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).

2022 IL App (4th) 220131-U

NOS. 4-22-0131, 4-22-0132 cons.

FILED
June 29, 2022
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re J.J., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Winnebago County
Petitioner-Appellee,	)	No. 19JA2
v. (No. 4-22-0131)	)	
Jeffrey J.,	)	
Respondent-Appellant).	)	
_____	)	
In re Je.J., a Minor	)	
	)	No. 19JA3
(The People of the State of Illinois,	)	
Petitioner-Appellee,	)	
v. (No. 4-22-0132)	)	Honorable
Jeffrey J.,	)	Mary Linn Green,
Respondent-Appellant).	)	Judge Presiding.

JUSTICE TURNER delivered the judgment of the court.
Justices Cavanagh and Harris concurred in the judgment.

ORDER

¶ 1 *Held*: Respondent's due process rights were not violated, and the circuit court's findings were not against the manifest weight of the evidence.

¶ 2 In September 2020, the State filed motions for the termination of the parental rights of respondent, Jeffrey J., as to his minor children J.J. (born in September 2015) and Je.J. (born in February 2014). The Winnebago County circuit court held the fitness hearing and found respondent unfit in October 2021. After the best-interests hearing, the court found it was in the minor children's best interests to terminate respondent's parental rights.

¶ 3 Respondent appeals, asserting (1) his due process rights were violated because the

trial judge had previously presided over numerous hearings and had changed the goal to termination of parental rights, (2) the circuit court erred by finding respondent unfit because the State's evidence (a) contained multiple levels of hearsay that were inadmissible and (b) was insufficient to prove him unfit on all grounds, and (3) the circuit court erred by finding it was in the minor children's best interests to terminate his parental rights. We affirm.

¶ 4 I. BACKGROUND

¶ 5 The minor children's mother is Tabitha J., and she filed separate appeals from the circuit court judgment involving the two minor children at issue in this appeal (Nos. 4-22-0174 and 4-22-0175). Tabitha also had two other children, T.J. and Tr.J., who were part of the proceedings and whose father was Thomas M. In January 2019, the State filed separate petitions for the adjudication of wardship of the minor children. The petitions alleged the minor children were neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(b) (West 2018)) because their environment was injurious to their welfare based on (1) their parents' having engaged in domestic violence in front of them, (2) Tabitha's substance abuse problem that prevented her from properly parenting, and (3) Tabitha's mental health problems that prevented her from properly parenting. On May 8, 2019, the circuit court held a joint adjudication and dispositional hearing. Respondent was not present at the hearing because, according to Tabitha's attorney, he was in custody in Louisiana. Respondent was also not represented by counsel at the hearing. Thomas also did not appear, but he was represented by counsel. Tabitha appeared with counsel and admitted the minor children were neglected under section 2-3(1)(b) based on her substance abuse problem. The circuit court accepted Tabitha's admission and adjudicated the minor children neglected based on Tabitha's substance abuse problem and dismissed the other two counts. Thereafter, the assistant state's

attorney noted an agreement existed that the minor children's parents should be found unfit, unable, or unwilling to care for, protect, train, or discipline the minor children; the minor children should be made wards of the court; and the Department of Children and Family Services (DCFS) should be appointed as the minor children's guardian and custodian. The court accepted the agreement and entered a written dispositional hearing consistent with the agreement. Respondent appeared at the October 29, 2019, permanency review hearing and was appointed counsel.

¶ 6 In September 2020, the State filed a motion to terminate respondent's and Tabitha's parental rights to the minor children. As to respondent, the motion asserted respondent failed to (1) maintain a reasonable degree of interest, concern or responsibility as to each minor child's welfare (750 ILCS 50/1(D)(b) (West 2020)); (2) make reasonable efforts to correct the conditions that were the basis for each minor child's removal during any nine-month period after the neglect adjudication (750 ILCS 50/1(D)(m)(i) (West 2020)); and (3) make reasonable progress toward each minor child's return during any nine-month period after the neglect adjudication (750 ILCS 50/1(D)(m)(ii) (West 2020)). The relevant nine-month periods for the last two allegations were October 29, 2019, to July 29, 2020, and December 19, 2019, to September 9, 2020.

