ 19 F. Dispositional Hearing as to K.L.K.

¶ 20 Immediately following the permanency hearing for Ka.N. and Ky.N., the circuit court held a dispositional hearing as to K.L.K. Chelse persisted in her inability to produce a urine sample, and the circuit court ruled that her failure to do so would be consider a refusal. The circuit court took judicial notice of the testimony from the permanency hearing for Ka.N. and Ky.N. and entered an order placing guardianship of K.L.K. with DCFS.

¶ 21 G. C.M.M.

¶ 22 On March 30, 2021, the State filed a petition for adjudication of wardship as to C.M.M., born March 13, 2021. According to the petition, C.M.M. was then at Cardinal Glennon Children’s Hospital in St. Louis, having been born prematurely at 27 weeks. The petition alleged that Chelse tested positive for methamphetamines and amphetamines on the day of his birth, and that C.M.M.’s umbilical cord blood also tested positive for methamphetamines and amphetamines after his delivery. The circuit court entered an order on that date granting DCFS temporary custody of C.M.M. On July 2, 2021, the circuit court entered an order adjudicating C.M.M. as a neglected minor due to an injurious environment and being a drug-exposed infant. On the same date, the circuit court entered permanency orders for Ka.N., Ky.N., and K.L.K., which modified the permanency goal to “substitute care pending court determination of parental rights.” Although an adjudicatory hearing as to C.M.M., and a permanency hearing as to Ka.N., Ky.N., and K.L.K., had been held on June 29, 2021, there is not transcript for that hearing in the record on appeal.

¶ 23 H. Motions for Termination of Parental Rights–Ka.N., Ky.N., K.L.K.

¶ 24 On July 1, 2021, the State filed motions to, *inter alia*, terminate Chelse’s parental rights as to Ka.N., Ky.N., and K.L.K. As to Ka.N., the motions alleged that Chelse had failed to make reasonable efforts to correct the conditions that were the basis for the children’s removal. 750 ILCS 50/1(D)(m)(i) (West 2020). In addition, the motions alleged that Chelse failed to make reasonable progress toward the return of the children within nine months after the adjudication of neglect, or during any nine-month period, and setting forth the following specific nine-month periods: (1) Ka.N.: (a) March 9, 2018, to December 9, 2018; (b) December 10, 2018, to August 10, 2019; (c) August 11, 2019, to May 11, 2020; and (d) May 12, 2020, to February 12, 2021; (2) Ky.N.: (a) May 17, 2018, to February 17, 2019; (b) February 18, 2019, to November 18, 2019; (c) November 19, 2019, to August 19, 2020; and (d) August 20, 2020, to May 20, 2021; (3) K.L.K.: (a) September 8, 2020, to June 8, 2021. 750 ILCS 50/1(D)(m)(ii) (West 2020). The motions requested that DCFS be appointed guardian of the children with the power to consent to their adoption.

¶ 25 I. Fitness Hearing November 1, 2021

¶ 26 The circuit court held a fitness hearing on November 1, 2021. At the commencement of that hearing the State received leave to amend the nine-month periods as to Ka.N. as follows: (1) March 9, 2018, to December 9, 2018; (2) December 10, 2018, to September 10, 2019; (3) September 11, 2019, to June 11, 2020; and (4) June 12, 2020, to March 12, 2021. Evidence was then entered as follows.

¶ 27 The circuit court took judicial notice of the prior adjudicatory, dispositional, and permanency orders. Chelse testified that she could not tell the court the last time she used methamphetamine because she could not remember. Chelse testified that by the time Ky.N. came

into shelter care, she was making some progress on her service plan. She regained custody of Ky.N. between June 7, 2018, and July 12, 2018, when she failed to appear for a urinalysis and missed two visits with Ka.N. At that time, Ky.N. was again removed from her care. K.L.K. was then born on June 29, 2020, and tested positive for methamphetamine during his birth. On March 13, 2021, C.M.M. was born and tested positive for methamphetamine. On the stand, Chelse consented to take a drug test, but then stated that she could not urinate at that time. She was given a glass of water while testimony proceeded. She was then recalled to the stand and informed that she had tested positive for methamphetamine and amphetamines. She again testified that she could not recall the last time she had used. She testified that she was taking some allergy and other medications for illness, and these could have resulted in the positive test results. The circuit court denied the State's request that she submit to an independent drug test at the hospital, because it did not wish to further continue the proceedings.

