

2016 IL App (2d) 151085-U
No. 2-15-1085
Order filed April 25, 2016

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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

<i>In re</i> LAKENDRA P. and NOAH P., Minors)	Appeal from the Circuit Court of Winnebago County.
)	
)	Nos. 12-JA-70
)	14-JA-146
)	
(The People of the State of Illinois, Petitioner- Appellee, v. Tami L., Respondent- Appellant).)	Honorable Mary Linn Green, Judge, Presiding.

JUSTICE SPENCE delivered the judgment of the court.
Justices McLaren and Burke concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court's findings, that respondent was unfit as to her son and that it was in her daughter's best interests to terminate her parental rights, were not against the manifest weight of the evidence. Therefore, we affirmed.

¶ 2 Respondent, Tami L., appeals from the trial court's rulings terminating her parental rights to her daughter, Lakendra P., and her son, Noah P. Regarding Noah, respondent argues that the trial court's findings, that she (1) failed to maintain a reasonable degree of interest, concern, or responsibility as to the his welfare (750 ILCS 50/1(D)(b) (West 2014)) and (2) failed to make reasonable progress towards Noah's return within any nine-month period after the neglect adjudication (750 ILCS 50/1(D)(m)(ii) (West 2014)), were against the manifest weight of the

evidence. As to Lakendra, respondent argues that the trial court erred in finding that it was in Lakendra's best interests to terminate her parental rights. We affirm.

¶ 3

I. BACKGROUND

¶ 4 Lakendra was born on August 30, 2011. Lakendra lived with respondent; her father, Kendrick P.; her half-sister, Marissa L. (born March 12, 2010), who had a different father; Kendrick P.'s son, also named Kendrick P. (Jr.)¹ (born February 23, 1997); Gloria L., who was Marissa's grandmother and mother to Kendrick P. Jr.; and two of Gloria L.'s grandchildren.

¶ 5 On March 6, 2012, the State filed a petition alleging that Lakendra was neglected in that Marissa had been sexually abused by another minor in the house, putting Lakendra at risk of harm, and because respondent had allowed her to live with adults who had extensive criminal histories and Department of Children and Family Services (DCFS) involvement due to abuse to minors. Attached documents stated that Kendrick P. Jr. had confessed to sexually abusing Marissa. Following a hearing, the trial court found probable cause to believe that Lakendra was neglected, and temporary guardianship and custody was given to DCFS.

¶ 6 Respondent's first service plan, initiated on April 20, 2012, required her to, among other things, take random "drug drops" and attend parenting classes. Respondent tested positive for marijuana on July 11 and 25, 2012. As a result, she was unsuccessfully discharged from her parenting class on July 12, 2012, but was referred for a substance abuse assessment. She did not complete a drug drop scheduled for August 7, 2013.

¶ 7 On August 22, 2012, the trial court adjudicated Lakendra to be a neglected minor based on respondent's factual stipulation.

¹ We use "Jr." only to distinguish the father and son who have the same name; the record does not indicate that it is officially part of the son's name.

¶ 8 At a dispositional hearing on January 11, 2013, the caseworker testified that respondent had not been able to resume parenting classes because she still had positive drug drops, the most recent one from the previous week. Respondent had also not taken the substance abuse assessment. She regularly attended her once-a-week, three-hour supervised visitation with Lakendra. The trial court found respondent unfit and gave guardianship and custody of Lakendra to DCFS.

¶ 9 A permanency review hearing took place on July 9, 2013. The caseworker provided the following testimony, in relevant part. Respondent had shown some efforts in services over the previous six months, but in the prior 1½ months, things had “taken a turn for the worst [*sic*].” Respondent tested positive for drugs on April 9, 2013, and missed two June drug drops. She was unsuccessfully discharged from substance abuse treatment due to non-attendance and was scheduled to be unsuccessfully discharged from individual counseling due to non-attendance. Respondent had missed two visits, though for the visits that she did attend, the children seemed happy to see her, and she behaved appropriately other than not following Marissa’s dietary restrictions. The trial court found that respondent had not made reasonable efforts during the review period.

¶ 10 The next permanency review hearing took place on January 7, 2014. The report to the court stated that respondent had struggled with housing in the previous six months and was now living with her father. She had been participating in visitation but had been leaving early because she said that she needed to get back to her father to give him medicine. She was offered counseling in August but declined because she thought it would make her look crazy, and she had said that she could not take the time for substance abuse treatment. The report further stated that it was rumored that respondent was pregnant, but she denied it to the caseworker. At the

hearing, the caseworker testified that respondent had recently indicated a willingness to participate in substance abuse treatment and individual counseling. The trial court found that respondent had not made reasonable efforts or progress.