¶ 7 On November 20, 2020, the circuit court commenced the fitness hearing. Respondent's counsel was not present due to an exposure to COVID-19. The court admitted the State's exhibit No. 6 (an April 20, 2018, DCFS indicated findings against respondent and Tabitha for substantial risk of physical injury/environment injurious to health and welfare by neglect) and State's exhibit No. 7 (a September 28, 2018, DCFS indicated findings against Tabitha for inadequate supervision). The court resumed the fitness hearing on December 16,

2020, and the State presented the testimony of Megan Denk, the child welfare specialist assigned to the case since April 2019. In addition to Denk's testimony, the State presented four service plans with the following dates: (1) August 20, 2019; (2) April 12, 2019; (3) February 14, 2020; and (4) August 7, 2020. No objections were raised to the admission of the service plans.

¶ 8 Denk testified respondent had contact with the agency when respondent was first released from jail. The contact ended in November or December 2019. She noted he was not compliant with drug court. After respondent was arrested, they exchanged a few letters. Denk further testified respondent was informed at the beginning of the case he needed to complete services. Respondent was asked to complete a domestic violence assessment and follow through with the recommendations. Respondent was already engaged in substance abuse treatment at Rosecrance, and he was asked to maintain sobriety, follow through with recommendations, and fulfill his legal obligations. Additionally, respondent was asked to complete a parenting education course. Denk testified respondent had not successfully completed any of his services. Respondent had not completed the domestic violence assessment, and without the assessment, he could not be referred for services. For the first six weeks after his release from jail, respondent regularly attended visits but then stopped. His last in-person visit with the minor children was in December 2019. He had sent the minor children one or two letters since his most recent incarceration. Denk had not had telephone contact with respondent since he had been incarcerated. Additionally, Denk testified respondent never reached unsupervised visits with the minor children due to his inconsistency in engaging in services and lack of communication with the agency. The agency still had concerns about respondent's ability to safely parent since he had not completed services.

¶ 9 Respondent's counsel did not cross-examine Denk and did not present any

evidence. During closing arguments, respondent's counsel stated he did not believe respondent was contesting the issue. Counsel conveyed respondent wanted the court to know he desired to complete his services. Counsel also noted the classes and services that were usually available in the Illinois Department of Corrections were unavailable due to the COVID-19 pandemic.

¶ 10 At the conclusion of the hearing, the circuit court took the matter under advisement to review the documentary evidence. On July 13, 2021, the court held a hearing to announce its decision, but a new attorney had taken respondent's case. However, the new attorney had a conflict of interest, and the court appointed respondent new counsel and continued the case.

¶ 11 On October 6, 2021, the circuit court held a joint hearing at which it announced its decision. The court found respondent unfit based on all the grounds alleged in the termination motions, and it also found Tabitha unfit. The court then proceeded to the best-interests hearing. Tabitha's counsel moved to continue the hearing because Tabitha was hospitalized as a result of a "horrible motorcycle accident." Respondent's counsel joined in the motion to continue. The court found it was in the minor children's best interest to start the hearing, and the State presented Denk's testimony. It also asked the court to take judicial notice of the evidence at the fitness hearing, the December 2020 best-interests report, and the May and July 2021 reports filed by the Court Appointed Special Advocate (CASA). Denk testified the minor children had been living in their foster home since February 2019 and Denk found the home was safe and appropriate. She had no concerns about the foster mother's ability to provide basic necessities for the minor children. The minor children were school aged, and the foster mother met their educational needs. The minor children were "extremely bonded" with the foster mother and each other. They also had many pets in the home and outside activities. The minor children

appeared to be very comfortable in the home and very loving with the foster mother. Neither of the minor children had expressed any doubt or uncertainty about remaining in the foster home. The foster mother was willing to provide permanency through adoption. Denk opined it was in the minor children's best interests to terminate respondent's and Tabitha's parental rights.

¶ 12 Additionally, the CASA asked the circuit court to take judicial notice of its December 2020 and October 2021 reports. After the State rested, the court continued the matter for further hearing at a later date.

