



consolidated the cases on appeal. We now affirm the trial court's judgment.

¶ 3

## I. BACKGROUND

¶ 4 The minors were adjudicated neglected on March 31, 2011, based on an injurious environment due to their mother's depression pursuant to section 2-3(1) of the Juvenile Court Act of 1987 (Act) (705 ILCS 405/2-3(1) (West 2010)). The trial court entered a dispositional order making the minors wards of the court and placing them in the custody and guardianship of the Department of Children and Family Services (DCFS) on May 12, 2011.

¶ 5 The State filed a motion for termination of parental rights on February 15, 2012, alleging respondent was unfit to parent the minors because he (1) failed to maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare (see 750 ILCS 50/1(D)(b) (West 2010)); (2) failed to make reasonable efforts to correct the conditions which were the basis for removal of the minors (see 750 ILCS 50/1(D)(m)(i) (West 2010)); and (3) failed to make reasonable progress towards the return of the minors within nine months after the adjudication of neglect, specifically the period of March 31, 2011 to December 31, 2011 (see 750 ILCS 50/1(D)(m)(ii) (West 2010)).

¶ 6 On May 9, 2012, the minors' mother surrendered her parental rights in open court, and she is not a party to this appeal. On that same date, respondent appeared in court. He was in custody at that time due to a criminal charge of aggravated battery to a child, S.R. The trial court set the termination hearing for June 7, 2012, at 10:30 a.m., and after some discussion about whether respondent would be on parole then, the court told respondent if he were still incarcerated, a writ would be issued for him to be transported to court for the termination hearing. If he had been released on parole by June 7, the court told respondent he would need to

get there "under his own steam." Respondent indicated he understood. The record reflects respondent received a written notice for the June 7 hearing, which he signed.

¶ 7 On June 7, 2012, the State, respondent's attorney, and the guardian ad litem (GAL) for the children all appeared for trial. (Although the docket sheet reflects a date of June 6, 2012, this is apparently a scrivener's error.) Respondent failed to appear. His counsel requested a continuance, noting respondent had been present at all of the prior hearings, but further noting his client had been incarcerated at the time of all those appearances. Since the last hearing in May, respondent had been released from incarceration.

¶ 8 The State objected to the continuance, pointing out respondent had signed the in-court notice of the next hearing. The State also noted respondent attended the past hearings because he was in jail at those times and was transported to court by correctional officers. The State further represented upon his release from custody, respondent failed to contact the caseworker and she had to track him down. He had been unwilling to meet with her after she contacted him. The caseworker had offered to give respondent a ride to court for the termination hearing, but he declined the ride.

¶ 9 The trial court denied the motion to continue the termination hearing and found respondent in default. The State then called the caseworker, Jessica Starkey, to testify.

¶ 10 Starkey had been the minors' caseworker since November 2010. She sent respondent a copy of the service plan while he was incarcerated in the Sangamon County jail. When the State asked whether respondent would normally contact her if he failed to receive something, Starkey responded, "Warren has never contacted me." With each new service plan, she would send a copy to respondent together with a letter telling him to write to her if he had

any questions. He never did so, nor did he ever send her letters for the children. He did not engage in any self-help programs while in jail, though Alcoholics Anonymous (A.A.) and counseling were available.

¶ 11 Because respondent was incarcerated as a result of a charge of aggravated battery to S.R., visitation in prison was deemed inappropriate. He failed to contact Starkey when he was paroled, she had to locate him through field services at Graham Correctional Center. Since he had been out of prison, Starkey had seen respondent only one time, when she dropped by his residence unannounced. Starkey testified she has never been close to returning either minor to the father. She noted respondent is prohibited from having contact with S.R. as a condition of his four-year mandatory supervised release term (MSR). Despite having provided respondent with her name, phone number and address, respondent has never contacted Starkey since he was released from prison.

¶ 12 After taking judicial notice of the adjudicatory and dispositional orders, as well as the mother's surrender of the minors, the trial court began the best-interest hearing. Counsel for respondent moved to continue the best-interest hearing and the court denied that motion.

¶ 13 Starkey testified S.R. and P.R. lived together in the same foster home. The placement was stable, the minors had been there nearly two years, and they were doing very well there. No other children lived in the home. The foster parents were an adoptive resource for the minors. The minors were bonded to the foster parents and called them "mom" and "dad." They attended conscientiously to S.R.'s special needs. The minors had not seen respondent since he was incarcerated in 2009.

¶ 14 The trial court then terminated respondent's parental rights. This appeal followed.

¶ 15

## II. ANALYSIS

¶ 16 Respondent alleges the following errors on appeal: (1) the trial court abused its discretion in denying respondent's motion to continue the termination hearing; (2) the court failed to conduct a thorough first appearance on the motion to terminate parental rights; and (3) the court's unfitness and best interest findings were against the manifest weight of the evidence.