¶ 11 Noah P. was born on April 1, 2014. The State filed a neglect petition on April 15, 2014, alleging that: he was a neglected minor in that respondent had failed to cure the conditions that brought his siblings into care; his father had an extensive history of abuse and neglect to children and had failed to cure the conditions that brought his siblings into care; and he was residing with adults who had extensive histories of abuse and neglect to children. That day, his parents stipulated to probable cause of abuse or neglect, and the trial court gave temporary guardianship and custody of Noah to DCFS.

¶ 12 A permanency review hearing for Lakendra took place on May 6, 2014. A report to the court stated that respondent had attended three counseling sessions in January and February 2014, after which her counselor left, and respondent had been assigned to a new counselor. Respondent had completed a drug assessment. She had been consistently visiting Lakendra but left early every week to give her father his medication. Respondent had denied being pregnant with Noah until the week before he was born, and she did not notify DCFS of his birth. The trial court found that respondent had made reasonable efforts but not reasonable progress.

¶ 13 On June 25, 2014, the trial court entered an order finding Noah to be neglected based on his parents' factual stipulation, and it continued Noah's guardianship and custody with DCFS.

¶ 14 Another permanency review hearing took place on July 21, 2014. The report to the court incorrectly stated that respondent had successfully completed her parenting classes in April 2014. According to the testimony, respondent had completed a substance abuse assessment, was engaged in counseling, was attending visitation, and was looking for employment. The trial

court found that respondent had made reasonable efforts and progress.

¶ 15 The next permanency review hearing for Lakendra took place on October 27, 2014. The report to the court stated that respondent had obtained a job and housing and was consistent in her visitation. It further stated that the caseworker had mistakenly believed that respondent had completed parenting classes, which she had not, so the worker would refer her to the next cycle of classes beginning in January 2015. The trial court found that respondent had made reasonable efforts and progress.

¶ 16 A permanency review hearing for Noah took place on December 9, 2014. The caseworker testified that respondent had been successfully discharged from individual therapy and was visiting Noah regularly. The trial court found that respondent had made reasonable efforts and progress.

¶ 17 A permanency review hearing for both Lakendra and Noah took place on April 14, 2015. A report to the court stated that respondent had been consistently visiting the children, with supervision, and attending parenting classes. A family meeting was held on February 25, 2015, where a transition plan was laid out for respondent to increase visits to all day. However, a review of a drug drop taken on February 19, 2015, showed that it tested positive for cocaine. Therefore, the agency was recommending a goal change to substitute care pending court determination of termination of parental rights.

¶ 18 The caseworker testified that respondent's apartment was clean and well-furnished, she was working 40 or more hours per week at Wendy's, and she was being considered for a crew chief position there. However, she had been unsuccessfully discharged from parenting classes due to the positive drug test. The drug test was done in February, but the agency did not get the results until March. Her other drug tests during the review period, including those subsequent to

the positive test, were negative. Respondent denied taking drugs and was not referred to a substance abuse screening. During the February 25, 2015, family meeting, the agency had developed a transitional return home place with the hope that the children would be placed back in the home that summer. The agency had offered to allow respondent to be involved with Lakendra's "SOC services" for behavior issues, but respondent had not taken the agency up on the offer. She also had not asked to participate in the children's medical appointments, though she had not been specifically invited to, either.

¶ 19 The trial court found that respondent had made reasonable efforts but not reasonable progress, "because everything is at a standstill based upon that positive drop." The trial court found that it was in the minors' best interest to change the permanency goal to substitute care pending court determination of termination of parental rights.

¶ 20 On May 22, 2015, the State filed motions to terminate respondent's parental rights. As to Lakendra, the State alleged that respondent was unfit in that she had: (1) failed to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare (750 ILCS 50/1(D)(b) (West 2014)); (2) failed to make reasonable efforts to correct the conditions that were the basis for the removal of the child within any nine-month period after the adjudication of neglect (750 ILCS 50/1(D)(m)(i) (West 2014)); (3) failed to make reasonable progress toward the return of the child within any nine-month period after the adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2014)); and (4) failed to protect the child from conditions in the environment injurious to her welfare (750 ILCS 50/1(D)(g) (West 2014)).