¶ 13 On February 10, 2022, the circuit court resumed the best-interests hearing. Respondent was not present at the hearing, and his counsel noted he had expressed a desire to sign consents for adoption. His counsel had been trying to get in touch with respondent over the past six weeks but had been unable to reach him. Respondent's counsel made a motion to continue based on respondent's absence. The court denied the motion.

¶ 14 Denk again testified because Tabitha had a new attorney. The State also presented the testimony of Julie Auestad, the new caseworker in the case, and Patricia B., the foster mother. Denk testified J.J. was now six years old and Je.J. was seven years old. Their foster mother was their "grandma." Denk again opined it was in the minor children's best interests to terminate respondent's parental rights. Auestad testified J.J. had informed her she wanted to stay with her foster mother. Je.J. had not expressed that desire but was very much bonded to her foster mother and felt safe there. Auestad further testified the minor children did not really talk about respondent or give any indication they wanted him to be a part of their lives. She also opined it was in the minor children's best interests to terminate respondent's parental rights. Patricia testified she was Tabitha's stepmother and was divorced from Tabitha's father. Patricia was willing to provide permanency for the minor children.

¶ 15 Respondent's counsel did not cross-examine any of the witnesses and did not present any evidence. Respondent's counsel did argue the State did not meet its burden as to best interests and it was not in the minor children's best interests to terminate respondent's parental rights.

¶ 16 At the end of the hearing, the circuit court found the termination of respondent's parental rights was in the minor children's best interests. That same day, the court entered a written order terminating respondent's and Tabitha's parental rights to the minor children.

¶ 17 On February 17, 2022, respondent filed a timely notice of appeal in sufficient compliance with Illinois Supreme Court Rule 303 (eff. July 1, 2017). See Ill. S. Ct. R. 660(b) (eff. Oct. 1, 2001) (providing the rules governing civil cases also govern appeals from final judgments in all proceedings under the Juvenile Court Act, except for delinquency cases). Thus, this court has jurisdiction of the appeal pursuant to Illinois Supreme Court Rule 307(a)(6) (eff. Nov. 1, 2017).

¶ 18 II. ANALYSIS

¶ 19 Under section 2-29(2) of the Juvenile Court Act (705 ILCS 405/2-29(2) (West 2020)), the involuntary termination of parental rights involves a two-step process. First, the State must prove by clear and convincing evidence the parent is "unfit," as that term is defined in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2020)). *In re Donald A.G.*, 221 Ill. 2d 234, 244, 850 N.E.2d 172, 177 (2006). If the circuit court makes a finding of unfitness, then the State must prove by a preponderance of the evidence it is in the minor children's best interests that parental rights be terminated. *In re D.T.*, 212 Ill. 2d 347, 366, 818 N.E.2d 1214, 1228 (2004).

¶ 20 Since the circuit court has the best opportunity to observe the demeanor and

conduct of the parties and witnesses, it is in the best position to determine the credibility and weight of the witnesses' testimony. *In re E.S.*, 324 Ill. App. 3d 661, 667, 756 N.E.2d 422, 427 (2001). Further, in matters involving minors, the circuit court receives broad discretion and great deference. *E.S.*, 324 Ill. App. 3d at 667, 756 N.E.2d at 427. Thus, a reviewing court will not disturb a circuit court's unfitness finding and best-interests determination unless they are contrary to the manifest weight of the evidence. See *In re Gwynne P.*, 215 Ill. 2d 340, 354, 830 N.E.2d 508, 516-17 (2005) (fitness finding); *In re J.L.*, 236 Ill. 2d 329, 344, 924 N.E.2d 961, 970 (2010) (best-interests determination). A circuit court's decision is against the manifest weight of the evidence only where the opposite conclusion is clearly apparent. *Gwynne P.*, 215 Ill. 2d at 354, 830 N.E.2d at 517.

