

Nos. 1-12-0829 & 1-12-0831 (Cons.)

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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IN RE:	)	
	)	
C.H., D.H., and C.H., Minors,	)	Appeal from
	)	the Circuit Court
(THE PEOPLE OF THE STATE OF ILLINOIS,	)	of Cook County
	)	
Petitioner-Appellee,	)	Nos. 07 JA 354-55
	)	08 JA 809
v.	)	
	)	Honorable
DIANA M., Mother, and MATTHEW H., Father,	)	Richard Stevens,
	)	Judge Presiding.
Respondents-Appellants.)	)	
	)	

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JUSTICE CONNORS delivered the judgment of the court.  
Presiding Justice Harris and Justice Quinn concurred in the judgment.

**ORDER**

**Held:** The trial court properly terminated parental rights of both the mother and father where the father was unfit to be a parent and it was in the best interests of the children to remain with the foster parent rather than return home with the mother.

¶ 1 This consolidated appeal stems from the termination of the parental rights of both the mother and the father of three minor children. On appeal, the father, Matthew H., argues that the termination order should be reversed because he is not an unfit parent, while the mother, Diana M., contends that the termination order should be reversed because it was not in the best interests of the children. For the following reasons, we affirm the trial court's termination of parental rights of both Matthew and Diana.

¶ 2 I. BACKGROUND

¶ 3 A fitness hearing and a best-interests hearing were held for both Diana and Matthew. At the conclusion of the best-interests hearing, the trial court determined that the parental rights of both Diana and Matthew should be terminated.

¶ 4 A. Fitness Hearing - Matthew H.

¶ 5 Because only Matthew takes issue with the court's finding of unfitness, we limit our recitation of the fitness hearing to those facts pertaining primarily to Matthew.

¶ 6 Venus Cole, a child protection investigator for the Illinois Department of Children and Family Services (DCFS), was initially assigned to this case because Diana had been hospitalized for psychiatric reasons. Cole visited Matthew while Diana was in the hospital. Matthew lived with his mother and Diana at that time. Matthew told Cole that Diana was sick. Matthew also told Cole that he was mentally ill, that he was bipolar, and that he took his medication on a regular basis; but that Diana did not take her medication on a regular basis.

¶ 7 On May 16, 2007, subsequent to Cole's initial visit with Matthew, DCFS received a call

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which prompted Cole to revisit the residence. She spoke to Matthew's mother, as well as Diana. Diana stated that she had just returned from being hospitalized. Danaïro, who was born on July 21, 2005, was asleep on the floor. When Cole asked about the baby, Cahlic, born on December 14, 2006, both Matthew's mother and Diana jumped up and went to the door of the bedroom and said Cole could not see the baby because he was sleeping. Cole pushed past and saw that Cahlic was burned on his leg. It was a big burn, with no skin covering part of his thigh. Diana and Matthew's mother said Cahlic had been to the doctor, but they were unable to find the paperwork. Cole then took Cahlic to the hospital.

¶ 8 Matthew was at the hospital when they arrived, for an unrelated reason. He stated that earlier that day he had been running late for court, gave Cahlic a bath, dressed him, and then brought him to court. When he got home, he went to change Cahlic, and discovered the skin coming off with his pants.

¶ 9 While Cahlic was in the hospital, the doctors discovered that he had a skull fracture, but could not determine when it had occurred. Cole asked Diana about the head injury, and Diana stated that Cahlic was sitting in the car seat and Danaïro pushed him over, and the seat hit him in the head. She took the baby to the hospital, but could not recall when that happened. Cole then took protective custody of both Cahlic and Danaïro.

¶ 10 Dr. Norell Rosado, an attending physician at Stroger Hospital, testified that he saw Cahlic at the hospital on May 17, 2007. He was transferred to the hospital for treatment of a burn. Dr. Rosado interviewed Diana, in the presence of a nurse, Cindy Weatherspoon. Diana said she was not present when the burn happened, and that Matthew had stated that he gave Cahlic a bath in

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the morning and put lotion on him and had not noticed anything on his skin. Matthew changed his diaper after a court date and noticed the burn.

