

**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) 140586-U

NO. 4-14-0586

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

**FILED**

November 25, 2014  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

In re: T.W., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Macon County
v.	)	No. 11JA22
ALYSSA WILEY-WOODS,	)	
Respondent-Appellant.	)	Honorable
	)	Thomas E. Little,
	)	Judge Presiding.

JUSTICE TURNER delivered the judgment of the court.  
Justice Steigmann concurred in the judgment.  
Justice Pope specially concurred.

**ORDER**

¶ 1 *Held:* The trial court's findings (1) respondent was unfit under section 1(D)(m)(ii) of the Adoption Act and (2) it was in the minor child's best interest to have respondent's parental rights terminated were not against the manifest weight of the evidence.

¶ 2 In January 2014, the State filed a petition for the termination of parental rights of respondent, Alyssa Wiley-Woods, as to her minor child, T.W. (born in 2011). In April 2014, the Macon County circuit court entered a written order, finding respondent unfit. After a June 2014 hearing, the court concluded it was in T.W.'s best interest to terminate respondent's parental rights.

¶ 3 Respondent appeals, contending the trial court erred by finding (1) her unfit and (2) it was in T.W.'s best interest to terminate her parental rights. We affirm in part, vacate in part, and remand the cause with directions.

¶ 4

## I. BACKGROUND

¶ 5 The March 2011 petition for adjudication of wardship alleged T.W. was (1) neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(b) (West 2010)), (2) abused under section 2-3(2)(ii) of the Juvenile Court Act (705 ILCS 405/2-3(2)(ii) (West 2010)), and (3) dependent under section 2-4(1)(a) of the Juvenile Court Act (705 ILCS 405/2-4(1)(a) (West 2010)). All three counts were based on the following: (1) respondent and the child's father, Tyrell Woods, had prior and ongoing involvement with the Department of Children and Family Services (DCFS); (2) respondent had another child not in her care; (3) respondent had serious mental-health and developmental issues; (4) respondent and Tyrell had ongoing domestic-violence issues, including Tyrell being in jail on charges of domestic violence against respondent; and (5) respondent was not capable of parenting the child independently. At a June 2011 adjudicatory hearing, the parties stipulated the minor child was dependent as alleged in the petition. The trial court accepted the stipulation and dismissed the other two counts. The court then immediately proceeded to the dispositional hearing, at which it found respondent and Tyrell were both unfit, unable, and unwilling to care for T.W. The court made T.W. a ward of the court and appointed DCFS as his guardian. On June 13, 2011, the court entered written adjudicatory and dispositional orders.

¶ 6 On January 30, 2014, the State filed a motion to terminate respondent's and Tyrell's parental rights as to T.W. Tyrell is not a party to this appeal. The motion asserted respondent was unfit because she failed to (1) maintain a reasonable degree of interest, concern, or responsibility for the child's welfare (750 ILCS 50/1(D)(b) (West Supp. 2013)) (count B); (2) protect the child from conditions within his environment injurious to the child's welfare (750 ILCS 50/1(D)(g) (West Supp. 2013)) (count D) ; and (3) make reasonable progress toward the

return of the child during a nine-month period after the initial nine-month period following the adjudication of "neglect or abuse" (750 ILCS 50/1(D)(m)(ii) (West Supp. 2013) (petition improperly listed section 1(D)(m)(iii) and did not say dependency adjudication) (count G). (Counts A, C, E, and F applied only to Tyrell.)

¶ 7 On March 6, 2014, the trial court held the fitness hearing. At the beginning of the hearing, the court confirmed with the parties the initial nine-month period after the dependency adjudication was June 13, 2011, to March 13, 2012. It then noted the State had alleged unfitness "as to any 9 month period thereafter which we can presumably calculate."

