

NOTICE

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2022 IL App (5th) 220075-U

NO. 5-22-0075

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> E.C., a Minor)	Appeal from the
)	Circuit Court of
(The People of the State of Illinois,)	Champaign County.
)	
Petitioner-Appellee,)	
)	
v.)	No. 20-JA-87
)	
Justin D.,)	Honorable
)	Matthew D. Lee,
Respondent-Appellant).)	Judge, presiding

JUSTICE WHARTON delivered the judgment of the court.
Justices Moore and Vaughan concurred in the judgment.

ORDER

¶ 1 *Held:* Where the trial court's orders finding that Justin D. was an unfit parent and that the best interest of the minor child warranted termination of his parental rights were not contrary to the manifest weight of the evidence, we affirm the orders.

¶ 2 Justin D. appeals from the trial court's orders finding that he was an unfit parent and that his parental rights should be terminated. We affirm.

¶ 3 I. BACKGROUND

¶ 4 E.C. is a male child born on September 3, 2020, in Urbana. The mother, Le-Kaie K., was 17 years of age when E.C. was born. Prior to and at the time of E.C.'s birth, Le-Kaie was in the foster care system and lived with a foster family. Le-Kaie's biological mother had been declared an unfit parent for Le-Kaie, but her parental rights had not been terminated. Le-Kaie's permanency

goal was independence in her own Department of Children and Family Services (DCFS) case. Le-Kaie identified Justin as E.C.'s biological father.

¶ 5 On September 4, 2020, DCFS received a hotline call that Le-Kaie, a youth in care, had given birth to a child, E.C. Le-Kaie herself was a ward of the court, and the record indicates that she was struggling in the early days of parenthood. DCFS became concerned that Le-Kaie would take E.C. to her mother's home. As Le-Kaie's mother had been found to be unfit, DCFS was concerned for E.C.'s welfare. DCFS took E.C. into protective custody on September 14, 2020.

¶ 6 The shelter care hearing was held on September 15, 2020, pursuant to section 2-9 and section 2-10 of the Juvenile Court Act of 1987 (Act) (705 ILCS 405/2-9, 2-10 (West 2020)). The court found that there was probable cause to believe that the minor was neglected and dependent. The court noted that Le-Kaie was a minor and a ward of the court because Le-Kaie's mother was deemed unfit. Additionally, Le-Kaie had a history of mental health issues. The court noted that Justin had little involvement with Le-Kaie and E.C. Although E.C. was born three weeks premature, he was otherwise healthy. Le-Kaie struggled with manic episodes, and during an episode the previous evening, the foster parent of Le-Kaie's younger sister went and picked up E.C. after Le-Kaie said that she did not want the baby. When this foster mother picked up E.C., he smelled of cigarettes and there was no infant formula available. The court placed temporary custody of E.C. with the DCFS guardianship administrator.

¶ 7 On September 15, 2020, the State filed its four-count petition for adjudication of abuse, neglect, or dependence (*id.* §§ 2-3, 2-4, 2-13) and asked the trial court to make E.C. a ward of the court. Three of the counts alleged neglect and only referenced Le-Kaie: she was under 18 and unable to provide the necessary support or other care necessary for E.C.'s well-being (count I); she was under 18 and lived in an environment that would be injurious to both E.C. and Le-Kaie

because they could be exposed to the use of illegal substances (count II); and she was under 18 and lived in an environment injurious to both E.C. and Le-Kaie because they could be exposed to contact with inappropriate persons (count III). Count IV alleged that E.C. was dependent because he was under the age of 18 and without proper care because of Le-Kaie's mental health issues. Justin was listed as the putative father.