¶ 17 A. Trial Court's Denial of Motion To Continue Was Not an Abuse of Discretion

¶ 18 Respondent contends the trial court abused its discretion in denying his lawyer's motion to continue the termination hearing. As a party has no absolute right to a continuance, we review a court's decision to deny a motion to continue under the abuse of discretion standard. *In re M.R.*, 393 Ill. App. 3d 609, 619, 912 N.E.2d 337, 346 (2009).

¶ 19 Here, the record shows respondent appeared at hearings when he was incarcerated and transported pursuant to writs. Upon his release from incarceration, he failed to appear at the termination hearing. He received written notice of the court date at the previous hearing. He declined a ride to the hearing from the caseworker. No explanation was offered for respondent's failure to appear; apparently respondent did not communicate with his lawyer prior to the hearing. Nor did respondent file a motion to reopen the evidence after the June 7 hearing. Respondent never filed an affidavit with the trial court explaining his absence or showing good cause for his failure to appear. The minors had been in foster care for nearly two years, the State objected to the continuance, and the witness was present to testify. We find no abuse of discretion by the court in denying the continuance.

¶ 20 B. Failure To Conduct Thorough First Appearance—Forfeited

¶ 21 Respondent contends the trial court failed to conduct a thorough first appearance on

the motion to terminate and thus committed reversible error. Respondent does not point this court to a statute or decision in support of his argument, thus the argument is forfeited pursuant to Illinois Supreme Court Rule 341(h)(7) (Ill. S. Ct. R. 341(h)(7) (eff. July 1, 2008)).

¶ 22 C. Neither Finding of Unfitness nor Decision To Terminate Respondent's Parental Rights Was Against the Manifest Weight of the Evidence

¶ 23 Respondent contends the trial court's finding of unfitness, and the finding termination of respondent's parental rights was in the best interests of the minors were against the manifest weight of the evidence. We disagree.

¶ 24 Here, the trial court found respondent unfit by clear and convincing evidence for failing to (1) maintain a reasonable degree of interest, concern, or responsibility for the minors' welfare; (2) make reasonable efforts to correct the conditions which caused the removal of the minors; and (3) make reasonable progress toward the return of the minors within nine months after the adjudication of neglect.

¶ 25 "A parent's rights may be terminated if even a single alleged ground for unfitness is supported by clear and convincing evidence." *In re Gwynne P.*, 215 Ill. 2d 340, 349, 830 N.E.2d 508, 514 (2005). We will not disturb the trial court's fitness determination unless it is against the manifest weight of the evidence. *Id.* at 354, 830 N.E.2d at 516-17. This is a highly deferential standard—a court's decision will be found to be against the manifest weight of the evidence only where the opposite conclusion is clearly apparent. *Id.* at 354, 830 N.E.2d at 517.

¶ 26 The trial court can find reasonable progress is being made when it finds the minor can be returned to the custody of a parent in the near future as a result of compliance with court and DCFS directives. *In re L.L.S.*, 218 Ill. App. 3d 444, 460-61, 577 N.E.2d 1375, 1386-87

(1991).

¶ 27 Here, Starkey testified respondent did nothing to show any progress toward the return of the children to his custody anytime in the near future. While respondent was incarcerated for a lengthy period of time, he never wrote to the caseworker to inquire about the children. He failed to attend the termination hearing, despite the offer of a ride to court by Starkey. Respondent failed to offer any explanation for his failure to appear for the termination hearing. Last, respondent's four-year MSR term is conditioned on his having no contact with S.R. Thus, there is no chance of reunification any time in the near future. The trial court's finding of unfitness is supported by the record and is certainly not against the manifest weight of the evidence.

¶ 28 Respondent also contends the trial court's best-interests findings were against the manifest weight of the evidence. Once a respondent is found unfit, the court's focus shifts to the children. A respondent's interest in remaining a parent must yield to the minors' interests in a stable, loving home life. *In re D.T.*, 212 Ill. 2d 347, 364, 818 N.E.2d 1214, 1227 (2004).

¶ 29 The State must show by a preponderance of the evidence it is in the minors' best interests to terminate respondent's parental rights. *Id.* at 366, 818 N.E.2d at 1228.

¶ 30 Here, the trial court's termination of respondent's parental rights was fully supported by the evidence. The minors were together in a loving home. They were well-cared for and the potential for their adoption existed. They had been in this stable placement for nearly two years and referred to the foster parents as "mom" and "dad." They have had no contact with respondent since his incarceration in 2009, when S.R. was an infant and P.R. was a toddler. Respondent's MSR term is conditioned on no contact with S.R. for four years. Respondent's

conduct has resulted in his being unable to parent these children for a very long period of time. The trial court's decision to give them a chance at a loving, stable home was not against the manifest weight of the evidence.

¶ 31

### III. CONCLUSION

¶ 32

We affirm the trial court's decision to terminate respondent's parental rights.

¶ 33

Affirmed.