¶ 21 As to Noah, the State alleged that respondent had: (1) failed to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare (750 ILCS 50/1(D)(b) (West 2014)) and (2) failed to make reasonable progress toward the return of the child within any

nine-month period after the adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2014)), specifically from August 22, 2014, to May 22, 2015, and June 25, 2014, to March 25, 2015.

¶ 22 The fitness hearing began on August 12, 2015. The caseworker testified as follows. She had been responsible for the case since May 2014. Since that time, respondent had attended most of the visits, but she had missed some recently; at least three were excused for work, and at least three were unexcused absences. Respondent would provide snacks to the children, and she provided gifts fairly often, such as clothing, coloring books, and stickers. She did not inquire about the children's medical appointments, their developmental stages, or their educational needs. The caseworker conversely testified that respondent was aware of Lakendra's sensory issues and inquired how she was doing in general and in school, and she also asked about Noah's medical status. She attended the administrative case reviews, where they would go over the service plans. Respondent successfully completed a substance abuse assessment before the caseworker had the case, and she had completed individual therapy. She maintained employment and had been in the same housing since October 2014. In February 2015, the agency had expected to get to overnight visits within two months. She had begun parenting classes and had been completing the homework assignments but was unsuccessfully discharged due to the positive drug drop from February 2015. Respondent claimed that it was a false positive, but the caseworker verified that it was the correct test result for respondent. The caseworker had tried to contact respondent in March 2015, once by phone and once in person, to tell her that she needed to do another substance abuse assessment, but she was "not able to contact her in a timely fashion." Respondent had not had any other positive drug drops while the caseworker had been involved with the case. However, the caseworker wrote in the service plan approved on February 25, 2015, that there had been "numerous occasions where the worker

[had] scheduled a drug test and [respondent] did not receive the message.” At trial, the caseworker agreed that she did not know whether respondent received the messages, and missed drops were considered to be positive results. The caseworker had seen Kendrick P. at respondent’s house during their joint visitation with the children, which the agency had coordinated. She did not see him there other times, even during unannounced visits. However, there were men’s shoes in respondent’s home, and respondent said that they were her brother’s and her dad’s. If respondent were continuing a relationship with Kendrick P., it would be a concern for the agency because he had not completed any of his required services. However, the agency did not have clear evidence of such a relationship.

¶ 23 Respondent provided the following testimony. She had completed individual counseling. She was three weeks away from graduating from the parenting class but was unable to due to the dirty drop. Respondent had never used cocaine, and she did not know if the sample was ever retested. She had been employed at Wendy’s for over one year and had stable housing; she lived alone. Respondent had brought some papers regarding Kendrick P.’s medical condition to the court on July 15, 2015. She had run into him at her insurance agency the day before by chance, and he asked her to give the papers to his attorney; he said that he had just come from the doctor. She did not know that the papers listed his address as the same address where she was living. Respondent denied that he stayed or lived with her; rather, she did not see him unless she ran into him.

¶ 24 The trial court made its ruling on October 7, 2015. It found that the State had proven all four counts as to Lakendra and both counts as to Noah. Specifically, for Noah, the trial court found that respondent failed to maintain a reasonable degree of interest, concern, or responsibility because she did not did not attend any of his doctor’s appointments; she had not

completed parenting classes by the time the hearing was held; in February 2015, she had a drug drop that tested positive for cocaine; and she did not subsequently obtain substance abuse treatment. It also found that she had failed to make reasonable progress toward Noah's return during the relevant nine-month periods (August 22, 2014, to May 22, 2015, and June 25, 2014, to March 25, 2015) because the agency was never able to place Noah with her. Moreover, the permanency review of April 14, 2015, for the time period of August 22, 2014, to May 22, 2015, found that respondent had not made reasonable progress.

¶ 25 The trial court then proceeded to the best interests hearing. The caseworker testified as follows. Lakendra was about four years old, and Noah was about 1½ years old. At respondent's last visitation the previous month, the children displayed a positive relationship with respondent. The three-hour visit took place at respondent's home, which was fairly large, and Lakendra was able to ride her bike a little bit in one room. Most of the visit time was spent watching cartoons, though they also played puzzles. At one point, Lakendra spontaneously hugged respondent. Lakendra had a strong bond with respondent and called her " 'Mom.' " Respondent was willing to engage in services related to Lakendra's sensory issues. Respondent's relationship with Noah was playful as well, and they hugged, too. A few times, when respondent was focused on Lakendra, the caseworker had to step in to make sure that Noah did not go upstairs, where the rooms were not fully finished. The children were not upset about leaving the visit. When they returned to the foster home, Lakendra hugged her foster mother and said, " 'Mom, hi.' " Noah just wanted to be held by the foster mother.