¶ 11 Dr. Rosado testified that Cahlic's burn covered three percent of his body, and was a second-degree burn. Because of the type of burn, Dr. Rosado performed more testing on Cahlic and discovered a skull fracture. The fracture went from the top of the head to almost where the ear began. Dr. Rosado testified that Cahlic was five months old at the time of the hospital visit and therefore unable to walk, so he should not have had a fracture on his head. Dr. Rosado spoke to Diana regarding the fracture, and she stated that when Cahlic was one month old, she was sleeping in bed and when she woke up Cahlic was on the floor. She claimed to have taken Cahlic to Jackson Park Hospital. Dr. Rosado was unable to obtain any records regarding a skull fracture from Jackson Park Hospital.

¶ 12 Dr. Rosado testified that the stories given by Diana were not consistent with Cahlic's injuries. Dr. Rosado would expect someone to notice a second-degree burn, especially since the child must have cried. Cahlic was placed at risk of more injury when he was not immediately brought to the hospital, and thus was medically neglected in Dr. Rosado's opinion. Additionally, such a large fracture in Cahlic's skull was not consistent with falling off a bed, because a bed is a short distance from the ground.

¶ 13 Dr. Rosado was shown a medical report from Jackson Park Hospital, dated April of 2007, in which Cahlic was treated for falling off a bed that was two feet high. According to the report, he did not sustain any injuries, and did not have a skull fracture. Dr. Rosado opined that the skull fracture must have occurred after that report since it would have appeared during testing.

¶ 14 Elizabeth Nielson, an employee of the Juvenile Protective Association (JPA), testified that she did a permanency evaluation in regards to Danaïro, Cahlic, and Cahlyia (who was born during the pendency of this case), by request of Kyva Bryant from Kaleidoscope. Kaleidoscope is an agency that primarily handles children with severe behavioral needs, emotional needs, medical concerns, and other special needs that a typical foster parent may not be able to deal with. Once JPA received the request, it performed several clinical interviews and observations (both in the office and at the foster home) of Diana and her three children. Nielson and Dr. Aumann, the clinical psychologist, conducted three interviews with Diana, approximately 90 minutes in length, including an exit interview in June 2011. They also conducted one interview with Matthew. The referral question from Bryant indicated that Matthew was not being considered as a permanency option, so he was not fully assessed.

¶ 15 Nielson concluded in her report that there were more risk factors than protective factors associated with returning the minors to their home because of Diana's continued minimization and denial of the past abuse of the children, continued minimization and denial of her mental health status, and her frustration tolerance. She also had a difficult time multitasking.

¶ 16 Nielson testified that during her interview with Matthew, she observed that he was very disorganized emotionally, and very agitated throughout the process. His train of thought was often disjointed to the point where it would take ten minutes to answer a question. He had not done any work in addressing his mental health needs. Nielson asked him what the children would think of their experience before DCFS got involved, with all the arguing and violence, and Matthew stated that children understood that fighting happens with adults, and that it does not

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bother them when there is that amount of chaos in the house. Nielson testified that all the children were under three years old at the time, and that Matthew's attributions were not accurate or developmentally appropriate. Nielson was worried that Matthew would become frustrated if the children did not meet his expectations, based on his history of aggressive behavior.

¶ 17 Nielson further testified that Diana did not want to talk about Matthew, but when she did, she expressed the opinion that he was a good father and not bipolar. Based on reports, Nielson knew that Diana had allowed her children around Matthew when they were not supposed to be around him. There was a concern this could continue because Matthew told Nielson he was talking to Diana, and that he had been at her house. He stated that they were going to reunite and Diana knew it even though she would deny it. Nielson spoke to Diana, who denied it.

¶ 18 When Nielson asked Diana about Danairo's shoulder burn, which was a separate burn from Cahlic's leg burn, she stated that he fell into a radiator. Nielson further testified that when she subsequently spoke with Matthew on the phone, she told him the focus of her evaluation would be on Diana and her ability to parent.

¶ 19 Kyva Bryant, the case worker at Kaleidoscope for Matthew and Diana and their children, testified that Danairo's and Cahlic's cases came through the system because of abuse and neglect and substantial risk of physical injury. Bryant first interviewed Diana and Matthew together in July 2008. They both had been diagnosed with paranoid schizophrenia, and Matthew had also been diagnosed with bipolar disorder. The case had been transferred to Kaleidoscope from Bethany Christian Services because of Danairo's special needs. Through Bethany, Matthew had been engaged in outpatient substance abuse services. He had been told to participate in TASC

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services. He also had a pending psychological exam that he had not completed.

¶ 20 Bryant testified that Matthew had substance abuse problems with marijuana. Individual counseling was not initially recommended to him because Bryant and her supervisor felt that he needed to complete the program set up by Bethany first, and to complete drug treatment. She also wanted Matthew to participate in a parenting assessment.