¶ 8 The trial court held the adjudicatory hearing on November 19, 2020, pursuant to section 2-14 of the Act (*id.* § 2-14). Le-Kaie was present at the hearing, but Justin was not. The docket entry indicates that witnesses were sworn and testimony was heard. The court noted that its factual findings were received in open court on that date. The record on appeal does not contain a transcript of the adjudicatory hearing. The court dismissed two counts of the State's petition—count I (unable to provide the necessary support or other care necessary for E.C.'s well-being) and count III (exposure to inappropriate persons). The court found that the State had established the other two counts of its petition by a preponderance of the evidence—count II (exposure to illegal substances) and count IV (that E.C. was dependent because he was under the age of 18 and without proper care because of Le-Kaie's mental disability). In the trial court's November 19, 2020, adjudicatory order, paragraph nine indicates in bold print: "The parents are admonished that they must cooperate with the Illinois Department of Children and Family Services. The parents must comply with the terms of the service plan and correct the conditions that require the minor to be in care or they risk termination of their parental rights."

¶ 9 In preparation for the December 17, 2020, dispositional hearing, the Center for Youth and Family Solutions (CYFS), in coordination with DCFS, prepared and filed its dispositional report with the court. The report was prepared by Marissa Jordan-Lenz, a child welfare worker employed by CYFS, and Natasha Mables, a child welfare supervisor employed by CYFS. As Le-Kaie is not

a party to this appeal, we will only detail aspects of the report that involve Justin. Justin was then 18 years of age and residing with his godmother in Rantoul. He was employed full-time at the area Walmart. CYFS expressed concerns that Justin was minimizing the reasons that DCFS placed E.C. in shelter care shortly after his birth. Justin indicated his understanding of what he needed to do and that he wanted to achieve reunification with his son. CYFS attached a copy of DCFS's initial family service plan dated October 28, 2020. The plan had a target completion date of October 29, 2021. DCFS recommended that Justin needed services related to parenting, substance abuse, and counseling. DCFS established the following action steps and outlined what Justin needed to do to support the desired outcomes:

1. Demonstrate appropriate parenting skills on an ongoing basis during interactions with E.C. in order to provide safe, nurturing parenting for the child;
2. Successfully complete parenting classes to increase his understanding of child development, appropriate discipline/supervision of children based on age, and develop a consistent parenting plan;
3. Keep all CYFS appointments and consistently meet with his caseworker on a scheduled and unscheduled basis;
4. Sign all necessary releases of information;
5. Must not discontinue services without CYFS approval;
6. Complete the referral for substance abuse assessment;
7. Cooperate with any urine or blood tests that DCFS requests;
8. Notify his caseworker if he relapses in his recovery process;
9. Complete the referral for counseling;
10. Cooperate with any recommendations made resulting from the counseling assessment. Treatment may include group/family/individual counseling, psychological evaluation, psychiatric treatment, and use of psychotropic medications; and
11. Demonstrate progress and benefit from treatment as evidenced by maintaining a period of stabilization.

CYFS also attached a December 16, 2020, addendum to its report about Justin's visits with E.C. Since the case opened, visits were scheduled and occurred twice each week. As of December 16, 2020, 17 scheduled visits had occurred. Justin missed 10 of the 17 visits.

¶ 10 On December 17, 2020, the trial court held its dispositional hearing pursuant to section 2-22 of the Act (*id.* § 2-22). The court adjudged E.C. as neglected and made him a ward of the court. The court removed custody and guardianship from Le-Kaie and Justin. The court placed custody and guardianship with the guardianship administrator of DCFS. The court ordered Le-Kaie and Justin to cooperate fully with DCFS, to comply with the terms of their service plans, and to regularly participate in visitation with E.C. Specifically, the court directed the parents to cooperate with and complete psychological and substance abuse evaluations; to comply with any recommended treatment; to complete parenting classes and any recommended counseling; to attend all DCFS meetings; to establish and maintain appropriate, clean, healthy, and stable residences; to refrain from all mood-altering substances; and to comply with random substance abuse testing.

¶ 11 DCFS filed its March 19, 2021, family service plan with the court. The service plan objectives for Justin were the same as in the initial plan. Other than initially signing some consent forms, Justin was rated as unsatisfactory on all action steps. He had not started any services and had not interacted with E.C. via supervised visits since December 1, 2020.