¶ 26 The foster home consisted of Cynthia H., her husband, their two biological children, and Lakendra and Noah. They also visited with the foster parents' extended families for holidays and birthdays, and they went with the foster family on vacations. Lakendra was very attached to

Cynthia. Cynthia gave Lakendra the attention she needed and made sure Lakendra attended special doctor and therapy appointments for her sensory issues. The school was also working with Lakendra on certain issues, and Cynthia had “exceeded her recommendations as far as being able to provide for her.” The caseworker had observed spontaneous shows of affection between them, such as hugging and kissing. Lakendra’s foster father would play dolls, dress-up, and pretend cooking with her. Noah had some issues with asthma and walking, and the foster parents made sure that he attended all of his doctor’s appointments. Noah enjoyed cuddling and playing with both of his foster parents, and he also enjoyed roughhousing with his foster dad. The children were bonded to each other. Lakendra had been in the home for three years and Noah had been there since he had come into care, and it would be disruptive for them to be removed from that placement. The children seemed to view respondent as a play date and interacted with their foster parents as their care providers.

¶ 27 Cynthia provided the following testimony. She had been Lakendra’s foster mother for a little over three years, and Noah came to live with them when he was one week old. She acted as the children’s mother and provided food, shelter, and clothing. She did schoolwork with them and took them to their many therapy appointments. Lakendra attended preschool. She had sensory processing issues, which made her clumsy, and she would engage in sensory seeking activities, like chewing the pages of paper books. Therefore, she would get into things more than most kids, and she had to be monitored at all times. Noah had speech and physical therapy and was also starting to show signs of sensory processing issues. Structure was very important to both children, and they did much better if they knew what was supposed to happen throughout the day. The children liked to play with their foster father. They also had rituals and traditions, such as reading before bed and going to relatives’ homes for holidays. They called Cynthia’s

biological children, who were adults, their foster brother and sister, and they liked to Skype with them. They would visit with a three-year-old nephew of Cynthia once or twice per month, and they had other playmates.

¶ 28 Respondent testified as follows. She lived in a four bedroom, 1½-bath house. She had a close, mother-daughter relationship with Lakendra. Lakendra called her “ ‘Mom.’ ” They would play games and watch television together. Lakendra would also tell her about school and would cuddle with her. Noah was her “little cuddle buddy,” in that he liked to be held, and he also liked to hug and kiss. She and Lakendra would play games and watch cartoons with him. Respondent was told about Lakendra’s sensory issues, but she was not invited to any of her or Noah’s appointments. Respondent agreed that it was clear that Lakendra loved her foster parents.

¶ 29 The trial court found that the State had proven by at least a preponderance of the evidence that it would be in the children’s best interests to terminate respondent’s parental rights. It stated that it was obvious that the children felt affection for respondent as well as Cynthia, but they were with their foster parents all the time, and if they were removed from the only home that they could remember, it would be traumatic for them.

¶ 30 Respondent timely appealed.

¶ 31 **II. ANALYSIS**

¶ 32 The termination of parental rights is a two-step process governed by the Juvenile Court Act of 1987 (705 ILCS 405/1-1 *et seq.* (West 2014)) and the Adoption Act (750 ILCS 50/1 *et seq.* (West 2014)). *In re J.L.*, 236 Ill. 2d 329, 337 (2010). The State must first establish by clear and convincing evidence that the parent is unfit under section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2014)). *Id.* If the trial court determines that the parent is unfit, the trial

court's focus shifts from the parent's fitness to the child's best interest in the second stage of the process, the best interest hearing. *In re B.B.*, 386 Ill. App. 3d 686, 697-98 (2008).