¶ 28 Janel Chamness testified that she had left Caritas after working there for three years. She prepared a service plan in February of 2019 for Chelse, requiring that she participate in a substance abuse assessment and recommended treatment, undergo a mental health assessment and recommended treatment, obtain stable housing, stable income, parenting education, and receive domestic violence treatment. Ms. Chamness testified that "Hands On Parenting" was recommended for Chelse but she could not complete it because the agency will not conduct the training in a home where there is suspected drug use or if there is not a consistent home to which the children would be returned. In 2018 and 2019, Chelse sporadically attended visits. This was often because she did not call to confirm within 24 hours of the scheduled visit, which was required. In 2020, there were virtual visits due to COVID-19. Ms. Chamness testified that she was fired from Caritas for lying about her participation and efforts in a case she was handling.

Regarding why there was not more drug testing of Chelse over the course of the case, Ms. Chamness testified that Chelse did not comply with drug testing, although during the COVID-19 pandemic, drug testing was not scheduled. Following Ms. Chamness's testimony, the State rested its case as to fitness.

¶ 29 J. Motion for Termination of Parental Rights—C.M.M.

¶ 30 On November 5, 2021, the State filed a motion to terminate Chelse's parental rights as to C.M.M. The motion alleged that Chelse is unfit because C.M.M. was born with methamphetamine in his cord blood on March 13, 2021, and his half-brother, K.L.K., was adjudicated a ward of the court as a substance-exposed infant on September 8, 2020. See 750 ILCS 50/1(D)(k) (West 2020). On November 15, 2021, the circuit court entered a dispositional order as to C.M.M., continuing guardianship with DCFS.

¶ 31 K. Fitness Hearing November 15, 2021

¶ 32 When the fitness rehearing recommenced on November 15, 2021, Chelse was called to testify on her own behalf. She testified that she had been residing with her oldest son's grandmother since May of 2021 and does not pay rent. Pictures of the home were admitted into evidence. She had also become employed by the Department of Rehabilitative Services as a caregiver around the same time. Chelse testified that Ms. Chamness always had her contact information. She had been participating in substance abuse and mental health counseling at Centerstone once a week since May of 2021 as well. She began domestic violence counseling several weeks prior to the hearing.

¶ 33 Chelse testified that in 2018, when Amy Corder was her caseworker, she completed a service plan. However, when Ms. Chamness became her caseworker, she was not given a service plan from 2018 to 2020. Ms. Chamness did not communicate with her and did not assist her in

meeting any service plan requirements. She was given very few chances to visit with K.L.K. after he was born. Chelse testified that she would go online for her virtual visits, and nothing would happen, and Ms. Chamness would claim she did not show. On cross-examination, Chelse admitted that she had not completed substance abuse counseling, domestic violence counseling, or mental health counseling since K.L.K. had come into care. She did not have a lease agreement for the home she is living in, and it was a three-bedroom house with two people already living there. She does not have a driver's license, but her roommate could drive her places for the kids' needs. She was unsure whether she would test positive for methamphetamines and amphetamines that day because she was taking the same medications she was taking at the prior hearing. Chelse testified that she got a new caseworker in September and spoke to her on the phone about her service plan and the fact that she was missing visits with C.M.M., which Chelse claimed no one told her about.

¶ 34 Aubrey Berry testified she had been Chelse's caseworker since August 20, 2021. She spoke to Chelse about her service plan on September 28, 2021. She tried to arrange visits for Chelse, but the times were not working for Chelse's work schedule. Ms. Berry requested Chelse's work schedule so that visits could be scheduled, but Chelse never called back with that information. She filed all the service plans in October 2021. The service plan required Chelse to complete domestic violence counseling again because after she completed the first round, she reengaged in a partnership with Willie Nesby, with whom she had been engaged in domestic violence in the past. Chelse has not achieved the goal of stable income because she has only provided two work schedules, with no confirmation that she has been paid. She has not achieved the goal of stable housing because she does not have a lease and lives with someone else.

¶ 35 Jennifer Brown-Harkins testified that she works as an outpatient DCFS drug court clinician at Centerstone. She is responsible for being a liaison between Centerstone and DCFS/agencies to

make clear what services are provided to the clients. She requested Chelse's service plans from Caritas three times and never received them. However, she was aware that Chelse needed parenting education, domestic violence, mental health, and substance abuse counseling. Chelse had been participating in substance abuse, mental health, and anger management at Centerstone. Chelse was first admitted to Centerstone for substance and behavioral health on February 18, 2021, and assigned a clinician on April 27, 2021. On cross-examination, Ms. Brown-Harkins testified that, based on her having two substance-exposed children in 2021, and testing positive for methamphetamine in November 2021, Chelse is not making progress toward the return of the children. On redirect examination, she testified that she believes Chelse is making reasonable efforts at Centerstone.

