

alleging that H.C., A.C., and C.C., Jr., were neglected. In No. 10-JA-2, the State alleged that five-month-old H.C. was neglected in that the respondents failed to provide H.C. with adequate medical care recognized under state law as necessary for the minor's well-being. In No. 10-JA-3, the State alleged that two-year-old A.C. was neglected in that the respondents lacked the basic parenting skills necessary to properly care for the minor. In No. 10-JA-4, the State alleged that one-year-old C.C., Jr., was neglected in that the respondents lacked the basic parenting skills necessary to properly care for the minor. A guardian *ad litem* was appointed to represent the interests of the minors.

¶ 4 A shelter care hearing was held on March 18, 2010. Vivian Hallet, a child protection specialist with the Department of Children and Family Services (DCFS), testified that she had received a hotline report that the respondents' children were not getting proper medical attention. H.C. was taken to the emergency room of the local hospital and subsequently transferred to St. John's Hospital in Springfield, Illinois. The emergency room doctor indicated that H.C. might have pneumonia. H.C. was also found to have a severe rash in several places on her body from not being properly cleaned and an infected scrape on her ear. At the conclusion of the hearing, the circuit court ordered DCFS to take temporary custody of the minor children.

¶ 5 On May 3, 2010, the respondents appeared in court with their attorney and admitted the allegations of the petitions. The circuit court found the minors to be neglected and entered a dispositional order which, *inter alia*, required the respondents to comply with the DCFS service plans or risk termination of their parental rights.

¶ 6 On March 25, 2011, the State filed petitions to terminate the respondents' parental rights to all three children. The petitions alleged that the respondents were unfit persons as defined by the Adoption Act in that they had (1) failed to maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare; (2) failed to protect the minors

from conditions within their environment injurious to the minors' welfare; (3) failed to make reasonable efforts to correct the conditions that were the basis for the removal of the minors within nine months following the adjudication of neglect; and (4) failed to make reasonable progress toward the return of the minors within nine months following the adjudication of neglect. The petitions further alleged that it was in the minors' best interests that the respondents' parental rights be terminated.

¶ 7 A parental fitness hearing was held on November 3, 2011. Melissa Sanborn, a DCFS child welfare specialist, testified that she first became involved in the case on March 24, 2010. The children had been removed from the respondents' custody because of H.C.'s medical condition. When she first visited the respondents' home in April 2010, Sanborn noted that the home contained significant amounts of clutter, stacked air conditioners, dirty dishes, live chickens in the kitchen, and a heater contained by a small fence. A service plan was put into effect at the end of April 2010, and Sanborn and her supervisor reviewed the plan with the respondents. The plan included specific goals for making the home clean and safe enough for the return of the children.

¶ 8 Sanborn met with the respondents on a monthly basis to review their progress. Initially, she was unable to meet with them at their home because the electricity had been shut off. Even after she began meeting with the respondents in their home, they made little progress towards cleaning the home. A family support worker also met with the respondents regularly to monitor their progress. The respondents had weekly visitations with their children, but those visitations never took place at the respondents' home because of the cleanliness issues. Subsequent visits to the home revealed that the cleanliness of the home was not improving.

¶ 9 Sanborn further testified that C.C. and J.C. separated in June 2011, and both moved out of the marital residence. As of October 17, 2011, C.C. was living with his mother in a

two-bedroom mobile home. His girlfriend and her daughter also lived there. An inspection of that home revealed electrical outlets without child safety covers, boxes of items piled up against the walls in C.C.'s bedroom, animal feces in the bathroom, and a strong odor in the home. Sanborn also met J.C. on October 17, 2011. J.C. was living with her boyfriend in a three-bedroom home. There were dirty dishes, there was an open area in one wall where insulation was visible, and the home was cluttered. The home was also very cold.

¶ 10 Sanborn testified that at no point had the respondents completed all of the goals of the service plan.

