NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2014 IL App (4th) 140563-U

NOS. 4-14-0563, 4-14-0564, 4-14-0565 cons.

FILED
November 6, 2014
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: Ch. C., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Sangamon County
v. (No. 4-14-0563)	)	No. 11JA62
CHARLES CLIPPARD,	)	
Respondent-Appellant.	)	
	)	
In re: S.C., a Minor,	)	No. 11JA63
THE PEOPLE OF THE STATE OF ILLINOIS,	)	
Petitioner-Appellee,	)	
v. (No. 4-14-0564)	)	
CHARLES CLIPPARD,	)	
Respondent-Appellant.	)	
	)	
In re: Ci. C., a Minor,	)	No. 11JA64
THE PEOPLE OF THE STATE OF ILLINOIS,	)	
Petitioner-Appellee,	)	
v. (No. 4-14-0565)	)	
CHARLES CLIPPARD,	)	
Respondent-Appellant.	)	Honorable
	)	Matthew Maurer,
	)	Judge Presiding.

PRESIDING JUSTICE APPLETON delivered the judgment of the court.
Justices Pope and Knecht concurred in the judgment.

ORDER

¶ 1 *Held*: (1) The State presented sufficient evidence to support the trial court's order finding respondent was an unfit parent when he failed to maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare by not participating in recommended services or visitation.

(2) The State presented sufficient evidence to support the trial court's order finding termination of respondent's parental rights was in the minors' best interest.

¶ 2 In April 2014, in a consolidated hearing, the trial court terminated respondent, Charles Clippard's parental rights to his minor children, Ch. C., born November 18, 2003; S.C., born October 15, 2004; and Ci. C., born May 13, 2006. Each minor was the subject of a separate trial court case. Respondent filed an appeal in each case, claiming the court's unfitness and best-interest findings were against the manifest weight of the evidence. We consolidated the appeals and affirm.

¶ 3 I. BACKGROUND

¶ 4 Respondent and Shanita Moore are the parents of the three minor children, Ch. C., S.C., and Ci. C. Respondent and Moore did not reside together and the minors resided with Moore. Moore was named in the proceedings in the trial court, but she is not a party to this appeal. In July 2011, the minors' maternal grandmother reported the children (along with Moore's three older children) had been left at home with no supervision and no food. Police responded to the residence and found the children as reported. Ch. C. suffered from severe asthma. He was having an asthma attack and was left with no inhaler. He was taken to the emergency room for treatment.

¶ 5 On July 5, 2011, the State filed a separate petition for adjudication of neglect as to each of the three minors. However, each petition contained the identical allegations: the minor and his or her siblings were not receiving the proper care or supervision necessary for the minors' well-being and their environment was injurious to their welfare when they were left in the mother's residence without adequate supervision, adequate food, or hot water. See 705 ILCS 405/2-3(1)(a), (b) (West 2010). After conducting a shelter-care hearing, the trial court granted protective custody of the three minors to the Illinois Department of Children and Family Services (DCFS). Ch. C. was placed in relative placement with two half-sisters in the home of Hope and

Lionel Suber, respondent's aunt and uncle. S.C. and Ci. C. were placed in a different relative placement with their other half-sister in the home of Barbara Phillip, respondent's cousin and Hope Suber's daughter.

¶ 6 In September 2011, Moore stipulated to the allegation of neglect as a result of the minors' injurious environment. Respondent appeared at the adjudicatory hearing and had no objection to Moore's stipulation. The trial court entered an order of adjudication. Respondent was referred to parenting classes and was ordered to complete an integrated assessment and a substance-abuse assessment. In October 2011, the court entered a dispositional order, finding respondent unfit, unable, or unwilling for some reason other than financial circumstances alone to care for, protect, train, educate, supervise, or discipline the minors. The minors were adjudicated wards of the court, with custody and guardianship awarded to DCFS.