¶ 8 At the hearing, the State presented the testimony of (1) Lanay Walls, a DCFS advanced investigator; (2) Ali Collins, a DCFS child-abuse investigator; (3) Evelyn Williams, a DCFS child-welfare specialist; (4) Christine Hart, a case manager for Macon County Child Advocacy Center Safe From the Start Program; (5) Christina Walters, the DCFS Medicaid counselor through the Youth Advocate Program; (6) Crystal Madrigal, a visitation specialist for the Youth Advocate Program; (7) Laura Salefski, a family advocate with the Family Advocacy Center; and (8) Krissty Jackson, a community-support specialist with the Heritage Behavioral Health Center (Heritage). The aforementioned testimony addressed respondent's behavior during the entire pendency of this case. The State also presented documents from respondent's Macon County criminal case No. 12-CF-1270. The documents showed that, on September 7, 2012, respondent was charged by information with one count of aggravated battery to a child (720 ILCS 5/12-3.05(b)(1) (West Supp. 2011)) and one count of aggravated domestic battery (720 ILCS 5/12-3.3(a) (West 2012)). Both charges asserted that, on August 18, 2012, respondent knowingly caused great bodily harm to T.W. by striking him and causing external swelling and bruising, a bruised kidney, and a lacerated spleen. On January 18, 2013, pursuant to a plea

bargain, respondent pleaded guilty to aggravated domestic battery, and the trial court dismissed the aggravated-battery-to-a-child count. The court sentenced respondent to 30 months' probation and 120 days in jail, with credit for 120 days previously served. Respondent was required to register under the Murderer and Violent Offender Against Youth Registration Act (730 ILCS 154/1 *et seq.* (West 2012)).

¶ 9 The testimony relevant to the time period of August 18, 2012, to May 18, 2013, is set forth below. Collins testified she was on call when DCFS received a report T.W. had multiple contusions on his body. He had been taken to respondent's home the evening before for unsupervised overnight visitation with respondent. Respondent was later arrested and charged with domestic battery for the incident. Respondent's unsupervised visitation was stopped after the August 2012 incident.

¶ 10 Williams was the caseworker during the entirety of this case. Prior to the incident, respondent was doing very well with her services and, on September 5, 2012, Williams was going to recommend T.W. be returned home. However, that recommendation changed after the August 18, 2012, incident. Due to the incident, respondent had to start over again with her services. Respondent was in jail from August 28, 2012, to January 18, 2013. Upon her release from jail, respondent wanted to reengage in services. Her service plan included parenting classes, individual counseling with Walters, finding housing, obtaining employment, continuing mental-health services through Heritage, and complying with probation requirements. Respondent successfully completed her second parenting class, obtained an apartment, got into cosmetology school, continued with her mental-health services at Heritage, and complied with probation. Respondent visited with T.W. once a week. However, respondent's individual counselor had closed respondent's case because they were not able to make contact and work

together consistently. While respondent had made an effort, Williams did not feel things would go well if T.W. returned home. Williams lost confidence in respondent due to respondent not being honest about how T.W. received his injuries. She had concerns about T.W.'s safety in respondent's care. Williams did not feel she could provide respondent with any other services to rectify the situation. Further, she believed respondent still could benefit from individual counseling. Williams opined that, if the August 2012 incident had not happened, T.W. would be living with respondent. Williams further noted that she asked respondent if she was seeing anyone the Friday before the incident and respondent answered in the negative. Additionally, Williams testified respondent was on her medication at the time of the incident. Respondent told Williams the medication had made her very sleepy. She had fallen asleep and woke up to T.W. screaming. When respondent found him, her five-year-old daughter, J.L., was hitting him with a belt. Respondent later said it was a guy in the apartment that had done it. Respondent continued to flip-flop her story between J.L. and the man.

¶ 11 Madrigal testified she had monitored respondent's visitation with T.W. since June 2012. Respondent visited with T.W. in the jail and then saw him once a week after her release. Respondent made the most of all of her visits. In Madrigal's opinion, respondent did "very well" during visits. Madrigal thought respondent could discipline T.W. more. Discipline was the only issue on which Madrigal had to coach respondent. Also, at times, respondent did not seem engaged. Madrigal said respondent did not yell at or abuse T.W. in any way. During visits, respondent met minimum parenting standards. Madrigal did not have concerns about respondent having a visit alone with T.W. somewhere. However, Madrigal did express concern about whom respondent would allow into her home while T.W. was present.