¶ 21 On July 17, 2008, there was a supervised visit at Kaleidoscope with Matthew and Diana. Matthew threatened Bryant, so his visit was cut short. On July 25, 2008, there was an agency picnic, which Diana participated in with Danairo and Cahlic. She arrived with a black eye and stated that she got the black eye while "play fighting" with her sister.

¶ 22 On August 7, 2008, Matthew began hallucinating during a supervised visit. He accused the agency, as well as other people, of being involved in some type of conspiracy, being on a wiretap, watching him and his family use the restroom, and stated that there was a wiretap within the community which caused his kids to be removed from his and Diana's care.

¶ 23 Diana informed Bryant and her supervisor that Matthew had been acting strange but she did not know what was going on with him. She stated that she was fearful of Matthew because he was up all night and would stand over her while she slept. There were times that Diana walked the street at night because she was afraid of him. Based on that conversation, Bryant, her supervisor, and another coworker moved Diana from her address where she resided with Matthew while he was out of the house.

¶ 24 On August 15, 2008, Diana indicated to Bryant that she had left her new housing, and was back at home with Matthew.

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¶ 25 In August 2008, Matthew was referred to Community Mental Health Council for outpatient services because he had been kicked out of the program he had been attending when Bryant received the case. Matthew was never able to complete the parenting capacity assessment because he was incarcerated throughout the process. He was incarcerated from October 2008 to March 2009.

¶ 26 Bryant testified that she told Diana that if she continued to live with Matthew, it could affect her ability to keep Cahlyia, who Diana was pregnant with at the time. Bryant and her supervisor told Diana that if she moved in with a relative or moved to a facility, she could potentially keep Cahlyia, but it would be up to DCFS. On October 27, 2008, DCFS took temporary custody of Cahlyia. Kaleidoscope's reasons for taking custody were due to Matthew's mental health issues and unpredictable behavior.

¶ 27 Bryant testified that in September 2008, Diana canceled a visit with her three children because Matthew had given her a black eye and she did not want her children to see her like that. On a subsequent court date, Bryant observed her black eye and six stitches.

¶ 28 Bryant testified that Diana recently told her she had gotten an order of protection against Matthew since Bryant and her supervisor told her to get it, but Bryant had not seen it.

¶ 29 Bryant rated Matthew "unsatisfactory" for every service plan since she received his case.

¶ 30 In January 2009, Bryant referred Diana to a domestic violence coach, Deveal Thomas, from Family Rescue, which specializes in people with special needs and learning disabilities. Bryant asked Yvette Davis, Diana's individual therapist, to address domestic violence during counseling sessions.

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¶ 31 In May 2009, Bryant marked Diana "unsatisfactory" based on her inability to parent all three of her children, and her inability to relinquish her relationship with Matthew.

¶ 32 Matthew was incarcerated from September 2009 to May 2010. During that time, he sent letters to Bryant asking her to support him in this case, and telling the judge the services he had completed, and asking her to be on his side. In one or two of the letters, Matthew made reference to Bryant in an inappropriate way.

¶ 33 On June 28, 2010, Bryant had a conversation with Danairo and Cahlic, separately. She asked Cahlic if his father had been present during a recent unsupervised visit with his mom. At first he said yes, that he was at the park and at McDonald's, but then he shrugged his shoulders and would not answer. When Bryant confronted Diana about this incident, she called her children liars and said that did not happen.

¶ 34 As of July 2010, Diana had allowed Matthew to move back in with her after he was released from jail.

¶ 35 On February 28, 2011, Matthew violated his order of visitation and Bryant's agency suspended unsupervised visits.

¶ 36 In May 2011, Bryant paid an unannounced visit to Diana's apartment, and observed Matthew at the bus stop nearby. Diana told Bryant she did not know why he was at that bus stop. She later asked Matthew, and he said he had stopped by Diana's house that morning.

¶ 37 From February 2011, to the present court date of November 10, 2011, Diana was still participating in supervised visits with her children about twice a week. From February 2011, the goal had never been to return the children home because of the serious concerns of Diana's

parenting.

¶ 38 On November 2, 2011, Matthew tested positive for marijuana, and admitted to taking Percocet.