¶ 21 A. Due Process

¶ 22 Defendant first asserts his due process rights were violated because the trial judge had presided over numerous hearings during which she considered voluminous evidence that contained multiple levels of hearsay and changed the goal from return home to termination of parental rights. The State asserts respondent forfeited this issue by failing to raise it in the circuit court. Respondent requests we review the issue under the plain-error doctrine (Ill. S. Ct. R. 615(a) (eff. Jan. 1, 1967)).

¶ 23 The plain-error doctrine permits a reviewing court to consider unpreserved error under the following two scenarios:

> "(1) a clear or obvious error occurred and the evidence is so closely balanced that the error alone threatened to tip the scales of justice against the defendant, regardless of the seriousness of the error, or (2) a clear or obvious error occurred and that error is so serious that it affected the fairness of the defendant's trial and

challenged the integrity of the judicial process, regardless of the closeness of the evidence." *People v. Sargent*, 239 Ill. 2d 166, 189, 940 N.E.2d 1045, 1058 (2010).

We begin a plain-error analysis by first determining whether any error occurred at all. *Sargent*, 239 Ill. 2d at 189, 940 N.E.2d at 1059. If error did occur, this court then considers whether either of the two prongs of the plain-error doctrine has been satisfied. *Sargent*, 239 Ill. 2d at 189-90, 940 N.E.2d at 1059. "Under both prongs of the plain-error doctrine, the defendant has the burden of persuasion." *People v. Hillier*, 237 Ill. 2d 539, 545, 931 N.E.2d 1184, 1187 (2010). If the defendant fails to meet his or her burden of persuasion, the reviewing court applies the procedural default. *Hillier*, 237 Ill. 2d at 545, 931 N.E.2d at 1187.

¶ 24 Respondent contends a trial judge who presides over the proceedings in a wardship case is exposed to voluminous amounts of information about the parties that is inadmissible at a hearing on a motion to terminate parental rights. He asserts that, allowing the same trial judge to preside over the motion to terminate parental rights creates a system of institutional bias that violates a parent's due process rights. He urges this court to adopt a rule in termination proceedings requiring the termination motion to be heard by a different judge who has not made earlier findings regarding efforts and progress at permanency hearings and ordered a change of the goal to termination of parental rights.

¶ 25 First, our supreme court disagrees with respondent's position. Illinois Supreme Court Rule 900(a) (eff. Mar. 8, 2016) sets forth the purpose of the rules addressing child custody or allocation of parental responsibilities proceedings, which includes proceedings under the Juvenile Court Act. The rule explains the unique responsibility imposed on trial courts in such proceedings. See Ill. S. Ct. R. 900(a) (eff. Mar. 8, 2016). Specifically, the rule notes, "[w]hen a

child is a ward of the court, the physical and emotional well-being of the child is literally the business of the court." Ill. S. Ct. R. 900(a) (eff. Mar. 8, 2016). The purpose of the specific rules is to (1) expedite cases affecting the custody or allocation of parental responsibilities of a child, (2) ensure the coordination of custody or allocation of parental responsibilities matters filed under different statutory acts, and (3) focus child custody or allocation of parental responsibilities proceedings on the best interests of the child, while protecting the rights of other parties to the proceedings. Ill. S. Ct. R. 900(a) (eff. Mar. 8, 2016). Illinois Supreme Court Rule 903 (eff. Mar. 8, 2016) then provides, "[w]henever possible and appropriate, all child custody and allocation of parental responsibilities proceedings relating to an individual child shall be conducted by a single judge." "Thus, our supreme court has expressed a preference for the same judge to hear all proceedings involving child custody and the division of parental responsibilities." *In re Z.J.*, 2020 IL App (2d) 190824, ¶ 85, 168 N.E.3d 210. The termination of parental rights permanently removes a minor child from his or her parent's custody.

¶ 26 Second, with criminal law, the rules for the admissibility of evidence are the same whether the defendant is tried with or without a jury. *People v. Naylor*, 229 Ill. 2d 584, 603, 893 N.E.2d 653, 665 (2008). When the trial judge is the trier of fact, the reviewing court presumes the judge considered only admissible evidence and disregarded inadmissible evidence in reaching its decision. *Naylor*, 229 Ill. 2d at 603, 893 N.E.2d at 665. The aforementioned presumption indicates trial judges are expected to know what evidence is admissible and to only consider that evidence. While this case is a civil one under the Juvenile Court Act, the same presumptions would apply, and respondent's argument runs contrary to this presumption.