¶ 12 Salefski testified respondent became her client in February 2013. Salefski helped respondent obtain an apartment and get into cosmetology school. Salefski noted respondent had a payee for her supplemental-security income. Salefski also worked with respondent on how to discipline children. Respondent seemed to understand the discipline information. The only concern Salefski had about respondent was the history of T.W.'s beating. Salefski could not imagine respondent did it because she is very meek and mild. Salefski had never seen her lose control or lash out in anger.

¶ 13 Jackson testified she had been working with respondent since August 2008. Respondent was consistent in attending their weekly meetings. Her job is primarily to listen to respondent and help her cope. Her services would continue if respondent was no longer involved with DCFS.

¶ 14 Respondent testified on her own behalf and noted she had made efforts to comply with DCFS services. Since her January 2013 release from jail, T.W. had not been put in any harm during their visits. According to respondent, the only additional requirements after her release were a psychological evaluation and compliance with probation. Respondent testified she had done those things. She had also complied with mental-health services and started school in September or October 2013.

¶ 15 Respondent also presented her certificates of completion. One was an August 30, 2011, certificate for completing 18 of 19 sessions of the nurturing parents program. Respondent also received a September 10, 2013, certificate for completing 17 of 19 sessions of the nurturing parents program. The last was an April 3, 2013, certificate for successfully completing "Taking Care of Yourself: Parent Café."

¶ 16 During closing arguments, the State withdrew count D, and the trial court noted the State did not meet its burden of proof as to count B. In his argument, respondent's counsel noted they were currently in a nine-month period. Besides that comment, no one mentioned a specific nine-month period during closing arguments. On April 4, 2014, the trial court entered a written order, finding respondent unfit on count G (failure to make reasonable progress toward the return of the child within any nine-month period after the dependency adjudication). The court's order did not define the nine-month period during which it found respondent had failed to make reasonable progress. However, the court found respondent's failure to complete individual counseling was significant and demonstrated she failed to make reasonable progress. It further found the severe beating given to T.W. by respondent demonstrates she failed to apply whatever knowledge acquired by participating in services. Last, the order also found Tyrell unfit.

¶ 17 On June 12, 2014, the trial court held the best-interest hearing. In addition to the best-interest report, the State presented the testimony of Walters, Salefski, and Williams. Respondent testified on her own behalf and presented the testimony of her father, John Dozier. The best-interest report noted T.W. had turned three in March 2014 and was healthy, active, and smart. T.W. had become a part of his foster family, and his foster parents expressed a willingness to provide permanency for him. In his foster home, T.W. was well cared for and appeared happy there. The report further noted T.W.'s foster parents were willing to work with the father of T.W.'s sister, J.L., to allow T.W. to continue to visit with J.L. As to respondent, the report noted T.W. had a positive relationship with her. However, respondent had not been able to consistently provide a safe, nurturing environment and a sense of security for T.W. Moreover, in the past, she had lacked the ability to maintain minimal parenting standards. The report recommended the termination of respondent's parental rights.

¶ 18 Walters, who had last seen respondent in August 2013, opined it was in T.W.'s best interest to remain in his foster home because respondent had not resolved her mental-health issues. Thus, Walters still had concerns for T.W.'s safety if he was in respondent's care. Salefski testified she had met with respondent weekly since February 2013 and believed it was in T.W.'s best interest to be adopted by his foster parents. Williams testified she drafted the best-interest report and added respondent had been in the hospital from May 14 to May 27 for noncompliance with medication and for being delusional. Respondent's mental-health worker stated she was "full-blown psychotic." Williams further testified respondent had been with his foster family since November 2013 and was very bonded with them. His foster parents had three biological children, and T.W. got along with them "great." He had been out of respondent's care since he was three weeks old. T.W. was more comfortable and happy with his foster parents than with respondent. In Williams' opinion, it was in T.W.'s best interest to have respondent's parental rights terminated.

¶ 19 Respondent testified she lived in an efficiency apartment, received supplemental-security income, was going to cosmetology school, and was still going to Heritage for mental-health services. Respondent recognized taking care of her mental-health needs was her first priority. Respondent also testified she tried to spend her weekly money on T.W. and J.L. Respondent did not think she needed help from others to raise T.W. She did not believe it was in T.W.'s best interest to have her parental rights terminated because she could take care of T.W.