¶ 12 DCFS filed a permanency report with the court on March 19, 2021. DCFS reported that Justin had been referred for parenting classes on November 25, 2020, but he had not yet started. A paternity test had been scheduled in early December 2020 but was cancelled because Justin did not bring identification. DCFS noted that the test "was never able to be scheduled since [Justin] has not been involved with the case since December." Justin continued to live in Rantoul with his

godmother, but he advised his caseworker that he needed to find his own place. Justin informed the caseworker that he was thinking about renting an apartment. Justin began employment with Walmart on December 8, 2020. The caseworker was unable to determine Justin's employment or housing in preparing the report because there had been no contact with Justin since December 22, 2020. Justin had also not attended a visit with E.C. since December 1, 2020. DCFS's plan for E.C. was adoption. Le-Kaie had expressed a desire to surrender her parental rights to E.C. so she could finish school, obtain employment, and find housing. Le-Kaie informed the caseworker that she asked the foster parent to adopt E.C., and that the foster parent indicated that she would do so.

¶ 13 On March 24, 2021, the trial court held a permanency hearing pursuant to section 2-28(2) of the Act (*id.* § 2-28(2)). At the conclusion of the hearing, the court entered a permanency order. The court found that Justin had not made reasonable and substantial progress toward returning E.C. home because he had not fully engaged in services. The court continued custody and guardianship with DCFS. Like the trial court's form adjudicatory order entered on November 19, 2020, paragraph nine admonishes the parents in bold print as follows: "The parents are ordered to cooperate with the Illinois Department of Children and Family Services. The parent(s) must comply with the terms of the service plan and correct the conditions which require the minor(s) to be in care, or they risk termination of their parental rights."

¶ 14 The next permanency hearing report was filed on July 1, 2021. Justin had not started the recommended parenting classes and had not yet had the paternity test. The caseworker was unable to verify Justin's employment. Justin was then living in Rantoul with his godmother after returning from a move to Chicago. Justin had not attended a visit with E.C. since December 1, 2020.

¶ 15 On July 6, 2021, the trial court entered a permanency order. The court found that Justin had not made reasonable and substantial progress toward returning the minor home because he

had not fully engaged in services. The court continued custody and guardianship with DCFS. The July 6, 2021, permanency order contained the same bold-faced orders (quoted *supra* ¶ 13) directed to Justin about compliance with DCFS service plans and objectives.

¶ 16 CYFS filed a permanency hearing report with the court on October 8, 2021. Justin had successfully completed parenting classes on September 1, 2021. On July 23, 2021, he participated in a paternity test that confirmed that he was E.C.’s biological father. Justin requested that he have counseling sessions at the same location where he had parenting classes. Justin indicated that he was then living with friends in Champaign and was saving money to move into his own apartment. CYFS completed a referral to an agency to assist Justin in finding affordable housing. He was currently employed at a McDonalds’s restaurant in Champaign. Justin had also resumed weekly supervised visits with E.C.; however, the caseworker noted that he struggled with appropriately engaging with E.C. CYFS believed that when Justin began counseling services, the counselor could help him with parental interactions.

¶ 17 On October 12, 2021, the State filed its motion asking the court to find the parents unfit and to terminate their parental rights pursuant to section 2-29(2) of the Act (705 ILCS 405/2-29(2) (West 2020)). The State alleged that the parents were unfit because they failed to make reasonable efforts to correct the conditions that were the basis for the removal of E.C. during any nine-month period following the adjudication of neglect or abuse—specifically, January 12, 2021, through October 12, 2021. 750 ILCS 50/1(D)(m)(i) (West 2020). The State alternatively alleged that the parents were unfit for failing to make reasonable progress during any nine-month period following the adjudication of neglect or abuse—specifically, January 12, 2021, through October 12, 2021. *Id.* § 1(D)(m)(ii). Finally, the State alleged that the parents were unfit because they failed to maintain a reasonable degree of interest, concern, or responsibility about E.C.’s welfare. *Id.*