¶ 39 On cross-examination, Bryant testified that Matthew was not initially referred to individual therapy because he needed to first address substance abuse issues, as well as his mental health diagnosis. It was not until July 2009 that Matthew was first referred to individual therapy because he was out of jail, had been taking his medication, and had completed a drug treatment program. However, Matthew was discharged from individual therapy in September 2009 for failing to attend classes. Matthew's supervised visits were then suspended after he hallucinated at a visit. On September 30, 2008, the court issued a no-contact order between Matthew and the children.

¶ 40 Matthew's visits were again suspended in June 2009 when the agency became concerned that he was not taking his medication. In July 2009, Bryant noted that Matthew had unexplained giggling fits during visitation, and spoke inappropriately to the children as well as to employees.

¶ 41 In July 2009, Matthew was shot during a "rival gang situation."

¶ 42 On September 16, 2009, his visits were again suspended due to hallucinations.

¶ 43 Bryant had referred Matthew for a parent capacity assessment three different times, but he never completed it due to incarceration. He was first incarcerated from October 2008 to March 2009, and then from September 2009 to May 2010, and then from July 27, 2010 to late December 2010. The most recent incarceration was in March 2011. Matthew told Bryant that his recent incarceration was due to his cousin pressing charges against him for assault. The

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allegations were that he bit his cousin's ear and finger, both of which required medical treatment. Matthew was still serving time for the assault during the course of this trial.

¶ 44 Bryant testified that Matthew is still in need of a parenting capacity assessment, and individual therapy to address domestic violence, his criminal history, his mental illness, and parenting. And even though he completed a drug treatment program in 2008, he still needed further treatment since he tested positive for marijuana on November 2, 2011. Matthew was diagnosed with paranoid schizophrenia in September 2011.

¶ 45 Bryant testified that Cahlyia is afraid of Matthew, and cries in his presence. Bryant stated that Matthew was not an option of someone the children could return home with because he failed to correct any issues that brought the case into the system. He failed to participate in psychiatric services, individual therapy, and the parenting capacity evaluation. He is abusive, so the JPA was only looking at Diana as a potential return home for the three minors.

¶ 46 It was not Kaleidoscope's decision not to move forward with Matthew on parenting classes. The JPA had done its assessment and determined that Matthew was not fit to parent. So when Bryant's agency received the case, it was clear that Diana was the goal for the return-home parent.

¶ 47 Matthew testified next. He stated that he also goes by the name Donald Ward and D. E. Al Field, and has been convicted of felonies under those names. Matthew testified that he was at Diana's house in September because her cousin informed him she was there. He went to a clinic near her house, and when he came out of the appointment she was there. He guessed that she did not really want him to know where she was staying, because he was aggressive over "her being

around men" and "took it as if she was cheating anyway."

¶ 48 At the close of the fitness hearing, the court found that the State met its burden of proof as to unfitness for Matthew. The court stated that the unfitness evidence for Matthew was overwhelming, and that the State proved by clear and convincing evidence the allegations pursuant to paragraphs (b), (d), (i), and (m) of the Adoption Act. 750 ILCS 50/1(D)(b), (d), (i), (m)(i) - (ii) (West 2010). With regard to paragraph (b), Matthew demonstrated a lack of responsibility due to his inability to complete services, and being in and out of incarceration. He also continued to use illegal drugs, and failed to comply with the service plan. With regard to paragraph (d), the court found Matthew unfit because of the medical neglect resulting in Cahlic's burn, and the prior skull fracture. As to paragraph (i), depravity, there were certified copies of Matthew's felony convictions, and a lack of effort to rehabilitate. And for paragraph (m), there was a failure to make both reasonable efforts to correct the conditions that brought the children in to the State's care, as well as a failure to make reasonable progress during the nine months after adjudication.

¶ 49 **B. Best-Interest Hearing**

¶ 50 At the best-interest hearing, Kathryn Sapoznick, a therapist at Kaledoscope, testified first. Sapoznick testified that she has been the therapist for Danairo since August 2011. Sapoznick diagnosed Danairo with adjustment disorder with chronic anxiety. He also has a learning disability, has difficulty cognitively, and he is developmentally delayed.

¶ 51 Sapoznick sees the foster parent, Ethel Winston, and the children interact about twice a month when she comes to pick the children up from therapy. Danairo is six years of age, and

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functions best with play therapy. The foster mom redirects Danaïro well by using a calm voice, setting her limits, and guiding Danaïro. Sapoznick testified that Danaïro needs an environment that is structured and reliable. He would have some difficulty if his placement was changed. He appears to be secure in his placement and had a lot of difficulty when his foster parent made a change of the home in November 2010. Sapoznick opined that it would be in the best interest of Danaïro to remain with the foster parent.