¶ 27 Third, after a substantive ruling has been made in a civil case, section 2-1001(a)(3) of the Code of Civil Procedure (735 ILCS 5/2-1001(a)(3) (West 2020)) allows for a

substitution of judge "[w]hen cause exists." The statute does not define "cause," but Illinois courts have required a showing of actual prejudice, either prejudicial trial conduct or personal bias, to force removal of a judge from a case. *In re Marriage of O'Brien*, 2011 IL 109039, ¶ 30, 958 N.E.2d 647. Judges are presumed impartial, and the burden of overcoming that presumption rests on the party making the charge. *O'Brien*, 2011 IL 109039, ¶ 31. Again, respondent's argument and proposed rule run contrary to this presumption.

¶ 28 Last, we note the facts of this case are distinguishable from *In re A.T.*, 197 Ill. App. 3d 821, 835, 555 N.E.2d 402, 411 (1990), where Justice Steigmann in his special concurrence noted, when a judge has indicated a need for filing a petition to terminate parental rights, that judge must thereafter recuse himself or herself from any proceedings on that petition once it is filed. Here, the State and CASA asked the goal to be changed to substitute care pending termination of parental rights at the June 2020 permanency hearing. The circuit court declined to change the goal at the hearing but set the next permanency review hearing for September 2020. At the September 2020 permanency hearing, the State and CASA again asked for a goal change to substitute care, and the court made the goal change. Unlike in *A.T.*, the circuit court made a goal changed based on a request by both the State and CASA. The court did not on its own find a need for filing a motion to terminate parental rights.

¶ 29 Accordingly, we find respondent has failed to show a violation of his due process rights. Since respondent failed to establish an error, there can be no plain error.

¶ 30 B. Respondent's Fitness

¶ 31 Respondent also contends the circuit court erred by finding him unfit. In this case, the circuit court found respondent unfit on all three grounds alleged in the petition. One of the grounds was section 1(D)(m)(ii) of the Adoption Act (750 ILCS 50/1(D)(m)(ii) (West

2020)), which provides a parent may be declared unfit if he or she fails "to make reasonable progress toward the return of the child[ren] to the parent during any 9-month period following the adjudication of neglected or abused minor under Section 2-3 of the Juvenile Court Act." Illinois courts have defined "reasonable progress" as "demonstrable movement toward the goal of reunification." (Internal quotation marks omitted.) *In re Reiny S.*, 374 Ill. App. 3d 1036, 1046, 871 N.E.2d 835, 844 (2007) (quoting *In re C.N.*, 196 Ill. 2d 181, 211, 752 N.E.2d 1030, 1047 (2001)). Moreover, they have explained reasonable progress as follows:

> " '[T]he benchmark for measuring a parent's "progress toward the return of the child[ren]" under section 1(D)(m) of the Adoption Act encompasses the parent's compliance with the service plans and the court's directives, in light of the condition which gave rise to the removal of the child[ren], and in light of other conditions which later became known and which would prevent the court from returning custody of the child[ren] to the parent.' " *Reiny S.*, 374 Ill. App. 3d at 1046, 871 N.E.2d at 844 (quoting *C.N.*, 196 Ill. 2d at 216-17, 752 N.E.2d at 1050).

Additionally, this court has explained reasonable progress exists when a circuit court "can conclude that *** the court, in the *near future*, will be able to order the child[ren] returned to parental custody. The court will be able to order the child[ren] returned to parental custody in the near future because, at that point, the parent *will have fully complied* with the directives previously given to the parent in order to regain custody of the child[ren]." (Emphases in original.) *In re L.L.S.*, 218 Ill. App. 3d 444, 461, 577 N.E.2d 1375, 1387 (1991). We have also emphasized " 'reasonable progress' is an 'objective standard.' " *In re F.P.*, 2014 IL App (4th)

140360, ¶ 88, 19 N.E.3d 227 (quoting *L.L.S.*, 218 Ill. App. 3d at 461, 577 N.E.2d at 1387).