¶ 36 David Rudy testified that he is a substance use disorder clinician for Centerstone in Marion. He has been providing services to Chelse since late May of 2021. They are also reviewing mental health and anger management issues in their sessions. Mr. Rudy testified that Chelse's anxiety is not well-managed, and the court proceedings are a big stressor for her. Mr. Rudy agreed that Chelse's behavior in missing a session with him at the end of October, testing positive for methamphetamine in court on November 2, 2021, and then missing another session with him, thereafter, is potentially indicative of a relapse. Mr. Rudy testified that Chelse indicated to him that she might be pregnant. To graduate from Centerstone's substance abuse program, Chelse would need to maintain 90 days of sobriety.

On November 16, 2021, the circuit court entered orders finding Chelse to be unfit as to Ka.N., Ky.N., and K.L.K. for her failure to make reasonable efforts toward the return of the children. See 750 ILCS 50/1(D)(m)(i) (West 2020). The circuit court entered an order finding Chelse to be unfit

as to C.M.M. based on subsection (k) of section 1(D) of the Adoption Act. *Id.* § 1(D)(k) (minor born with methamphetamine in cord blood and K.L.K. was also a substance-exposed infant).

¶ 37

L. Best Interests Hearing

¶ 38 On December 13, 2021, the circuit court held a hearing as to the best interests of the children. Aubrey Berry testified that she has been the Caritas caseworker since August of 2021 and is familiar with all four children. She testified that C.M.M. and K.L.K. live together with a foster family in Johnston City. C.M.M. was born at 27 weeks, causing multiple complications, including underdeveloped lungs. He has a disorder in his eyes that could potentially impact his sight later in life. He is underdeveloped socially, emotionally, and has deficits in speech, fine motor, and gross motor skills. His foster family is active in his treatment and have indicated their willingness to adopt him. He has resided with his foster family since he left the hospital and was approaching one year old. K.L.K. has also resided with this foster family since birth and is attached to them.

¶ 39 Ms. Berry testified that Ka.N. and Ky.N. are placed together in a foster home in Murphysboro. They both are attached to their foster family who has indicated a willingness to adopt them. Ka.N. has been in this placement since November 2017 and Ky.N. has been there since July of 2018. Ms. Berry testified that all the children need permanency, and it is in their best interests that Chelse's rights be terminated so that their foster families can adopt them.

¶ 40 Chelse testified she resides with Debra Walker in DuQuoin in a two-bedroom house with some structural damage that Chelse was helping Ms. Walker fix. Ms. Walker does not charge her rent. She continues to work for the Department of Rehabilitation Services, and her first paycheck was admitted into evidence, reflecting seven hours of work for \$119 of pay. Chelse testified the paycheck represented the end of a pay period and that she is employed full time. She had visited

with the children virtually earlier in the year and had only a couple visits. Chelse testified that she tried to contact her caseworker for visits, and they never contacted her back. She testified that now that she knows her service plan, she will do everything she needs to do. She loves them and wants them back.

¶ 41 Jennifer Brown-Harkins of Centerstone testified that she attended an administrative case review with Ms. Berry where Ms. Chamness's performance was discussed. During that review, the failures regarding Chelse's visitation with the children were considered a product of Ms. Chamness "dropping the ball." David Rudy of Centerstone provided an update on the services he was providing to Chelse. He continues to counsel Chelse on substance abuse, mental health, and anger management. On cross-examination, he did not disagree that he does not know how long it would take for Chelse to progress to where it would be appropriate to return the children to her. Debra Walker testified that Chelse could stay with her as long as she needs to, and the children could live with her as well. Chelse had just come back into her life after many years.

¶ 42 On December 14, 2021, the circuit court entered orders terminating Chelse's parental rights as to Ka.N., Ky.N., K.L.K., and C.M.M. Chelse filed timely notices of appeal. On December 27, 2021, this court consolidated Chelse's appeals on its own motion.