¶ 52 Sapoznick testified that she is also Cahlic's individual therapist, and has been since September 27, 2010. Cahlic was referred because his behavior was unmanageable, he was stressed, and could not focus his attention. He was diagnosed with both Post Traumatic Stress Disorder (PTSD) and Attention Deficit Hyperactivity Disorder (ADHD). He was diagnosed with PTSD because he had flashbacks, and exhibited signs of trauma, extreme helplessness, and extreme fear. He had fear of loud noises and clocks. Sapoznick opined that his fear stemmed from visits he used to have in a room with his biological father. It took months to get Cahlic to enter that room. Cahlic's PTSD symptoms improved but then regressed once he saw his father at his mother's house at the end of 2010, and beginning of January 2011. The PTSD symptoms began to subside in March 2011, and have continued to do so.

¶ 53 Sapoznick testified that the foster parent is able to soothe Cahlic. Cahlic is calm in her presence, and he does not become distraught. When Cahlic became agitated during therapy sessions, he would yell "shut up" over and over again and then put his hands over his ears and run into a corner of the room. Sapoznick explained that the phrase "shut up" was a trigger, which would exacerbate the symptoms of PTSD. There were often times that Sapoznick spent therapy

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sessions keeping Cahlic safe because he tended to act out and put himself in danger. Sapoznick recommended that Cahlic remain with the foster parent, and should not be separated from his siblings. Both Danaïro and Cahlic call the foster parent "mom."

¶ 54 Sapoznick testified that she believed the biggest trauma the children have experienced is to be hurt, and that Cahlic is very clear in showing the parts of his body that have been hurt.

¶ 55 Ethel Winston, a 52-year-old special education teacher and the foster parent for all three children, testified next. She testified that Danaïro and Cahlic came to her in 2008. Danaïro was three years old (he is now six) and Cahlic was one year old (he is now five). Cahlyia came to her when she was born in August 2008 and is now three years old. Aleem Winston and Alea Winston, her 12-year-old and 14-year-old grandchildren, also reside in the house with her. Winston's daughter, the mother of Alea and Aleen, died from lupus. Winston recently moved to a new neighborhood for a bigger house and a safer neighborhood.

¶ 56 Winston testified that she has no problems with Danaïro at home. She has had to go to Danaïro's school, however, and sit with him to help the teacher with his behavior because he has had trouble adjusting to school. He is on a behavior plan at school due to being suspended and kept at the principal's office. His grades have improved since the start of the behavioral plan. He receives speech services and social services at school.

¶ 57 Winston testified that her sister lives in her deceased daughter's home in Chicago, about ten minutes away from Winston. Her sister assists with the children, as does Winston's adult daughter. If something were to happen to Winston, her backup plan is that the children would be taken in by her daughter. The three children go on family vacations with Winston and her

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family, and spend holidays with the family.

¶ 58 Winston testified that she began to allow Diana, the mother, to visit the children in church in January 2011. If she received custody of the children, she would allow supervised visitation with Diana, but would not be comfortable allowing Matthew to visit the children. Winston testified that she would like to adopt the children, and that she loves them.

¶ 59 Winston drives Danaïro to and from school every day, and to and from therapy once a week. She helps him with homework at night. She takes Cahlic to and from school every day, and assists his teacher with his behavior problems. She takes Cahlic to and from individual therapy once a week as well. She takes Cahlyia, who has no special needs, to Kindercare.

¶ 60 Bryant testified that she has been the caseworker since June 2008. Danaïro has special needs, but Cahlic and Cahlyia do not; although Cahlic does have some emotional and behavioral concerns.

¶ 61 Bryant goes to the foster home two to three times a month. Winston does well with the children and is attentive to their needs. Since June 2008, the foster home has always been safe and appropriate. Bryant does not have any concerns regarding whether Winston can meet the needs of the three children.

¶ 62 Bryant further testified that Diana still has visitation twice a week. Since the last court date, Bryant received reports of a visitation with Diana and her children. Diana was somewhat aggressive and angry with the children and telling them to sit down or shut up. The last visitation Bryant observed was in January 2012, and she observed Diana using harsh language. She suggested other words for Diana to use, but Diana responded that they were her children and she

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could talk to them how she wanted to talk to them.

¶ 63 Bryant stated that Matthew, the biological father, was incarcerated at the time of trial. He had not had any visitation with the children since the last court date, but had sent Bryant two inappropriate letters.