§ 1(D)(b). If the trial court found that the parents were unfit by one or more of the statutory grounds alleged by the State, the State then asked the court to conduct a fitness hearing. The State urged the court to find that the best interest of E.C. would be served by terminating the rights of his biological parents. If the court entered an order terminating parental rights, the State then asked the trial court to continue DCFS as permanent guardian of E.C. and asked that the guardian be given the authority to consent to E.C.'s adoption and to take whatever action the guardian finds to be in E.C.'s best interest.

¶ 18 On October 12, 2021, Le-Kaie surrendered her parental rights to E.C. and consented to his adoption.

¶ 19 The trial court held the fitness hearing on December 2, 2021. The State called several former and current CYFS employees to testify about Justin's service plan objectives and progress toward reunification.

¶ 20 The first witness, Marissa Jordan-Lenz, testified that she worked for CYFS from August 2020 to August 2021. She was assigned to E.C.'s case from October 2020 to August 2021. During her time on this case, Jordan-Lenz met with Justin. She testified that she met with him on a more frequent basis at the beginning of that time. Contact became more infrequent in December 2020, and by January 2021, she had no contact with Justin. In March 2021, he began sporadically contacting Jordan-Lenz.

¶ 21 Jordan-Lenz testified that CYFS referred Justin for parenting classes, a substance abuse assessment, random drug screens, and counseling. By August 2021, Justin had started parenting classes, but had not yet completed the program. In November 2020, CYFS referred Justin for a substance abuse assessment, but he did not complete the assessment during her involvement with the case. Justin was added to a calendaring system with the substance abuse testing facility in April

2021. He was scheduled to be randomly tested once each week, but he completed no drug tests between April 2021 and August 2021. Jordan-Lenz testified that each time she spoke with Justin, she reminded him that he was mandated to submit to the drug tests. Each time they spoke, Justin agreed to take the tests. Jordan-Lenz also testified that she referred Justin for counseling in July 2021, but that he was still on the wait list to start services in August 2021 when she discontinued employment with CYFS. She testified that while the referral did not occur until July 2021, CYFS had informed Justin from the beginning of the case that he would need to engage in counseling services.

¶ 22 In addition to the mandated services and drug tests, Jordan-Lenz testified that Justin was allowed to visit E.C. for two hours, twice each week. She stated that he was not consistent with his visits. Justin had routine weekly visits with E.C. beginning in June 2021. Jordan-Lenz explained that when the case was first opened, Justin attended visits through approximately November or December 2020. From January 2021 until June 2021, Justin engaged in no visits with E.C. Overall, Jordan-Lenz found that Justin was not engaged with E.C. during visits. While he would hold E.C., he would often be on his phone, talking to someone in the room, or watching television.

¶ 23 Jordan-Lenz confirmed that Justin participated in the six-month child and family team meetings. She also stated that Justin was provided with information about E.C.'s medical appointments, but he never attended any of those appointments.

¶ 24 The State next called Natasha Mables, a CYFS supervisor, to testify. Mables testified that she was the caseworker from August 13, 2021, until September 29, 2021. During that time, she met with Justin at the foster parent's home. On the September 29, 2021, meeting, Mables spoke with Justin about completing his substance abuse assessment. He informed Mables that he was

unaware that he needed to complete a substance abuse assessment. Justin remained on the wait list for counseling. Mables testified that he was attending his visits with E.C. during August and September 2021; however, she stated that during the one visit she observed, Justin did not interact, engage, or play with E.C. Justin had not completed any drug tests in the two months that Mables was involved in this case.