¶ 7 According to respondent's case plan dated December 2011, respondent had not completed any services. Respondent (1) had been referred to parenting classes twice, but had failed to attend; (2) had not cooperated with obtaining the necessary paperwork for a referral for a substance-abuse assessment; and (3) was unable to be contacted by the caseworker for approximately two months. He had just recently, in November 2011, begun visiting with the children once per week. However, by March 2012, respondent was no longer participating in visitation. By July 2012, respondent was living in his own apartment with his girlfriend. He had completed a referral and signed consents for a substance-abuse assessment at Triangle Center, but he failed to attend the initial assessment. He had not participated in parenting classes.

¶ 8 At a status hearing on December 20, 2012, the caseworker informed the trial court that respondent had been incarcerated for a "majority of the reporting period." She had met respondent at Moore's home on November 20, 2012. He indicated he had been released from jail

three weeks earlier and was residing with his mother. However, at the hearing, respondent gave the caseworker a different address and indicated he was not living with his mother. In November 2012, the caseworker informed respondent he could resume supervised visits. However, she had not heard from him as of the date of the hearing. In his case plan, dated January 8, 2013, the caseworker indicated respondent had not cooperated with DCFS regarding any of his services or visitation with the minors.

¶ 9 On August 12, 2013, the State filed a petition to terminate respondent's parental rights to the minors, alleging respondent (1) failed to maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare (750 ILCS 50/1(D)(b) (West 2012)); (2) failed to make reasonable efforts to correct the conditions which were the basis for the removal of the minors (750 ILCS 50/1(D)(m)(i) (West 2012)); (3) failed to make reasonable progress toward the return of the minors within nine months after adjudication, namely September 29, 2011, to June 29, 2012 (750 ILCS 50/1(D)(m)(ii) (West 2012)); (4) failed to make reasonable progress toward the return of the minors within any nine-month period following adjudication, namely June 29, 2012, to March 29, 2013 (750 ILCS 50/1(D)(m)(iii) (West 2012)); (5) abandoned the minors (750 ILCS 50/1(D)(a) (West 2012)); and (6) deserted the minors for more than three months preceding the filing of this petition (750 ILCS 50/1(D)(c) (West 2012)).

¶ 10 On April 2, 2014, the trial court conducted a consolidated fitness hearing on the State's petition. Respondent appeared in person with counsel. The State first called Julia Pallo, who testified she was the caseworker between July 2012 and October 2012. According to the initial case plan, respondent was to participate in visits, complete an integrated assessment, and complete substance-abuse treatment, based upon his history of substance abuse. Pallo said she had made all necessary referrals.

¶ 11 Patricia Kaidell testified she was the caseworker from October 2012 to January 2013, the supervisor for the month of February 2013, the caseworker again from March 2013 to April 9, 2013, and the supervisor again since April 9, 2013. Kaidell said respondent had no contact with anyone involved in the case between October 2012 and November 2013.

¶ 12 According to Kaidell, respondent did not attend any scheduled visits with the minors. He appeared at Moore's scheduled visit in November 2012, but he seemed to be intoxicated, "smelled strongly of alcohol," and was not allowed to visit. He did not send any cards or gifts for the children and never contacted Kaidell. She said DCFS never considered placing the minors with respondent because "his whereabouts were unknown. He did not show an interest in the case. He was not involved in the case." Kaidell sent a copy of the July 2012 to January 2013 case plan to respondent at his mother's address. The State rested.

¶ 13 Respondent testified on his own behalf. He said he was 32 years old and resided in Springfield. He said he never received any correspondence or a case plan, even though he had given the caseworker his address. He said the caseworker never asked him to participate in an integrated assessment. Only one time did a caseworker ever visit him at his residence. No one visited him in jail, even though they knew he was incarcerated. According to respondent, he visited his children approximately seven times and he denied ever appearing at a visit intoxicated. He said when he lived in an apartment on East Edwards, he was capable of parenting the minors. He lived at that address with his girlfriend. The caseworker visited that address and determined that the one-bedroom apartment was too small to accommodate the minors' return. He was later arrested for domestic violence against his girlfriend and left that residence. He admitted after that arrest, the minors "probably couldn't be returned" to him.

¶ 14 On cross-examination, respondent admitted he was present in court when the trial court ordered him to cooperate with DCFS. He said he did not participate in recommended services because "stuff had came up like being incarcerated and other things," including caring for his sick mother.