¶ 64 Bryant testified that Diana stated many times in the past that she was going to divorce Matthew, but has never shown her any papers. Bryant opined that it was in the best interests of the children to remain with the foster parent since they have been in foster care since 2007 and bonded with the foster parent. The natural mother and father are still married, which is a volatile situation for the children and is a safety concern. Bryant stated that Diana does not exhibit parenting skills that are needed to parent all three children. She does not have the ability to identify the special needs of the children and work with them on their level. Cahlic and Cahlyia are "totally different" than Danairo and the parenting style and technique needs to reflect that. Bryant stated that Diana does not exhibit any other parenting style than giving time outs or using harsh language, which is alarming to the agency. Bryant's recommended permanency goal for the children would be adoption by the foster parent.

¶ 65 On cross examination, Bryant testified that the last report regarding parenting concerns was on February 3, 2012, when Cahlic ran into her office and told her Diana was being mean to him. He said she was saying bad words, and said she told him to shut up while they were using the bathroom. Bryant then approached Diana, who admitted to telling Cahlic to shut up in the bathroom because of "all the crying he was doing."

¶ 66 Bryant further testified that the three children required different parenting skills, and that

Winston, the foster parent, was specialized and had been trained to deal with the issues of each of the children.

¶ 67 At the close of all the evidence presented in the best interest hearing, the trial court found that the State met its burden of proof, by the preponderance of the evidence, that it is in the best interests of the children to involuntarily terminate the parental rights of the mother and father and give the DCFS guardianship administrator the right to consent to adoption of the minors by Winston, the foster parent. The court stated that it was in the best interest of the children for them to stay together and for them to have permanency.

¶ 68 II. ANALYSIS

¶ 69 Under the Juvenile Court Act of 1987 (705 ILCS 405 *et seq.* (West 2010)), the involuntary termination of parental rights involves a two-step process. First, there must be a showing, based on clear and convincing evidence, that the parent is "unfit," as that term is defined in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2010)). If the court makes a finding of unfitness, the court then considers whether it is in the best interests of the child that parental rights be terminated. See 705 ILCS 405/2-29(2) (West 2010).

¶ 70 In this case, Matthew, the father, challenges the trial court's finding of unfitness. Diana on the other hand, admits that while she may be unfit to have custody of her children, her parental rights should not have been terminated. We address each contention in turn.

¶ 71 A. Fitness Hearing - Matthew

¶ 72 The termination of parental rights constitutes a permanent and complete severance of the parent-child relationship. *In re C.N.*, 196 Ill. 2d 181, 208 (2001). Accordingly, proof of parental

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unfitness must be clear and convincing. *Id.*; *In re Adoption of Syck*, 138 Ill. 2d 255, 275 (1990).

Although section 1(D) of the Adoption Act sets forth numerous grounds under which a parent may be deemed "unfit," any one ground, properly proven, is sufficient to enter a finding of unfitness. *In re Donald A.G.*, 221 Ill. 2d 234, 244 (2006); see 705 ILCS 50/1(D) (West 2010).

The trial judge's findings of unfitness should be given great deference since the judge's opportunity to view and evaluate the parties and their testimony is superior to that of the reviewing court. *In re Brown*, 86 Ill. 2d 147, 152 (1981). In order to reverse a trial court's finding that there was clear and convincing evidence of parental unfitness, the reviewing court must conclude that the trial court's finding was against the manifest weight of the evidence. *In re C.N.*, 196 Ill. 2d at 208. "A finding is against the manifest weight of the evidence where the opposite conclusion is clearly evident." *Id.*

¶ 73 In this case, the trial court found Matthew to be unfit on four grounds under the Adoption Act: (b) for failing to maintain a reasonable degree of interest, concern, or responsibility for the minors; (d) for continuously or repeatedly substantially neglecting the minors; (i) for being depraved; and (m) for failing to make reasonable efforts to correct the reasons for which custody of the minors was taken, and failure to make reasonable progress towards return of the minors in multiple nine-month periods, including the first nine months after adjudication. See 750 ILCS 50/1(D)(b),(d),(i),(m)(i)-(ii) (West 2010).