¶ 25 The State called Aleeyah Winfield, a former CYFS caseworker, to testify. Winfield was assigned this case in late September. She was the caseworker for this case from September 2021 until mid-October 2021. Winfield met with Justin on October 13, 2021. Justin agreed to begin random drug screens, but he did not follow through. Justin had begun counseling and completed his first session during Winfield's tenure. The State asked Winfield if she had observed Justin with E.C. during a visit. Winfield testified that she only observed the one visit when Mables was still acting as caseworker on this case. She stated that she agreed with Mables that Justin was not engaged with E.C. during the visit. After that visit, Winfield told Justin that he needed to be more interactive with E.C. Winfield testified that Justin had not completed parenting classes during the time that she was the caseworker.

¶ 26 At the conclusion of the hearing, the trial court noted that the testimony and documentary evidence established that Justin was not consistent with participation in services and with visitation. The court reviewed the three counts of the State's motion seeking a finding of unfitness and termination of Justin's parental rights. The court concluded that the State had not proven by clear and convincing evidence that Justin failed to maintain a reasonable degree of interest, concern, or responsibility as alleged in count III. The court also concluded that the State failed to prove by clear and convincing evidence that Justin failed to make reasonable efforts to correct the conditions that brought the child into DCFS care as alleged in count I. The court explained that at

issue was Le-Kaie's mental difficulties that resulted in E.C. being dependent due to her inability to provide proper care and Le-Kaie's exposure of E.C. to risk of contact with inappropriate persons. The court stated that Justin had "very little to do with those conditions." The court found that the State established count II—that Justin was unfit and unable for reasons other than financial circumstances alone to care for, protect, train, and discipline E.C. The court noted that Justin had been court-ordered to complete services that he did not complete. He had not finished his parenting course, had not had the substance abuse assessment, and had not presented for random drug screens. The court stated that Justin's claim that he did not know he needed to complete a substance abuse assessment strained credulity. The court also indicated that Justin had been inconsistent with visits and when he did attend the scheduled visits, he failed to engage with his son and was distracted by people or media sources.

¶ 27 On January 14, 2022, CYFS filed its best interest report with the trial court. E.C. was now one year old and was in a licensed relative foster placement in Champaign. The foster parent was Le-Kaie's aunt. CYFS found that the home was safe and appropriate. E.C. was well-fed and clothed. He had his own bedroom and slept in a crib that could transition to a toddler bed. The foster parent was being compliant with safe sleep recommendations. CYFS noted that E.C. had a secure attachment with his foster parent and exhibited trust. The foster parent was working with E.C. to ensure that he met all developmental milestones. CYFS found that E.C. was happy, bonded, and thriving. CYFS concluded that it would be in E.C.'s best interest to remain with his current foster placement. CYFS stated that the foster parent was willing and able to provide E.C. with permanency through adoption.

¶ 28 CYFS noted that Justin completed parenting classes on September 1, 2021, that he was assigned to a counselor at a local agency and scheduled for a mid-January appointment, that he

had not completed a substance abuse assessment, and that he had never participated in random drug screens. Justin was participating in weekly child visits with E.C. supervised by the foster parent. CYFS noted that he had become more engaged with E.C. and had been providing diapers, clothing, and toys for the child. CYFS stated that although Justin had participated in some of the mandated services, the agency believed that it would be better for E.C. to remain in his foster placement. CYFS informed the court that Justin had a pending criminal charge for possession of a firearm. CYFS stated that the foster parent had indicated her willingness to continue supervising visits between Justin and E.C. even after the case is closed. CYFS asked the court to terminate Justin's parental rights to E.C.

¶ 29 At the best interest hearing held on January 21, 2022, all parties stipulated to the report prepared by CYFS and filed with the court on January 14, 2022. The State argued: “[Justin], although he is partially involved in services, this case was first opened in September of 2020, and he is still not yet engaged in services, and has gone missing from visitation and other services for lengthy periods of time throughout the case.” The State stated that E.C. had achieved stability with his foster parent and that the current placement “provides the best option for permanency.” The attorney representing E.C. informed the court that she had visited E.C. in his foster placement numerous times and stated that E.C. had been consistently happy, healthy, developmentally on track, and bonded. The foster parent indicated her willingness to provide E.C. permanency through adoption, while also maintaining a relationship with Justin and Le-Kaie. Justin's attorney argued that Justin was employed, had adequate and stable housing, had completed parenting class, was engaged in individual counseling, was participating in visitation, and did not want his parental rights terminated.