¶ 11 Rebecca Austin, a family support specialist with Addus Health Care, testified that she became involved with the case in March 2010. She supervised the respondents' visitation with the children. When she first visited the home in the summer of 2010, she noted that there were a lot of animals in the home, feces on the floor, and that the home was environmentally unsafe. Rats were being kept in cages and were being raised as a source of income for the respondents. There were also birds and cats being kept in the home. Austin observed that the back porch was inaccessible and that "[y]ou kind of had a little path you could get into the house because there is stuff everywhere between the animals and the food and the trash." She further observed that there were paint chips on the ceiling, mold on the walls, and rodent "nests" in the drawers in the kitchen and bathroom. After C.C. and J.C. separated, Austin continued to meet with them in their new homes.

¶ 12 C.C. testified as follows. He and J.C. did what DCFS asked of them but DCFS kept adding new goals, and he felt that DCFS was "nitpicking." The caseworkers found dirty dishes when they visited because he and J.C. usually did dishes at the end of the day. They had been raising the rabbits, rats, and birds for money. The rats and rabbits were not kept in the house until after the children were taken. C.C. stated that he was presently living with his mother but was planning to move into a home that his girlfriend had recently purchased.

He was not regularly employed but made money doing odd jobs. His girlfriend collected unemployment.

¶ 13 J.C. testified that DCFS would give her and C.C. different things to do every week, but never actually said what they expected. They started cleaning immediately and the home was pretty well clean by the time they moved out. She stated that she and C.C. had separated in June 2011 and that she was currently living with her boyfriend in a three-bedroom house they are buying. They have replaced the roof and two windows and sided the house, and were in the process of installing a furnace. Neither J.C. nor her boyfriend were employed, but made some money doing odd jobs. Her boyfriend's parents were paying for the improvements. J.C. stated that she had learned a lot from the parenting classes she took and wanted to learn more, and felt she was able to take care of her kids.

¶ 14 J.C.'s mother testified that the respondents' home was not in good condition. She had reviewed the DCFS service plans and was familiar with what those plans required. They started cleaning the home and yard about a week after the adjudication of neglect. They replaced the bathroom floor and the kitchen floor. When they were finished, the home was neat and clean.

¶ 15 The trial court took judicial notice of its own court file, the client service plans, and the reports contained therein. Neither respondent objected.

¶ 16 An April 26, 2010, service plan established by DCFS detailed certain goals the respondents were required to meet. These goals included keeping the home clean and hazard-free, including keeping the floors clean and removing all trash; sanitizing all surface areas and keeping the home clutter-free; cleaning the dishes and putting them away after each meal; removing all outside animals from inside the home; and keeping the home structurally safe and stable.

¶ 17 An October 14, 2010, DCFS client progress report prepared by Sanborn reiterated the

goals set forth in the April 26, 2010, client service plan. Sanborn noted that caseworkers had not been to the home since the end of April because the electricity had been turned off, and that J.C. had been unable to clean the home because of the lack of electrical power. As of April, the chickens had been moved outside, and the respondents had started to clean the yard of debris. Sanborn found that although the respondents had started doing what was asked of them, there was much that still needed to be done and that the home environment was not yet sufficient for the return of the children. Her report concluded that the respondents had not made reasonable progress towards the return of the children.

¶ 18 Sanborn's December 9, 2010, report noted that a home visit had been conducted on October 29, 2010, and that the home was "extremely cold." The respondents indicated that they were not going to turn the heat back on until the children came home. Clutter in the home raised continuing concerns about safety. The caseworkers found field mice in glass cages. J.C. told them that 100 field mice had been found in a locked bedroom previously occupied by her brother, and that she planned to release them. Sanborn's report further stated that a family support worker had gone to the home on November 29, 2010, and had found very little progress. Caseworkers had gone to the home on December 7, 2010. They found that there was no running water in the sink, a pile of food on the back porch that had been there for several weeks, clutter still prevented access to the back porch, and the home remained very cold. When the caseworkers visited the home on December 9, 2010, the mice were gone, but mouse droppings were found in the home. Noting that prior history with the respondents showed that they would clean up the home for brief periods, only to allow it to revert to the condition that it was in when the children were removed, Sanborn opined that there needed to be a substantial period of time during which the respondents kept their home environment safe and sanitary prior to the return of the children.