¶ 43 II. ANALYSIS

¶ 44 On appeal, Chelse argues that the circuit court erred in: (1) not granting her motion to remove Ms. Chamness as her caseworker; (2) determining she was unfit as to Ka.N., Ky.N., and K.L.K. pursuant to section 1(D)(m)(i) of the Adoption Act (750 ILCS 50/1(D)(m)(i) (West 2020)); (3) determining she was unfit as to C.M.M. pursuant to section 1(D)(k) of the Adoption Act (*id.* § 1(D)(k)); and (4) finding it was in the best interests of the children that her parental rights be terminated. We will address these issues in turn.

¶ 45

1. Denial of Motion to Remove Caseworker

¶ 46 Chelse first argues that the circuit court erred when it denied her motion to remove Ms. Chamness as her caseworker. While Chelse provides a citation to authority for the proposition that a circuit court has the authority to remove a caseworker (see *In re K.C.*, 325 Ill. App. 3d 771, 778 (2001)), she provides no authority for the proposition that a circuit court's failure to do so would provide a basis for reversal of a subsequent order terminating her parental rights. On the contrary, the case law points out that where a DCFS caseworker fails to perform DCFS's statutory obligations, three potential remedies exist: (1) removal of the guardian, (2) a *mandamus* action to compel performance, and (3) contempt proceedings. *Id.* Moreover, we agree with the State that, because section 2-28(1) of the Juvenile Court Act of 1987 (705 ILCS 405/2-28(1) (West 2020)) provides that the circuit court *may* remove a guardian and appoint another, whether to do so is in the sound discretion of the circuit court, which we may only disturb if we find the circuit court abused its discretion. See *Evans v. Cook County State's Attorney*, 2021 IL 125513, ¶ 41 (abuse of discretion standard of review is proper where language in the relevant statute indicates discretion on the part of the circuit court). An abuse of discretion occurs when a ruling is arbitrary, fanciful, or one that no reasonable person would make. *Id.*

¶ 47 A review of the entire record in this case undoubtedly reveals some failures on the part of Ms. Chamness as the caseworker for this family. The record shows she was not communicative with Chelse and her counsel. In addition, her ultimate termination by Caritas creates issues as to her credibility. However, at the time the circuit court heard Chelse's motion to remove Ms. Chamness as the caseworker, the only evidence before the circuit court was contradictory testimony of Chelse and Ms. Chamness as to the reasons why Chelse was missing numerous visits with the children and whether there had been a lack of communication. It is the circuit court's

province to resolve conflicts in the evidence and make determinations regarding the credibility of the witnesses. *In re Jonathon C.B.*, 2011 IL 107750, ¶ 78. Based on the record before the circuit court at the time it ruled on Chelse's motion to remove Ms. Chamness as her caseworker, we cannot say that no reasonable circuit court judge would have denied the motion. Accordingly, we move to the merits of the circuit court's decision to terminate Chelse's parental rights.

¶ 48 2. Termination of Chelse's Parental Rights

¶ 49 Termination of parental rights proceedings are governed by the Juvenile Court Act of 1987 (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)). *In re D.T.*, 212 Ill. 2d 347, 352 (2004). A petition to terminate parental rights is filed under section 2-29 of the Juvenile Court Act, which delineates a two-step process to terminate parental rights involuntarily. 705 ILCS 405/2-29(2) (West 2020). The State must first establish, by clear and convincing evidence, that the parent is an unfit person under one or more of the grounds enumerated in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2020)). 705 ILCS 405/2-29(2), (4) (West 2020); *In re J.L.*, 236 Ill. 2d 329, 337 (2010). If the court finds that the parent is unfit, the matter proceeds to a second hearing, at which the State must prove that termination of parental rights is in the best interests of the child. 705 ILCS 405/2-29(2) (West 2020); *D.T.*, 212 Ill. 2d at 352. Here, Chelse challenges the circuit court’s finding of her unfitness as to each of her children and challenges the circuit court’s finding that it is in the best interests of the children that her parental rights be terminated. Accordingly, we address these issues in turn.