¶ 30 The court explained that the focus of this hearing was the best interest of E.C. The court credited Justin for making a concerted effort in the recent months. The court indicated that the prominent concern for E.C. was achieving permanency. Although Justin had made progress, the court noted that it was unlikely that he would be restored to fitness soon. Justin had not yet completed his substance abuse assessment or presented for any random drug screens. Regarding E.C.’s foster placement, the court noted that E.C. had lived in this household for almost his entire life. He noted that the foster parent was willing and able to adopt E.C. Furthermore, the court found it noteworthy that the foster parent was willing to facilitate visitation between E.C. and Justin. The court found that this fact provided an optimistic outlook for Justin to continue to have a relationship with his son.

¶ 31 The court ruled that the State had established that it was in E.C.’s best interest for Justin’s parental rights and responsibilities to be terminated. The court made a finding that there was no just reason to delay enforcement or appeal.

¶ 32 II. ANALYSIS

¶ 33 The legal authority for the involuntary termination of parental rights in Illinois is found in the Juvenile Court Act of 1987 (705 ILCS 405/1-1 *et seq.* (West 2020)) and in the Adoption Act (750 ILCS 50/0.01 *et seq.* (West 2020)). *In re J.L.*, 236 Ill. 2d 329, 337 (2010) (citing *In re E.B.*, 231 Ill. 2d 459, 463 (2008)). The procedural basis for the involuntary termination of parental rights is found in section 2-29 of the Juvenile Court Act of 1987 (705 ILCS 405/2-29(2) (West 2020)). The procedure involves two steps. With step one the State must prove, by clear and convincing evidence, that the parent is an “unfit person” as defined by the Adoption Act. *Id.*; 750 ILCS 50/1(D) (West 2020); *In re A.J.*, 269 Ill. App. 3d 824, 828 (1994). If the trial court finds that the parent is unfit, the process moves to step two. With step two, the State must prove, by a

preponderance of the evidence, that it is in the child's best interest that the parent's rights be terminated. 705 ILCS 405/2-29(2); *In re J.L.*, 236 Ill. 2d at 337-38.

¶ 34 On appeal from a trial court's findings that a parent is unfit and that terminating the parental rights is in the child's best interest, the reviewing court must not retry the case but, instead, must review the trial court's findings to determine if the findings are against the manifest weight of the evidence. *In re A.W.*, 231 Ill. 2d 92, 104 (2008). A decision is contrary to the manifest weight of the evidence if the opposite conclusion is apparent or when findings appear to be unreasonable, arbitrary, or not based on the evidence presented. *In re Vanessa K.*, 2011 IL App (3d) 100545, ¶ 28 (citing *In re Joseph M.*, 398 Ill. App. 3d 1086, 1089 (2010)); *In re S.R.*, 326 Ill. App. 3d 356, 360-61 (2001).

¶ 35 We first review the evidence to determine if the State met its burden of proving, by clear and convincing evidence, that Justin was an "unfit person." The trial court determined that the State met its burden of proof that Justin failed to make reasonable progress toward the return of E.C. during any nine-month period following the adjudication of neglect or abuse—specifically, January 12, 2021, through October 12, 2021.

¶ 36 "Reasonable progress" is determined by an objective standard, based upon the amount of progress measured from the conditions existing at the time custody was taken from the parent. *In re D.T.*, 2017 IL App (3d) 170120, ¶ 17 (citing *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1067 (2006)). "The benchmark for measuring a parent's reasonable progress under section 1(D)(m) of the Adoption Act encompasses the parent's compliance with the service plans and court's directives in light of the condition that gave rise to the removal of the child and other conditions which later become known that would prevent the court from returning custody of the child to the parent." *Id.* (citing *In re C.N.*, 196 Ill. 2d 181, 216-17 (2001)). A parent makes reasonable progress

when the trial court can find that the progress “is sufficiently demonstrable and of such a quality” that the trial court may soon be able to order the return of the minor to the parent’s custody. *Id.* (citing *In re J.H.*, 2014 IL App (3d) 140185, ¶ 22).