¶ 74 On appeal, Matthew does not address any of the four grounds for which he was found to be an unfit parent. Instead, he argues that it was against the manifest weight of the evidence for the trial court to conclude that he was unfit where evidence indicated that the reunification efforts

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were frustrated by Kaleidoscope's conduct. Specifically, Matthew contends that he was not provided reunification services, and that as a result, his due process rights were violated where he did not get a fair hearing in a fair tribunal. We note that this argument was not raised at trial, nor was it raised in a posttrial motion. Accordingly, this due process argument is waived. See *People v. Pruitt*, 154 Ill. App. 3d 22, 35 (1987) (issues raised for the first time on appeal are waived for review).

¶ 75 Because Matthew fails to address any of the four grounds for which he was found to be unfit at trial, any argument he had about those grounds are waived. See Illinois Supreme Court Rule 341(h)(7) (points not argued on appeal are waived).

¶ 76 Nevertheless, upon careful review of the record, we have determined that it was not against the manifest weight of the evidence for the trial court to find Matthew to be an unfit parent on four grounds. The first ground under which the trial court found Matthew unfit was that Matthew failed to maintain a reasonable degree of interest, concern or responsibility as to his children's welfare. 750 ILCS 50/1(D)(b) (West 2010). The evidence presented at the fitness hearing suggested that Matthew failed to do any work in addressing his mental health needs, that he argued and was violent towards Diana in front of the children, that he was violent towards the children and may have hit Cahlic, that he has issues with aggressive behavior, that he has not taken steps to correct his substance abuse issues, that he failed to complete a pending psychological exam, that he threatened Bryant during supervised visitation with his children, that he hallucinated during visits with his children, that he violated his order of visitation, that he violated his "no contact" order with the children, that he failed to attend individual therapy

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classes after he was referred, and that he never completed a parenting capacity assessment despite being referred on three different occasions. All of this evidence reveals that Matthew failed to maintain a degree of interest or concern for the children's welfare as he took no steps to learn how to become a stable parent for them.

¶ 77 The second ground of unfitness was that Matthew portrayed continuous and repeated substantial neglect towards his children. 750 ILCS 50/1(D)(d) (West 2010). The evidence shows that while in the care of Matthew, Cahlic received a substantial burn and that Matthew neglected to take Cahlic to the hospital after allegedly discovering the burn. Once Cahlic was in the hospital getting treatment for the burn, a skull fracture was discovered, which had happened at an indeterminate time before that, and had not been treated.

¶ 78 The third ground of unfitness was that Matthew was depraved. 750 ILCS 50/1(D)(i) (West 2010). There is a rebuttable presumption that a parent is depraved if that parent has been criminally convicted of at least three felonies, and at least one of those convictions took place within the five years leading up to the petition seeking termination of parental rights. *Id.* Certified copies of Matthew's four prior felony convictions were admitted into evidence at trial. His four felony convictions included aggravated vehicular hijacking, theft of over \$300, aggravated DUI, and possession of a controlled substance. The trial court based its finding of depravity on those four convictions and their time frames. Matthew not only failed to rebut the presumption of depravity, but was convicted for domestic battery in 2010 for allegedly biting his cousin's ear.

¶ 79 The final ground under which the trial court found Matthew to be unfit was that he failed

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to make reasonable efforts to correct the conditions that were the basis for the removal of the children (750 ILCS 50/1(D)(m)(i) (West 2010)), and the failure to make reasonable progress toward the return of the children during the nine months after the adjudication of neglect or abuse (750 ILCS 50/1(D)(m)(ii) (West 2010)). As can be seen from the evidence, Matthew did not take steps to correct any of the issues that caused the children to be taken from their home. Matthew refused to attend individual therapy, did not complete a parent assessment, did not get treated for drug abuse, did not regularly take his medication for his mental illnesses, and did not demonstrate that he could parent his children without harming them or subjecting them to harm through neglect.

¶ 80 It was not against the manifest weight of the evidence for the court to find Matthew unfit on all four grounds. However, as discussed above, any one ground properly proven is sufficient to enter a finding of unfitness. *In re Donald A.G.*, 221 Ill. 2d at 244. Accordingly, we affirm the trial court's finding of unfitness.

¶ 81 B. Best-Interests Hearing - Diana

¶ 82 Diana does not contest the court's finding that she was an unfit parent, but rather argues that she should nevertheless remain the children's legal parent with the attendant rights and privileges. See *In re B.C.*, 247 Ill. App. 3d 803, 806 (1993) ("[a]lthough a parent may be unfit to have custody of his or her children, it does not follow that the parent cannot remain the children's legal parent with the attendant rights and privileges"). Diana contends that her parental rights should not be terminated because she cares for and loves her children, because she suffered harm from a lack of support to unify her relationships with her children with support services while the

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children were in foster care, and because she was consistent in her visitation.