¶ 15 After considering the evidence and arguments of counsel, the trial court found the State had proved by clear and convincing evidence that respondent was unfit. The court stated as follows:

> "As far as [respondent], the court finds the State's met their burden and that the evidence is clear and convincing that he has not maintained any reasonable degree of interest, concern, or responsibility for the minor children's welfare.
>
> The testimony of the State was that he met with the children one time and was attempted to or was intoxicated. The other evidence presented was that he may have met seven or eight times. Even if he met seven or eight times over the life of the case, that's not a reasonable degree of interest and concern. He's never shown any concern or interest in them or responsibility as to their welfare. He's not made any reasonable efforts to correct the conditions that were the basis for the removal or to do anything to get them where they might be returned to his care as far as housing, or any other services, which the testimony was, at least from the first witness, that she had reviewed the various services

> and he was aware of the services, I believe that was Ms. Kaidell's testimony. He just didn't engage in anything."

The trial court entered a written order, finding respondent to be an unfit parent.

¶ 16 On May 8, 2014, the caseworker filed a best-interest report, which indicated all three minors were residing together in an adoptive home. They were all doing well and were all attending Ball Charter School in Springfield. Ch. C., who was 10 years old, was doing well in all subjects at school, with no behavioral or academic concerns. He was on a basketball team with his foster father as his coach. Ch. C. attended counseling and has improved on past negative behaviors, which included suicidal tendencies. S.C. was nine years old. Her behavior had greatly improved from her prior negative behavior, which included fighting, being disrespectful to authority figures, and multiple suspensions at her previous school. S.C. was a good student and her teachers reported no behavioral or academic concerns. She also attended counseling. Ci. C., who was seven years old, had an Individualized Education Program and received speech therapy at Ball Charter School. Her teacher reported no behavioral or academic concerns. She also attended counseling.

¶ 17 On May 22, 2014, the trial court conducted the best-interest hearing and considered the contents of the best-interest report. The court also considered the following evidence. Kaidell testified the minors have been placed with Chris and Steve Daniels, a traditional foster placement, since April 2013. This home is also a potential adoptive placement for them. Kaidell said all of the children's needs are being met in this home. The children have all bonded with the Daniels, who have committed themselves to providing the children with a healthy, permanent, and stable environment. In Kaidell's opinion, the minors would not suffer harm if respondent's parental rights were terminated.

¶ 18 Kaidell testified she observed the minors interact with respondent on one occasion in February 2014. The children and respondent were affectionate with each other and they all seemed happy to see each other. The minors referred to respondent as "dad" and discussed their life events with him. He seemed interested and concerned. However, despite this interaction, Kaidell still believed termination of respondent's parental rights was in the minors' best interest. Respondent had seen his children only twice in a year and a half.

¶ 19 Charlene Cole, respondent's girlfriend, testified she has two children with respondent. He has a good relationship with their children and interacts appropriately with them. She said she took respondent to visits with the minors Ch. C, S.C., and Ci. C. once a week in 2011. She also said she took him to half of the visits in 2012, or approximately 10 to 20. Cole said she attended one visit and watched him interact with the minors. She said respondent did not visit with the children in 2013 because he had been arrested and was in jail. She did not recall respondent being intoxicated at any of his visits. Cole described respondent as "a great father" and said, in her opinion, his parental rights should not be terminated.

¶ 20 After considering the best-interest report, the evidence presented, and arguments of counsel, the trial court noted the minors "have been in limbo for a considerable period of time." The court recognized that, even though the children may have been happy to see respondent at a visit in February 2014, his absence for the majority of the time the children had been in foster care outweighs the one occasion. They need permanency, stability, and future care. The court found termination of respondent's parental rights to be in the minors' best interest. This appeal followed.

¶ 21 II. ANALYSIS

¶ 22 Respondent contends the trial court's finding of unfitness based on section 1(D)(m)(i) of the Adoption Act (750 ILCS 50/1(D)(m)(i) (West 2012)) was against the manifest weight of the evidence. Specifically, he argues the evidence presented indicated that DCFS, through the caseworkers, "did not itself make reasonable efforts to aid [respondent] in completing the services needed to return his children to his care."