¶ 19 A permanency hearing was held on December 12, 2010. At that time, the circuit court

found that the respondents had not made reasonable and substantial progress toward returning the children home.

¶ 20 Sanborn's next report was prepared on April 19, 2011. The report noted that as of March 7, 2011, the trash had mostly been removed. However, the home contained 10 rabbits, 15 rats, a dog in a cage on the back porch, and 3 dogs inside the home. Most of the rabbits and rats were being kept in the kitchen. There were areas of the ceiling which appeared to be falling down and where paint appeared to be peeling. There was a strong odor of urine in the bathroom where the dogs were being kept. The home remained cluttered and dirty. The respondents were advised on March 23, 2011, that a decision had been made to pursue termination of their parental rights. A caseworker who visited the home on March 29, 2011, found that the home still had not been cleaned. There were dirty dishes in the sink, there was trash on the floor in one of the bedrooms, and the flooring had been taken out of one of the bathrooms, exposing rotting wood underneath. On April 4, 2011, a visiting caseworker observed that while some areas of the home had improved, others had worsened. Rat nests and feces were found in the kitchen and bathroom cabinets, and a room that was intended for C.C., Jr., was "piled full of stuff." The April 19, 2011, report concluded that the respondents had not made reasonable and substantial progress towards the children's return.

¶ 21 On November 3, 2011, the guardian *ad litem* filed her report. She stated that based on her review of the DCFS reports, the respondents had not made reasonable and substantial progress toward the goals set by DCFS and that they were unlikely to make further progress if given more time. She recommended that the respondents' parental rights be terminated.

¶ 22 On November 9, 2011, the circuit court entered an order finding the respondents to be unfit in that they failed to make reasonable progress toward the return of the minors during the nine months following the adjudication of neglect. The court made no findings with respect to the other allegations of the petitions.

¶ 23 A best-interests hearing was held on February 3, 2012. Sanborn testified that the children had been in foster care since May 16, 2010. They were happy with their foster parents, loved them, and were well-adjusted to living with them. Their foster parents loved the children, had the ability to provide for them, and wanted to adopt them. She believed that it was in the children's best interests to remain with their foster parents. J.C. visited with the children, but the visitations never took place where J.C. was living because of cleanliness issues. During J.C.'s visits with the children, she participated in activities with them and they showed love towards her.

¶ 24 Roseanna Helmuth testified that she was the children's foster mother. She and her husband have no other children. She and her husband love the children and have the financial resources to care for them. Each child has his or her own bedroom. The children refer to the Helmuths as "mom and dad," and the Helmuths' extended family treats the children as if they were the Helmuths' biological children. The children also refer to the respondents as mom and dad. The two oldest children were attending preschool.

¶ 25 C.C. testified that he was presently residing in the home formerly occupied by himself, J.C., and the children. He moved back there in November 2011 and lives there with his girlfriend and her daughter. He had completed all of the repairs to the house required by DCFS. The bathroom and kitchen have new linoleum, and C.C. planned to put in another bedroom if the children were returned to him. The home is clean and has heat in the winter. He is not regularly employed but makes about \$200 per week doing odd jobs. His girlfriend collects approximately \$1,000 per month in unemployment.

¶ 26 J.C. testified that she was living with her boyfriend in a three-bedroom home. The home was warm, and she felt that it was livable. She disagreed that it was cluttered. She and her boyfriend were working at some apartments, removing old paint and wallpaper. Together, they make about \$200 per week. She and C.C. visit with the children two hours

per week, usually at a local library. They do various activities with the children. J.C. loves her children and wants to have them returned. She stated that C.C.'s mother and stepfather and her boyfriend's parents can babysit while she is working.