¶ 20 Dozier described respondent as a "very good parent" and believed she had the ability to provide for her children. Dozier stated respondent loved her kids and spent her money on them. Dozier believed that, as long as she had a positive person working with her, respondent would do exactly what she was supposed to do.

¶ 21 After hearing the parties' evidence and arguments, the trial court found it was in T.W.'s best interest to terminate respondent's parental rights. The court also terminated the parental rights of Tyrell. On June 30, 2014, respondent filed a timely notice of appeal in sufficient compliance with Illinois Supreme Court Rule 303 (eff. May 30, 2008). See Ill. S. Ct. R. 660(b) (eff. Oct. 1, 2001) (providing the rules governing civil cases govern appeals from final judgments in all proceedings under the Juvenile Court Act, except for delinquency cases). Thus, this court has jurisdiction pursuant to Illinois Supreme Court Rule 304(b)(1) (eff. Feb. 26, 2010).

¶ 22 II. ANALYSIS

¶ 23 Under section 2-29(2) of the Juvenile Court Act (705 ILCS 405/2-29(2) (West 2012)), the involuntary termination of parental rights involves a two-step process. First, the State must prove by clear and convincing evidence the parent is "unfit," as that term is defined in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West Supp. 2013)). *In re Donald A.G.*, 221 Ill. 2d 234, 244, 850 N.E.2d 172, 177 (2006). If the trial court makes a finding of unfitness, then the State must prove by a preponderance of the evidence it is in the child's best interest that parental rights be terminated. *In re D.T.*, 212 Ill. 2d 347, 366, 818 N.E.2d 1214, 1228 (2004).

¶ 24 Since the trial court has the best opportunity to observe the demeanor and conduct of the parties and witnesses, it is in the best position to determine the credibility and weight of the witnesses' testimony. *In re E.S.*, 324 Ill. App. 3d 661, 667, 756 N.E.2d 422, 427 (2001). Further, in matters involving minors, the trial court receives broad discretion and great deference. *E.S.*, 324 Ill. App. 3d at 667, 756 N.E.2d at 427. Thus, a reviewing court will not disturb a trial court's unfitness find and best-interest determinations unless they are contrary to the manifest weight of the evidence. See *In re Gwynne P.*, 215 Ill. 2d 340, 354, 830 N.E.2d 508, 516-17 (2005) (fitness finding); *In re Austin W.*, 214 Ill. 2d 31, 51-52, 823 N.E.2d 572, 585 (2005) (best-

interest determination). A trial court's decision is against the manifest weight of the evidence only where the opposite conclusion is clearly apparent. *Gwynne P.*, 215 Ill. 2d at 354, 830 N.E.2d at 517.

¶ 25 A. Respondent's Fitness

¶ 26 Here, respondent initially challenges the trial court's finding her unfit by asserting the unfitness finding was against the manifest weight of the evidence. In response, the State points out numerous defects in the termination petition but asserts respondent has forfeited any argument regarding the deficiencies by failing to raise them in trial court and in her initial brief on appeal. Since respondent has not asserted any prejudice in preparing a defense due to the deficiencies in the termination petition, we agree with the State respondent has forfeited any challenge to the sufficiency of the termination petition. See *In re S.L.*, 2014 IL 115424, ¶¶ 26-27, 4 N.E.3d 50 (in finding the issue forfeited, the supreme court noted that, regarding the lack of notice of a specific nine-month period, the respondent did not indicate any specific harm, prejudice, surprise, or hindrance in the preparation of a proper defense).