¶ 37 In this case, Justin made some progress at the end of the case. He completed his parenting classes, began individual counseling, and resumed scheduled visits with E.C. Although Justin brought items for E.C.’s care to the visits, CYFS caseworkers were consistent in their assessments of Justin’s visits with E.C. CYFS caseworkers reported that Justin was not engaged with his son, although he did hold him. Justin struggled with interacting and maintaining focus on E.C. during the visits. Before the DNA test results confirmed that Justin was E.C.’s biological father, DCFS, through CYFS, created a service plan for him. The CYFS workers testified that they reminded Justin of the importance of compliance with his service plan. Additionally, the trial court specifically ordered Justin to comply with his service plan in the court’s November 19, 2020, adjudicatory order and in the court’s March 24, 2021, and July 6, 2021, permanency orders. Despite the repeated warnings, Justin never completed a substance abuse assessment and never submitted to the random drug testing process. As the trial court noted, Justin’s claims that he had no knowledge he was required to undergo a substance abuse assessment lack credibility.

¶ 38 We are sympathetic as to how Justin might have been mistaken in his perspective of the case resulting in a lack of diligence. There was a question as to Justin’s paternity, and E.C. did not live with Justin and was removed from the biological mother’s care. The biological mother had mental health issues, allegedly used marijuana, and could potentially expose E.C. to inappropriate persons. Those allegations were not directed at Justin. But, when DCFS removes a child from a home, service plans are implemented that also impact the noncustodial parents, like Justin. By no later than October 28, 2020, when DCFS created its initial service plan, Justin’s path to unification

with E.C. was established. Justin made a conscious choice not to address the substance abuse action steps of his service plan. Despite repeated reminders from CYFS staff that he needed to comply with the plan, Justin made his own decision not to comply.

¶ 39 Justin’s slow and incomplete approach to addressing his service plan objectives does not support the reasonable progress standard. Accordingly, we find that the trial court fully considered the evidence in the record and at the fitness hearing. We conclude that the trial court’s finding that Justin was an “unfit person” was not contrary to the manifest weight of the evidence. *In re A.W.*, 231 Ill. 2d at 104.

¶ 40 Having determined that the trial court correctly found that Justin was an unfit parent, we turn to the best interest of E.C. Termination of a parent’s rights is an extreme act. *In re Adoption of Syck*, 138 Ill. 2d 255, 274-75 (1990). A parent maintains a superior right to raise his or her own children. *Id.* Once a parent has been determined to be unfit, “the parent’s rights must yield to the child’s best interest.” *In re Tashika F.*, 333 Ill. App. 3d 165, 170 (2002); *In re J.L.*, 236 Ill. 2d at 337-38. Until the court determines that a parent is unfit, the interests of both the parent and the child are concurrent “to the extent that they both ‘share a vital interest in preventing erroneous termination of their natural relationship.’ ” *In re D.T.*, 212 Ill. 2d 347, 363 (2004) (quoting *Santosky v. Kramer*, 455 U.S. 745, 760-61 (1982)).

¶ 41 After finding that a parent is unfit, the State must establish proof that termination of a parent’s rights is in the child’s best interest by a preponderance of the evidence. 705 ILCS 405/2-29(2) (West 2020); *In re D.T.*, 212 Ill. 2d at 366. On appeal of a best-interest determination, we must decide whether the trial court’s decision is contrary to the manifest weight of the evidence. *In re Jay. H.*, 395 Ill. App. 3d 1063, 1071 (2009); *In re S.J.*, 368 Ill. App. 3d 749, 755 (2006). A best-interest determination is against the manifest weight of the evidence only if the facts clearly

demonstrate that the court should have reached the opposite result. *In re Daphnie E.*, 368 Ill. App. 3d at 1072. On appeal from an order terminating a parent’s rights, the reviewing court gives great deference to the trial court’s decision because the trial court is in a much better position to see the witnesses and judge their credibility. *In re K.B.*, 314 Ill. App. 3d 739, 748 (2000).