¶ 50 *A. Unfitness*

¶ 51 Our courts have recognized that parental rights and responsibilities are of deep importance and should not be terminated lightly. *D.T.*, 212 Ill. 2d at 364. Thus, parental rights may be terminated only after a finding of unfitness that is supported by clear and convincing evidence. *Id.*

A finding of parental unfitness will not be disturbed on appeal unless it is against the manifest weight of the evidence. *In re C.N.*, 196 Ill. 2d 181, 208 (2001). A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly apparent. *Id.* The circuit court's finding of unfitness is given great deference because it has the best opportunity to view and evaluate the parties and their testimony. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1064 (2006). This court, therefore, does not reweigh the evidence or reassess the credibility of the witnesses. *In re M.A.*, 325 Ill. App. 3d 387, 391 (2001). Each case concerning parental fitness is unique and must be decided on the particular facts and circumstances presented. *In re Gwynne P.*, 215 Ill. 2d 340, 354 (2005). In addition, because each of the statutory grounds of unfitness is independent, the trial court's finding may be affirmed where the evidence supports a finding of unfitness as to any one of the alleged grounds. *In re C.W.*, 199 Ill. 2d 198, 217 (2002).

¶ 52 1. Unfitness as to Ka.N., Ky.N., and K.L.K.

¶ 53 As to Ka.N., Ky.N., and K.L.K., the circuit court found that Chelse failed to make reasonable efforts to correct the conditions that led to these children's removal from her care. See 750 ILCS 50/1(D)(m)(i) (West 2020). As this court has explained, "reasonable efforts" is a subjective standard and refers to the amount of effort reasonable for the particular parent. *In re P.S.*, 2021 IL App (5th) 210027, ¶ 34. The circuit court must determine whether the parent has made "earnest and conscientious strides" toward correcting the conditions that led to the removal of the children from the home. *Id.* In this case, the conditions that were the basis for the removal of the children from the home were that Chelse had substance abuse issues that impaired her ability to adequately care for the children.

¶ 54 Although the circuit court did not specify in which nine-month period it made its finding that Chelse failed to make reasonable efforts, the statute provides for a finding of unfitness if a

parent fails to make reasonable efforts to correct the conditions during any nine-month period following the adjudication of neglect. *Id.* Here, Ka.N. was adjudicated neglected on June 29, 2017, Ky.N. was adjudicated neglected on June 7, 2018, and K.L.K. was adjudicated neglected September 8, 2020. Accordingly, in reviewing the circuit court's determination, we will focus on the nine-month periods following these dates of adjudication to determine whether there is evidence in the record to support the circuit court's conclusion that Chelse failed to make reasonable efforts toward her children's return.

¶ 55 The evidence indicates that as of June 7, 2018, when Chelse briefly regained custody of Ky.N., she was making reasonable progress on her service plan, which is indicative that she was making reasonable efforts to correct the conditions that led to their removal. However, Ky.N. was moved back into shelter care on July 13, 2018. A service plan was filed on December 6, 2018, and testimony of record indicates that by October 10, 2019, Chelse had made no progress on any of her service plan recommendations and was incarcerated in Perry County jail for most of the months of May and June 2019 for possession of methamphetamine. This represents a period of 10 months in which the evidence supports a finding that Chelse made no efforts to correct the conditions that resulted in Ka.N. and Ky.N. being brought into care. K.L.K. was then born exposed to methamphetamine and was adjudicated neglected September 8, 2020. The record reveals that following K.L.K.'s birth, Chelse did not reengage in any services whatsoever until February 18, 2021, a period of well over a year following K.L.K.'s adjudication of neglect. In the interim, she gave birth to another substance-exposed infant, C.M.M. While Chelse blames Ms. Chamness's failure to communicate her service plan recommendations, those recommendations were substantially similar to those of her very first service plan in 2017. The evidence in the record simply reveals no efforts on Chelse's part during these periods of time to engage in any services

to interrupt her patterns of methamphetamine abuse, which led her children into DCFS care and custody. For these reasons, we cannot find that the circuit court’s determination that she was unfit as to Ka.N., Ky.N., and K.L.K. is against the manifest weight of the evidence.

¶ 56

2. Unfitness as to C.M.M.

¶ 57 The circuit court found Chelse to be unfit with respect to C.M.M. based on a habitual addiction to drugs pursuant to section 1(D)(k) of the Adoption Act (750 ILCS 50/1(D)(k) (West 2020)) which provides that addiction to drugs, other than those prescribed by a physician, for at least one year immediately prior to the commencement of the unfitness proceeding renders a parent unfit. This subsection further provides:

“There is a rebuttable presumption that a parent is unfit under this subsection with respect to any child to which the parent gives birth where there is a confirmed test result that at birth the child’s blood, urine, or meconium contained any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act or metabolites of such substances *** and the biological mother of this child is the biological mother of at least one other child who was adjudicated a neglected minor under subsection (c) of Section 2-3 of the Juvenile Court Act of 1987.” *Id.*