¶ 27 In this case, the trial court found respondent unfit under section 1(D)(m)(ii) of the Adoption Act (750 ILCS 50/1(D)(m)(ii) (West Supp. 2013)), which provides a parent may be declared unfit if he or she fails "to make reasonable progress toward the return of the child to the parent during any 9-month period following the adjudication of \*\*\* dependent minor under Section 2-4 of that Act." Illinois courts have defined reasonable progress as "demonstrable movement toward the goal of reunification." (Internal quotation marks omitted.) *In re Reiny S.*, 374 Ill. App. 3d 1036, 1046, 871 N.E.2d 835, 844 (2007) (quoting *In re C.N.*, 196 Ill. 2d 181, 211, 752 N.E.2d 1030, 1047 (2001)). Moreover, they have explained reasonable progress as follows:

" [T]he benchmark for measuring a parent's "progress toward the return of the child" under section 1(D)(m) of the Adoption Act encompasses the parent's compliance with the service plans and the court's directives, in light of the condition which gave rise to the removal of the child, and in light of other conditions which later became known and which would prevent the court from returning custody of the child to the parent.' " *Reiny S.*, 374 Ill. App. 3d at 1046, 871 N.E.2d at 844 (quoting *C.N.*, 196 Ill. 2d at 216-17, 752 N.E.2d at 1050).

Additionally, this court has explained reasonable progress exists when a trial court "can conclude that \*\*\* the court, in the *near future*, will be able to order the child returned to parental custody. The court will be able to order the child returned to parental custody in the near future because, at that point, the parent *will have fully complied* with the directives previously given to the parent in order to regain custody of the child." (Emphases in original.) *In re L.L.S.*, 218 Ill. App. 3d 444, 461, 577 N.E.2d 1375, 1387 (1991).

¶ 28 In determining a parent's fitness based on reasonable progress, a court may only consider evidence from the relevant time period. *Reiny S.*, 374 Ill. App. 3d at 1046, 871 N.E.2d at 844 (citing *In re D.F.*, 208 Ill. 2d 223, 237-38, 802 N.E.2d 800, 809 (2003)). Courts are limited to that period "because reliance upon evidence of any subsequent time period could improperly allow a parent to circumvent her own unfitness because of a bureaucratic delay in bringing her case to trial." *Reiny S.*, 374 Ill. App. 3d at 1046, 871 N.E.2d at 844.

¶ 29 In this case, the initial nine-month period ended on March 13, 2012. However, in the trial court, the State did not specify what nine-month period or periods after that date was the

basis for its unfitness allegation based on section 1(D)(m)(ii). "[A] parent's actions for a fitness determination may be examined in light of *any* nine-month increment of time beginning following the expiration of the first nine-month period after the adjudication of neglect." (Emphasis added.) *In re Jaron Z.*, 348 Ill. App. 3d 239, 258, 810 N.E.2d 108, 123-24 (2004) (discussing the same language that was then contained in section 1(D)(m)(iii) of the Adoption Act). The statutory nine-month period for section 1(D)(m)(ii) is chosen by the State. See *In re D.C.*, 209 Ill. 2d 287, 298, 807 N.E.2d 472, 477-78 (2004) (discussing the language of section 1(D)(m)(iii) of the Adoption Act). While the subsequent nine-month period may run consecutively to the initial nine-month period (see *S.L.*, 2014 IL 115424, ¶ 5 n.2, 4 N.E.3d 50), it does not have to (see *In re J.L.*, 236 Ill. 2d 329, 332-33, 344, 924 N.E.2d 961, 963-64, 970 (2010)). Additionally, we note the trial court neither made the State define a nine-month period nor defined one itself in its unfitness order. We emphasize a nine-month period or periods should have been clearly and expressly defined in the trial court.

¶ 30 On appeal, the State cites *S.L.*, 2014 IL 115424, ¶¶ 24-25, 4 N.E.3d 50, and suggests the nine-month period for the purpose of section 1(D)(m)(ii) was any nine-month period after August 18, 2012, the date T.W. was injured. With an August 18, 2012, starting date, two different consecutive nine-month periods run before the date of the fitness hearing, *i.e.*, August 18, 2012, to May 18, 2013, and May 19, 2013, to February 19, 2013. In her initial brief, respondent does not assert a nine-month period for the unfitness finding because she relied on *In re J.P.*, 261 Ill. App. 3d 165, 175, 633 N.E.2d 27, 35 (1994), for the proposition the court should consider progress made during the entire postadjudication period. However, that case has been overruled. See *In re J.L.*, 236 Ill. 2d 329, 341, 924 N.E.2d 961, 968 (2010). Respondent did not file a reply brief, and thus the State's assertion the nine-month periods began on August 18, 2012,