¶ 32 In determining a parent's fitness based on reasonable progress, a court may only consider evidence from the relevant time period. *Reiny S.*, 374 Ill. App. 3d at 1046, 871 N.E.2d at 844 (citing *In re D.F.*, 208 Ill. 2d 223, 237-38, 802 N.E.2d 800, 809 (2003)). Courts are limited to that period "because reliance upon evidence of any subsequent time period could improperly allow a parent to circumvent her own unfitness because of a bureaucratic delay in bringing her case to trial." *Reiny S.*, 374 Ill. App. 3d at 1046, 871 N.E.2d at 844. In this case, the petition alleged two nine-month periods, October 29, 2019, to July 29, 2020, and December 19, 2019, to September 9, 2020.

¶ 33 Respondent first contends the circuit court erred by admitting into evidence the four service plans. He recognizes he did not preserve the error for review and asks this court to review the issue under the second prong of the plain-error doctrine. Thus, we first determine whether an error occurred.

¶ 34 Service plans are admissible under section 2-18(4)(a) of the Juvenile Court Act (705 ILCS 405/2-18(4)(a) (West 2012)), which is a variation of the business record exception to the hearsay rule. *In re Aniylah B.*, 2016 IL App (1st) 153662, ¶ 30, 61 N.E.3d 216. However, respondent argues the service plans at issue contain multiples levels of hearsay of which cannot be admissible evidence merely because the hearsay appears in an otherwise admissible report. He contends the hearsay statements contained in the service plans require the application of another hearsay exception before they may be considered. See Illinois Rule of Evidence 805 (eff. Jan. 1, 2011) ("[h]earsay included within hearsay is not excluded under the hearsay rule if each part of the combined statements conforms with an exception to the hearsay rule provided in these rules"). Respondent overlooks the fact the statute itself provides the lack of knowledge of

the maker of the documents at issue is a matter of weight rather than admissibility. 705 ILCS 405/2-18(4)(a) (West 2020) ("All other circumstances of the making of the memorandum, record, photograph or x-ray, including lack of personal knowledge of the maker, may be proved to affect the weight to be accorded such evidence, but shall not affect its admissibility."). Such language indicates the document will contain additional levels of hearsay. An examination of the statute's language indicates the legislature deemed it proper to admit DCFS records and the information contained therein, as long as the information was made of record in the regular course of the agency's business and at the time of the event or within a reasonable time thereafter. See *In re Z.J.*, 2020 IL App (2d) 190824, ¶ 61, 168 N.E.3d 210. Respondent does not assert the State failed to establish those two requirements. Accordingly, we find the circuit court did not err by admitting the service plans.

¶ 35 Even if the admission of the services plans was erroneous, respondent did not establish second-prong plain error, given respondent counsel's statement respondent acknowledged he did not complete any services and Denk's testimony about respondent's conduct during the relevant nine-month periods. The service plans are cumulative evidence of respondent's noncompliance with service plans, and thus the exhibits neither disrupted the fairness of respondent's fitness hearing nor challenged the integrity of the judicial process. As explained below, the State presented ample evidence establishing respondent's unfitness without using the hearsay documents.

¶ 36 Here, Denk testified she was a child welfare specialist and had been assigned the minor children's case in April 2019. Thus, she was the caseworker for the entirety of both nine-month periods and had first-hand knowledge of this case. As the caseworker, it was her job to know respondent's services, his conduct regarding those services, his visitation with the minor

children, and his contact with the agency. She testified respondent was required to participate in substance abuse treatment, a domestic violence assessment, and parenting classes. She testified respondent did not complete any of the services. In fact, during closing arguments, respondent's counsel noted respondent acknowledged he did not complete any services but had wanted to complete them. Additionally, Denk testified respondent did not visit the minor children at all during the second nine-month period. He only sent the minor children two letters during that period. Moreover, respondent had inconsistent contact with the agency since being incarcerated. Denk testified the agency was never close to giving respondent unsupervised visits with the minor children due to his inconsistency in services and lack of continued communication with the agency. The agency still had concerns about respondent's ability to safely parent. The evidence shows the minor children were never closed to being returned to respondent.