¶ 42 “[A]t a best-interest[] hearing, the parent’s interest in maintaining the parent-child relationship must yield to the child’s interest in a stable, loving home life.” *In re D.T.*, 212 Ill. 2d at 364. The trial court must consider several factors within “the context of the child’s age and developmental needs” when considering if termination of parental rights serves a child’s best interest. 705 ILCS 405/1-3(4.05) (West 2020). These factors include:

- “(a) the physical safety and welfare of the child, including food, shelter, health, and clothing;

- (b) the development of the child’s identity;

- (c) the child’s background and ties, including familial, cultural, and religious;

- (d) the child’s sense of attachments, including:

- (i) where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);

- (ii) the child’s sense of security;

- (iii) the child’s sense of familiarity;

- (iv) continuity of affection for the child;

- (v) the least disruptive placement alternative for the child;

- (e) the child’s wishes and long-term goals;

- (f) the child’s community ties, including church, school, and friends;

- (g) the child’s need for permanence which includes the child’s need for stability and continuity of relationships with parent figures and with siblings and other relatives;

- (h) the uniqueness of every family and child;
- (i) the risks attendant to entering and being in substitute care; and
- (j) the preferences of the persons available to care for the child.” *Id.*

¶ 43 During the best interest hearing, the trial court stated that it had considered the statutory best interest factors “including but not limited to the child’s physical safety and welfare; the development of the child’s identity, background, and ties; [and] sense of attachments, community ties, and need for permanence.” We also note that the trial court’s ultimate determination and order does not need to reference and discuss each factor. *In re Tajannah O.*, 2014 IL App (1st) 133119, ¶ 19; *In re Tiffany M.*, 353 Ill. App. 3d 883, 893 (2004). The court can also consider the length of the child’s relationship with his or her foster parents and the emotional and/or physical effect of a change of placement on the well-being of the child. *In re Brandon A.*, 395 Ill. App. 3d 224, 240 (2009) (citing *In re Austin W.*, 214 Ill. 2d 31, 50 (2005)). Furthermore, the trial court may consider the likelihood of adoption. *In re Tashika F.*, 333 Ill. App. 3d at 170.

¶ 44 In this case, the record clearly reflects that termination of Justin’s parental rights was the appropriate outcome for E.C. and in his best interest. By the date of the best interest hearing, E.C. had lived with his foster parent for most of the 17 months of his life. E.C. was born on September 3, 2020, and was removed from his biological mother’s care on September 14, 2020, and placed in a fictive kin’s household. By no later than October 28, 2020, the date of DCFS’s first family service plan, E.C. was living with his great-aunt, his foster parent. At a minimum, E.C. was living in this foster placement for 15 months.

¶ 45 The trial court noted that E.C. was bonded and secure in his relative placement. The foster parent indicated her intent to adopt E.C. Although the foster parent would not be legally mandated to allow a continued relationship between E.C. and Justin after her intended adoption was final,

she informed CYFS and the trial court that she would continue to provide opportunities for Justin to spend time with his biological son. While we recognize that Justin did not want his parental rights terminated and that he has exhibited a degree of care and concern for his son, we conclude that the trial court's decision to terminate Justin's parental rights was not contrary to the manifest weight of the evidence. *In re D.F.*, 201 Ill. 2d 476, 498-99 (2002).

¶ 46

III. CONCLUSION

¶ 47 For the foregoing reasons, we affirm the judgments of the circuit court of Champaign County.

¶ 48 Affirmed.