remains uncontested. The August 18, 2012, date is a logical starting date because the evidence at the fitness hearing showed respondent was making reasonable progress toward the return of T.W. prior to that incident. Further, the focus of the trial court's unfitness finding was the incident and respondent's failure to complete counseling in 2013. Accordingly, we first analyze whether respondent made reasonable progress during the nine-month period of August 18, 2012, to May 18, 2013.

¶ 31 The evidence showed respondent was in jail from August 28, 2012, to January 18, 2013, more than half of the nine-month period. On January 18, 2013, pursuant to a plea bargain, respondent pleaded guilty to one count of aggravated domestic battery for knowingly causing great bodily harm to T.W. by striking him and causing external swelling and bruising, a bruised kidney, and a lacerated spleen. While evidence was presented at the fitness hearing suggesting respondent pleaded guilty to the crime even though she was not the perpetrator, the trial court expressly found in its written order respondent had severely beaten T.W. On appeal, respondent does not assert that finding by the trial court was against the manifest weight of the evidence. Thus, during the nine-month period at issue respondent beat T.W. and spent more than four months in jail for that beating.

¶ 32 Upon her release from jail, respondent had to start over with her DCFS services. Thus, according to Williams, respondent needed to find housing, obtain employment, complete a parenting class, engage in individual counseling, continue mental-health services, and comply with probation requirements. The evidence showed respondent never completed individual counseling and did not complete a parenting class until September 2013. Respondent also did not start cosmetology school until September or October 2013. Moreover, respondent still had supervised visits with T.W., and her caseworker voiced concerns about the safety of T.W. if

alone with respondent. Thus, respondent had not fully complied with all of DCFS directives by May 18, 2013.

¶ 33 For the aforementioned reasons, the trial court was never in a position to return T.W. to respondent in the near future during the period of August 18, 2012, to May 18, 2013. Accordingly, we find the trial court's unfitness finding under section 1(D)(m)(ii) of the Adoption Act was not against the manifest weight of the evidence. Because we have upheld the trial court's finding that respondent met one of the statutory definitions of an "unfit person" (750 ILCS 50/1(D)(m)(ii) (West Supp. 2013)) during an applicable nine-month period, and because meeting one definition is enough to make her an "unfit person," we need not review the second possible nine-month period under section 1(D)(m)(ii). See *In re Tiffany M.*, 353 Ill. App. 3d 883, 891, 819 N.E.2d 813, 820 (2004).

¶ 34 B. Child's Best Interest

¶ 35 Respondent also challenges the trial court's best-interest finding. The State contends the court's finding was proper.

¶ 36 During the best-interest hearing, the trial court focuses on "the child's welfare and whether termination would improve the child's future financial, social and emotional atmosphere." *In re D.M.*, 336 Ill. App. 3d 766, 772, 784 N.E.2d 304, 309 (2002). In doing so, the court considers the factors set forth in section 1-3(4.05) of the Juvenile Court Act (705 ILCS 405/1-3(4.05) (West Supp. 2013)) in the context of the child's age and developmental needs. See *In re T.A.*, 359 Ill. App. 3d 953, 959-60, 835 N.E.2d 908, 912-13 (2005). Those factors include the following: the child's physical safety and welfare; the development of the child's identity; the child's family, cultural, and religious background and ties; the child's sense of attachments, including feelings of love, being valued, and security, and taking into account the least-disruptive

placement for the child; the child's own wishes and long-term goals; the child's community ties, including church, school, and friends; the child's need for permanence, which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives; the uniqueness of every family and child; the risks attendant to entering and being in substitute care; and the wishes of the persons available to care for the child. 705 ILCS 405/1-3(4.05) (West Supp. 2013).