¶ 27 Sanborn's January 30, 2012, report stated that C.C. and his girlfriend had moved back into the home C.C. and J.C. had previously occupied. Although the home was much improved, it still did not have a furnace and C.C. was using three electric heaters to heat the home. C.C. has one room that he plans to use for all three children by dividing it into two rooms. This room has cracks in the walls and ceiling and the paint is peeling. C.C. continues to earn money by performing odd jobs.

¶ 28 J.C. continued to live with her boyfriend. When a caseworker visited her home on January 10, 2012, she found a litter box full of moldy feces outside the home by the front door which had been there since the end of December. The home remained very cluttered. A kitchen cabinet used to store hazardous cleaning supplies was secured with a screwdriver. There were numerous piles of items outside the home which were unsafe for children. J.C. reported working with her boyfriend, and together they earned approximately \$200 per week.

¶ 29 The report concluded that it was in the children's best interests that the respondents' parental rights be terminated.

¶ 30 On March 27, 2012, the circuit court entered orders terminating the respondents' parental rights to H.C., A.C., and C.C., Jr. From those orders, the respondents appeal.

¶ 31 On appeal, the respondents argue (1) that the circuit court's determination that they were unfit persons was contrary to the manifest weight of the evidence and (2) that the circuit court's determination that it was in the children's best interests to terminate the respondents' parental rights was contrary to the manifest weight of the evidence.

¶ 32 The Juvenile Court Act of 1987 establishes a two-step process for terminating parental rights involuntarily. 705 ILCS 405/2-29(2) (West 2008). The State must first prove by clear

and convincing evidence that the parent is an unfit person as defined by section 1(D) of the Adoption Act (Act) (750 ILCS 50/1(D) (West 2008)). *In re Tiffany M.*, 353 Ill. App. 3d 883, 889, 819 N.E.2d 813, 819 (2004). Section 1(D) of the Act sets forth numerous grounds under which a parent can be found unfit, any one of which standing alone will support a finding of unfitness. *Id.* A circuit court's determination that there is clear and convincing evidence of parental unfitness will not be disturbed on review unless it is contrary to the manifest weight of the evidence. *Id.* at 890, 819 N.E.2d at 819. A finding is contrary to the manifest weight of the evidence only where the opposite conclusion is clearly evident or where the finding is unreasonable, arbitrary, and not based on the evidence. *Id.*

¶ 33 If the trial court finds the parent to be unfit, the court must then determine whether it is in the child's best interest that parental rights be terminated. 705 ILCS 405/2-29(2) (West 2008). At this stage, the focus of the court's scrutiny shifts from the rights of the parent to the best interest of the child. *In re B.B.*, 386 Ill. App. 3d 686, 697, 899 N.E.2d 469, 479 (2008). To terminate parental rights, the State bears the burden of proving by a preponderance of the evidence that termination is in the minor's best interest. *In re D.T.*, 212 Ill. 2d 347, 366, 818 N.E.2d 1214, 1228 (2004). The court must consider the factors set forth in section 1-3(4.05) of the Juvenile Court Act of 1987 (705 ILCS 405/1-3(4.05) (West 2010)) when determining the best interests of the minors. A trial court's determination that termination of parental rights is in the child's best interest will not be disturbed on review unless it is contrary to the manifest weight of the evidence. *In re R.L.*, 352 Ill. App. 3d 985, 1001, 817 N.E.2d 954, 968 (2004).

¶ 34 With respect to the issue of fitness, the respondents argue that there was insufficient evidence regarding the condition of the home at the time of adjudication to establish a benchmark from which the circuit court could measure whether the respondents had made reasonable progress toward the return of the children. They further argue that even if the

circuit court had sufficient evidence to provide an adequate benchmark for comparison, the manifest weight of the evidence demonstrates that the respondents made reasonable progress toward the return of the children during the nine months following the adjudication of neglect.