¶ 58 Here, Chelse does not contest the circuit court’s finding that the rebuttable presumption applies to her due to the circumstances of the birth of C.M.M. following the circumstances of the birth of K.L.K. She argues, however, that the circuit court’s finding that she had not rebutted the presumption is against the manifest weight of the evidence because there is evidence that she entered substance abuse counseling in February of 2021. We disagree. “Addiction to drugs” under section 1(D)(k) means an inability or unwillingness to refrain from the use of drugs where frequent indulgence has caused habitual craving, manifested by an ongoing pattern of drug use. *In re*

Precious W., 333 Ill. App. 3d 893, 899 (2002). Evidence of indulgence without intermission is not necessary to prove drug addiction. *Id.* It is sufficient to show that a person has demonstrated an inability to control his or her habitual craving. *Id.* Thus, to rebut the presumption that she was addicted to methamphetamine for at least one year prior to the commencement of the unfitness proceeding, Chelse needed to present evidence that she was not engaged in an ongoing pattern of drug abuse for the year leading up to the fitness hearing. Here, despite presenting evidence that she began substance abuse services in February of 2021, Chelse tested positive for methamphetamine at the fitness hearing on November 1, 2021. Although Chelse offered alternative explanations for this positive result, it was in the circuit court’s province to determine the credibility of that evidence. We cannot find the circuit court’s determination of Chelse’s unfitness as to C.M.M. was against the manifest weight of the evidence.

¶ 59

B. Best Interests

¶ 60 Finally, Chelse argues that the circuit court’s determination that it was in the best interests of the children to terminate her rights was in error. However, in support of her argument, Chelse does not address the factors set forth in section 1-3(4.05) of the Juvenile Court Act (705 ILCS 405/1-3(4.05) (West 2020)), which are required to be considered by the circuit court in making this determination. Accordingly, Chelse has forfeited her argument on appeal of this issue. See Ill. S. Ct. R. 341(h) (eff. Oct. 1, 2020) (argument shall contain citation to authorities and the pages of the record relied on; “[p]oints not argued are forfeited and shall not be raised in the reply brief, in oral argument, or on petition for rehearing”).

¶ 61 Forfeiture notwithstanding, we cannot find that the circuit court’s determination that it was in the best interests of the children to terminate her rights was against the manifest weight of the evidence. Once a parent has been found unfit, all considerations, including the parent’s rights,

yield to the child's interest in a stable, loving home life. *In re M.C.*, 2018 IL App (4th) 180144, ¶ 34. When considering whether termination of parental rights is in a child's best interests, the circuit court must consider several factors within the context of the child's age and development needs. *Id.* (citing 705 ILCS 405/1-3 (West 2016)). These include the following:

“ ‘(1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's familial, cultural[,] and religious background and ties; (4) the child's sense of attachments, including love, security, familiarity, continuity of affection, and the least[-]disruptive placement alternative; (5) the child's wishes and long-term goals; (6) the child's community ties; (7) the child's need for permanence, including the need for stability and continuity of relationships with parent figures and siblings; (8) the uniqueness of every family and child; (9) the risks related to substitute care; and (10) the preferences of the person available to care for the child.’ ” *Id.* (quoting *In re Daphnie E.*, 368 Ill. App. 3d at 1072).

¶ 62 Here, the evidence in the record is that Ka.N. and Ky.N. have been placed together in the same foster home since November 2017 and July 2018 respectively. They are both attached to their foster family who has indicated a willingness to adopt them. C.M.M. and K.L.K. have been placed together in the same foster home since their respective births. Their foster family is active in the treatment of C.M.M.'s special needs and wishes to adopt them both. By contrast, Chelse had just moved into a two-bedroom home with another individual and had just started working a new job. While she is still in treatment, her counselor testified that he does not know how long it would take for Chelse to progress in treatment to a place where it would be appropriate to return the children to her. On this record, we cannot say that the circuit court's decision that it was in the best

interests of the children to terminate Chelse's parental rights is against the manifest weight of the evidence.

¶ 63

III. CONCLUSION

¶ 64 For the foregoing reasons, we affirm the December 14, 2021, judgments of the circuit court of Randolph County which terminated Chelse's parental rights to Ka.N., Ky.N., K.L.K., and C.M.M.

¶ 65 Affirmed.