¶ 83 However, the inquiry in terminating parental rights is not focused on the parent, but rather on the best interests of the children. Diana's only argument regarding the children's interests is stated as follows: "The termination also was not in the best interest of the minors and therefore against the manifest weight of the evidence when the trial court erred by not considering Diana's conduct that occurred outside of adjudication." There is no citation to legal authority for this proposition, and there is no supporting argument. Accordingly, the argument is waived. See Illinois Supreme Court Rule 341(e)(7); see also *Chicagoland Chamber of Commerce v. Pappas*, 378 Ill. App. 3d 334, 365 (2007) (quoting *Eckiss v. McVaigh*, 261 Ill. App. 3d 778, 786 (1994) (" 'A reviewing court is \*\*\* entitled to have issues clearly defined with pertinent authority cited and coherent arguments presented; arguments inadequately presented on appeal are waived. [Citation.] Mere contentions without argument or citation of authority do not merit consideration on appeal [citation], nor do statements unsupported by argument or citation of relevant authority.' ")).

¶ 84 We nevertheless find that even if this issue had been properly argued, the record reveals that it was in the best interests of the children to remain with the foster parent.

¶ 85 Once evidence of parental unfitness has been found, all of the parent's rights must yield to the best interests of the children. *In re T.G.*, 147 Ill. App. 3d 1005, 1011 (1987). The health, safety and interests of the minor remain the guiding principle when issuing an order of disposition regarding the custody and guardianship of a minor ward. *In re Austin W.*, 214 Ill. 2d 31, 46 (2005). The best interest of the child is the paramount consideration to which no other

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takes precedence. *In re Austin W.*, 214 Ill. 2d at 46. In making a best-interest determination, courts consider the following factors in the context of the child's age and developmental needs: (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, siblings, and other relatives; (8) the uniqueness of every family and child; (9) the risks related to substitute care; and (10) the preferences of the persons available to care for the child. 705 ILCS 405/1-3(4.05) (West 2010).

¶ 86 Other important considerations include the nature and length of the child's relationship with the present caretaker and the effect that a change of placement would have upon the emotional and psychological well-being of the child. *In re Austin W.*, 214 Ill. 2d at 50. No single factor, however, is dispositive. *Id.*

¶ 87 It is clear from the facts of this case that it is in the children's best interests to remain with the foster parent. Danairo has adjustment disorder and chronic anxiety, as well as a learning disability. Sapoznick, Danairo's and Cahlic's therapist, testified that he needs an environment that is structured and reliable, and that Danairo did not do well when the foster parent changed homes in November 2010. The foster parent knows how to redirect and soothe Danairo when he is anxious.

¶ 88 Cahlic was diagnosed with PTSD and ADHD due to his flashbacks, signs of trauma, and

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extreme fear stemming from incidents with his father, and returning when his father visited his mother's house at the end of 2010, and beginning of 2011. Sapoznick testified that the foster parent is able to soothe Cahlic, and that he is calm in her presence. Sapoznick opined that Cahlic had been hurt by Matthew, and that he should remain with the foster parent for safety reasons.

¶ 89 Winston, the foster parent, testified that all three children are comfortable with her and call her "mom." They know the other children that reside with Winston, and they know Winston's daughter as an aunt. They also attend family reunions and attend church with Winston. Additionally, the children have been in the care of Winston for over three years, and are all under the age of seven years old. Winston expressed a desire to adopt the children, and testified that she has a bond with them and that she loves them.

¶ 90 Bryant, the children's caseworker at Kaleidoscope, testified at the best-interest hearing that Winston is able to meet the emotional and behavioral needs of the children, while Diana has been aggressive towards them in recent visits and does not exhibit signs of being able to care for all three children.

¶ 91 Moreover, while there has been recent talk of a divorce, Diana has not yet obtained a divorce from Matthew. Matthew is a safety threat to the children, and it is clear from the record that despite the safety concern, Diana continues to allow Matthew around her children and in her house, creating an unstable environment for the children.

¶ 92 We find that the trial court properly found that it is in the children's best interest to remain with the foster parent, and thus uphold the decision to terminate Diana's parental rights.

¶ 93

### III. CONCLUSION

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¶ 94 For the foregoing reasons, we affirm the judgment of the Circuit Court of Cook County.

¶ 95 Affirmed.