¶ 35 When considering an allegation that a parent failed to make reasonable progress within nine months following an adjudication of neglect, the court must limit its consideration of the evidence to that nine-month time frame. *In re Alexander R.*, 377 Ill. App. 3d 553, 556, 880 N.E.2d 1016, 1018 (2007). The children were adjudicated neglected on May 3, 2010. Thus, the relevant nine-month time frame in this case is May 2010 to February 2011.

¶ 36 According to the October 14, 2010, client service report, when DCFS became involved in this case, the home environment was unlivable. The only water source was the bathtub, which was rigged to draw water from a neighbor's house. There was no furnace, no kitchen sink, no working toilet, and no electricity in the back bedrooms. The bedrooms could not be accessed because of trash and clutter. Sanborn testified at the parental fitness hearing that when she first visited the home in April 2010, she noted that it contained significant amounts of clutter, stacked air conditioners, dirty dishes, live chickens in the kitchen, and a heater contained by a small fence. This provided the circuit court with sufficient evidence as to the conditions of the home as of May 3, 2010, the beginning of the nine-month time period.

¶ 37 Turning to the question of whether the circuit court's finding of unfitness was contrary to the manifest weight of the evidence, Sanborn's October 14, 2010, report found that although the respondents had made some progress, the home environment was not yet sufficient for the return of the children, and she concluded that the respondents had not made reasonable progress towards the return of the children. Sanborn's December 9, 2010, report

noted that DCFS caseworkers had been to the home on October 29, 2010, November 29, 2010, December 7, 2010, and December 9, 2010. As of December 9, 2010, caseworkers found mouse droppings, no running water in the bathroom sink, a pile of food on the back porch that had been there for weeks, and that the home was still very cold. The home was also still cluttered, preventing access to the back porch. Sanborn testified that at no point did the respondents meet all of the goals of their service plan. Based on this evidence, we cannot say that the circuit court's determination that the respondents had failed to make reasonable progress towards the return of the children during the nine months following the adjudication of neglect was contrary to the manifest weight of the evidence.

¶ 38 The respondents next argue that the circuit court's decision to terminate their parental rights was contrary to the manifest weight of the evidence. They maintain that the evidence demonstrates that they have a strong bond and a loving relationship with the children, and that they had made significant strides in improving their respective living conditions by the time of the best-interest hearing.

¶ 39 Sanborn testified at the best-interest hearing that the children had been in foster care for almost two years. The children were well-adjusted and bonded with their foster family. Rose Helmuth testified that she and her husband had the financial resources to provide for the children. By contrast, the respondents' financial situation was extremely precarious. C.C. testified that he earned about \$200 per week from odd jobs. The primary income earner in his household was his girlfriend, who received approximately \$1,000 monthly in unemployment benefits. J.C. and her boyfriend together earned approximately \$200 weekly doing odd jobs. Sanborn further testified that neither J.C.'s home nor C.C.'s home was clean enough or safe enough for the children. Her January 30, 2012, report indicated that C.C. was using three electric heaters to heat his home, which Sanborn deemed unsafe. The bedroom C.C. planned to use for the children had cracks in the walls and ceiling, and the paint was

peeling. J.C.'s home was cluttered, and there were numerous piles of items outside deemed unsafe for the children.

¶ 41 The foster parents were able to provide for the physical safety and welfare of the children, whereas the respondents demonstrated little, if any, ability to do so. The foster parents are financially stable, whereas the respondents are not. The children have been with the foster parents for a significant portion of their lives, and their identity has been forged in that environment. They are familiar with that environment, and it provides them with a degree of permanence and stability they would not have with the respondents. The foster parents show love and affection for the children, and their extended family think of the children as the foster parents' natural children. Viewing the evidence in light of section 1-3(4.05), we cannot say that the circuit court's decision to terminate the respondents' parental rights was contrary to the manifest weight of the evidence.

¶ 42 For the foregoing reasons, the judgment of the circuit court of Shelby County is affirmed.

¶ 43 Affirmed.