¶ 37 We note a parent's unfitness to have custody of her child does not automatically result in the termination of his legal relationship with the child. *In re M.F.*, 326 Ill. App. 3d 1110, 1115, 762 N.E.2d 701, 706 (2002). As stated, the State must prove by a preponderance of the evidence the termination of the respondent's parental rights is in the minor's best interest. See *D.T.*, 212 Ill. 2d at 366, 818 N.E.2d at 1228. "Proof by a preponderance of the evidence means that the fact at issue \*\*\* is rendered more likely than not." *People v. Houar*, 365 Ill. App. 3d 682, 686, 850 N.E.2d 327, 331 (2006).

¶ 38 Here, the evidence showed T.W. was over three years old and had been in foster care since he was three weeks old. He had been in his current foster home since November 2013 and had bonded with his foster family. Further, T.W.'s foster parents wanted to provide him a permanent home and were willing to foster his relationship with his biological sister. While T.W. had a relationship with respondent, she had not provided for T.W.'s safety in the past and, at times, could not maintain minimal parenting standards. Moreover, from May 14 to May 27, 2014, respondent had been hospitalized for noncompliance with medication and being delusional. Based on the aforementioned evidence, the factors of section 1-3(4.05) of the Juvenile Court Act favor the termination of respondent's parental rights.

¶ 39 Accordingly, we find the trial court's conclusion the termination of respondent's parental rights was in T.W's best interest was not against the manifest weight of the evidence.

¶ 40 C. Trial Court's June 12, 2014, Order

¶ 41 In its April 2014 fitness order, the trial court found respondent unfit only under section 1(D)(m)(ii) of the Adoption Act. However, in paragraph B of its June 12, 2014, order, the trial court stated respondent was also unfit under section 1(D)(b) of the Adoption Act. In both the transcript of the unfitness hearing and in its written order, the trial court expressly found the State failed to prove by clear and convincing evidence respondent was unfit based on section 1(D)(b) of the Adoption Act. Accordingly, we vacate the portion of the trial court's June 12, 2014, order that states respondent was unfit under section 1(D)(b) of the Adoption Act and remand the cause to the trial court for a new termination order that does not state respondent is unfit under section 1(D)(b) of the Adoption Act.

¶ 42 III. CONCLUSION

¶ 43 For the reasons stated, we affirm in part and vacate in part the Macon County circuit court's judgment and remand the cause with directions.

¶ 44 Affirmed in part and vacated in part; cause remanded with directions.

¶ 45 JUSTICE POPE, specially concurring.

¶ 46 I agree with the result the majority reaches in this case. I write separately concerning the State's failure to specify the nine-month period or periods at issue, and the State's suggestion on appeal we adopt an arbitrary date of August 18, 2012, as the start of the nine-month period for review.

¶ 47 As the majority notes, the trial court recognized the State had failed to specify the dates of the nine-month period(s) at issue. The trial court then stated, since the initial nine-month period was June 13, 2011, to March 13, 2012, "presumably" any nine-month period thereafter could be calculated. Counsel for respondent stated they were currently in "a" nine-month period. Both of these statements reflect the court and the parties were thinking in terms of sequential nine-month periods. When faced with this same issue, our supreme court calculated sequential nine-month periods, beginning with the end date of the initial nine-month period following adjudication. See *In re S.L.*, 2014 IL 115424, ¶¶ 5 n.2, 24, 4 N.E.3d 50 (determining there were four nine-month periods following the initial nine-month period after adjudication where adjudication occurred November 29, 2007, initial nine-month period would have ended on August 29, 2008, and there were four *consecutive* nine-month periods running from the end of the initial period to the date of the fitness hearing. "These four periods spanned from August 29, 2008, to August 29, 2011.")

¶ 48 In the case *sub judice*, the trial court found the minor was dependent on June 13, 2011. As the majority correctly notes, the initial nine-month period ended March 13, 2012. Thus, the first nine-month period following the initial nine-month period ran from March 13, 2012, to December 13, 2012. During this subsequent nine-month period, respondent beat T.W. severely. The trial court relied, in great part, on this evidence to find respondent had not made

reasonable progress. This finding was not against the manifest weight of the evidence. Thus, I concur with the result, but I disagree the State should be allowed to cherry-pick on appeal some random nine-month period.