¶ 37 Respondent notes his ability to complete services was almost eliminated by the COVID-19 shutdown and his periods of incarceration. However, respondent did not present any testimony at the fitness hearing about how the shutdown and pandemic prohibited him from completing services. Additionally, we note the nine-month period during which reasonable progress is considered is not tolled during periods of incarceration. *In re J.L.*, 236 Ill. 2d 329, 343, 924 N.E.2d 961, 969 (2010).

¶ 38 Given the above evidence, the circuit court's finding respondent failed to make reasonable progress during the period of December 19, 2019, to September 9, 2020, was not against the manifest weight of the evidence.

¶ 39 Since we have upheld the circuit court's determination respondent met the statutory definition of an "unfit person" on the basis of respondent's failure to make reasonable progress (750 ILCS 50/1(D)(m)(ii) (West 2020)) during the nine-month period of December 19,

2019, to September 9, 2020, we do not address the other nine-month period and the other grounds for the unfitness finding. See *In re Tiffany M.*, 353 Ill. App. 3d 883, 891, 819 N.E.2d 813, 820 (2004).

¶ 40 C. Minor Children's Best Interests

¶ 41 Last, respondent challenges the circuit court's finding it was in the minor children's best interests to terminate his parental rights. The State disagrees and contends the court's finding was proper.

¶ 42 During the best-interests hearing, the circuit court focuses on "the child[ren]'s welfare and whether termination would improve the child[ren]'s future financial, social and emotional atmosphere." *In re D.M.*, 336 Ill. App. 3d 766, 772, 784 N.E.2d 304, 309 (2002). In doing so, the court considers the factors set forth in section 1-3(4.05) of the Juvenile Court Act (705 ILCS 405/1-3(4.05) (West 2020)) in the context of the children's age and developmental needs. See *In re T.A.*, 359 Ill. App. 3d 953, 959-60, 835 N.E.2d 908, 912-13 (2005). Those factors include the following: the children's physical safety and welfare; the development of the children's identity; the children's family, cultural, and religious background and ties; the children's sense of attachments, including continuity of affection for the children, the children's feelings of love, being valued, security, and familiarity, and taking into account the least disruptive placement for the children; the children's own wishes and long-term goals; the children's community ties, including church, school, and friends; the children's need for permanence, which includes the children's need for stability and continuity of relationships with parent figures, siblings, and other relatives; the uniqueness of every family and each child; the risks attendant to entering and being in substitute care; and the wishes of the persons available to care for the children. 705 ILCS 405/1-3(4.05) (West 2020).

¶ 43 We note a parent's unfitness to have custody of his or her children does not automatically result in the termination of the parent's legal relationship with the children. *In re M.F.*, 326 Ill. App. 3d 1110, 1115, 762 N.E.2d 701, 706 (2002). As stated, the State must prove by a preponderance of the evidence the termination of parental rights is in the minor children's best interests. See *D.T.*, 212 Ill. 2d at 366, 818 N.E.2d at 1228. "Proof by a preponderance of the evidence means that the fact at issue *** is rendered more likely than not." *People v. Houar*, 365 Ill. App. 3d 682, 686, 850 N.E.2d 327, 331 (2006).

¶ 44 Here, the minor children had lived with their foster mother for a majority of their young lives, and one of the minor children had voiced she wanted to live with the foster mother. The minor children's ties were with the community in which the foster mother lived. The foster mother desired to provide permanency for the minor children and their two half-siblings. Auestad testified the minor children did not talk about respondent or indicate a desire to have him be a part of their lives. Respondent had not visited with the children for more than two years at the time of the best-interests hearing and had only sent two letters during that period.

¶ 45 Accordingly, we find the circuit court's conclusion it was in the minor children's best interests to terminate respondent's parental rights was not against the manifest weight of the evidence.

¶ 46 III. CONCLUSION

¶ 47 For the reasons stated, we affirm the Winnebago County circuit court's judgment.

¶ 48 Affirmed.