¶ 23 The Juvenile Court Act of 1987 provides a bifurcated procedure whereby parental rights may be terminated. 705 ILCS 405/2-29(2) (West 2012). Under this procedure, there must first be a showing of parental unfitness based upon clear and convincing evidence, and a subsequent showing that the best interest of the child is served by severing parental rights. *In re M.J.*, 314 Ill. App. 3d 649, 655 (2000). "A trial court's determination of parental rights involves factual findings and credibility assessments that the trial court is in the best position to make." *M.J.*, 314 Ill. App. 3d at 655. We will not disturb a finding of unfitness unless it is contrary to the manifest weight of the evidence and the record clearly demonstrates that the opposite result was proper. *In re D.F.*, 201 Ill. 2d 476, 498 (2002). A finding of unfitness will stand if supported by any one of the statutory grounds set forth in section 1(D) of the Adoption Act. *In re D.D.*, 196 Ill. 2d 405, 422 (2001).

¶ 24 Respondent's reasonable-efforts argument has no merit. He attempts to shift the burden of reasonable efforts to the caseworkers, claiming they failed to make reasonable efforts to assist him in completing his tasks. That is not the State's burden under the statute and respondent makes no further argument regarding the trial court's finding of unfitness. Nevertheless, we will analyze the court's finding of unfitness on one of the various grounds alleged.

¶ 25 Of the grounds alleged and proved, we consider whether respondent was unfit under section 1(D)(b) of the Adoption Act (750 ILCS 50/1(D)(b) (West 2012)). Under this section, the trial court must find clear and convincing evidence that the parent failed "to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare." 750 ILCS 50/1(D)(b) (West 2012). Because this language is in the disjunctive, any of these three elements may be considered on its own as a basis for unfitness. *In re Jaron Z.*, 348 Ill. App. 3d 239, 259 (2004). We acknowledge that, in examining allegations under subsection (b), a trial court must focus on a parent's reasonable efforts rather than his success, and it must consider any circumstances that may have made it difficult for him to visit, communicate with, or otherwise show interest in his child. *Jaron Z.*, 348 Ill. App. 3d at 259. However, noncompliance with an imposed service plan may be sufficient to warrant a finding of unfitness under subsection (b). *Jaron Z.*, 348 Ill. App. 3d at 259.

¶ 26 The evidence presented at the fitness hearing demonstrated that respondent failed to participate in *any* of his recommended services. He attended one visit in November 2012, but he was not allowed to visit due to the caseworker's belief that he was intoxicated. Otherwise, he never visited with the children until the petition to terminate was filed. He never contacted the caseworker to inquire about the welfare of the children, to send any cards, gifts, or letters, or to demonstrate any desire to complete the recommended tasks. According to the caseworkers' testimony, respondent was not involved in the case and apparently had no interest in becoming involved.

¶ 27 The evidence presented clearly supports the trial court's finding that respondent was unfit based on his failure to maintain a reasonable degree of interest, concern, or responsibility for the minors. Therefore, we find the court's finding that respondent was unfit

pursuant to subsection (b) of the Adoption Act (750 ILCS 50/1(D)(b) (West 2012)) was not against the manifest weight of the evidence. Because we find the evidence was sufficient to support this ground for termination, we need not discuss the remaining grounds. *In re D.C.*, 209 Ill. 2d 287, 296 (2004) (every alleged ground need not be proven when a single alleged ground for unfitness is supported by clear and convincing evidence).

¶ 28 Likewise, we find the trial court's best-interest determination was supported by the evidence. Focusing on the minors' best interest, as we are required to do upon this inquiry (see *In re T.A.*, 359 Ill. App. 3d 953, 959 (2005)), we agree with the court's decision that termination of respondent's parental rights was in the minors' best interest when the evidence suggested the minors were thriving in the care of their foster parents. They provided a stable and nurturing environment and were willing to provide permanency through adoption. Based on this evidence, we affirm the court's judgment terminating respondent's parental rights.

¶ 29 III. CONCLUSION

¶ 30 For the reasons stated, we affirm the trial court's judgment.

¶ 31 Affirmed.