¶ 33 A court may find a parent unfit as long as one of the statutory grounds of unfitness is proven by clear and convincing evidence. *In re P.M.C.*, 387 Ill. App. 3d 1145, 1149 (2009). We will not reverse a trial court's finding of unfitness unless it is against the manifest weight of the evidence. *In re N.T.*, 2015 IL App (1st) 142391, ¶ 26. A decision is against the manifest weight of the evidence only if the opposite conclusion is clearly evident. *In re S.K.B.*, 2015 IL App (1st) 151249, ¶ 28. In child custody cases, we afford even more deference to the trial court's ruling than under the traditional manifest-weight-of-the-evidence standard, due to the cases' delicacy and difficulty. *Id.*

¶ 34 Our supreme court has defined reasonable progress as “ ‘demonstrable movement toward the goal of reunification.’ ” *In re C.N.*, 196 Ill. 2d 181, 211 (2001) (quoting *In re J.A.*, 316 Ill. App. 3d 553, 565 (2000)). Progress towards return of the child is measured by the parent's compliance with the service plans and the court's directives, in light of both the condition which caused the child's removal and conditions that became known later and which would prevent the court from returning custody of the child to the parent. *Id.* at 216-17. We review reasonable progress using an objective standard, and reasonable progress can be found if the trial court can conclude that it can return the child to the parent in the near future. *In re A.S.*, 2014 IL App (3d) 140060, ¶ 17. In contrast to reasonable progress, reasonable efforts is related to the goal of correcting the conditions which caused the child's removal and is judged by a subjective standard of the amount of effort that is reasonable for the particular parent. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1066-67 (2006).

¶ 35 Respondent first argues that the trial court's finding that she failed to maintain a reasonable degree of interest, concern, or responsibility as to Noah's welfare was against the manifest weight of the evidence. She argues as follows. Prior to Noah being born, she had effectively failed or refused to engage in any services requested of her and had tested positive for drugs on numerous occasions. She was unemployed and had spent time homeless. However, after Noah was born on April 1, 2014, she changed dramatically and began complying with all of the services in her service plan. Specifically, between April 1, 2014, and May 1, 2014, she had completed the required substance abuse screen and was not recommended for treatment. She had re-engaged in individual counseling between May 2014 and July 2014 and was making progress towards her treatment goals. She completed the only drug test requested of her that period, which came back negative. On July 21, 2014, the trial court found that she was making reasonable efforts and progress, and on September 5, 2014, her first service plan following Noah's adjudication was rated as satisfactory progress. By October 2014, she had secured stable, full-time employment at Wendy's, and stable housing. She also visited Noah consistently and was found to be acting appropriately with him. On October 27, 2014, the trial court again found that she was making reasonable efforts and progress, and in November 2014, she was successfully discharged from individual counseling. On December 9, 2014, the trial court entered another order finding that she was making reasonable efforts and progress. From January 2015 into March 2015, she consistently attended her parenting classes and completed all of the required homework. On February 25, 2015, a family team meeting was held to develop a plan to transition Noah home, with overnight visits anticipated to occur within two months. However, test results from March 17, 2015, revealed that respondent's February 19, 2015, drug drop was positive for cocaine. As a result, she was unsuccessfully discharged from her parenting

classes, which she was about three weeks away from completing. She had three drug tests after February 19, 2015, and all were negative for any drugs. As of the date of the fitness hearing, she continued to maintain full-time employment, where she was being considered for a promotion, and continued to maintain suitable housing. She also continued to visit Noah, interacting appropriately and bringing him gifts.

¶ 36 Respondent argues that her only setback from the time of Noah's birth was a single positive drug drop. She argues that to uphold the trial court's finding that she failed to maintain a reasonable degree of interest, concern, or responsibility as to Noah's welfare would effectively allow her rights to be terminated because she used cocaine on one occasion over a 15-month period. She maintains that although cocaine is a controlled substance and its use is not condoned, considering everything that she had achieved during this case, one positive drug drop should not suffice as a basis for judicial action as sweeping and devastating as the termination of her parental rights.

¶ 37 She argues that, for the same reasons, the trial court's finding that she failed to make reasonable progress toward returning Noah to her care during the relevant nine-month periods following the adjudication was against the manifest weight of the evidence. She argues that she went from being unemployed to full-time employment, from being homeless to maintaining a large, well-furnished home, and from a lack of engagement in services to a full engagement of all services required of her. She argues that she consistently attended visits with Noah and supported him with gifts, clothing, and food, and she points out that by March 2015, the agency was preparing to transition him back to her care.

¶ 38 The State argues that the trial court properly found that respondent failed to show a reasonable degree of interest, concern, or responsibility as to N.P.'s welfare. The State argues

that respondent had a positive drug drop, and her denial of her drug use shows her failure to maintain a reasonable degree of interest in and responsibility towards Noah. The State argues that although respondent consistently visited Noah, an additional lack of interest was shown by her failure to attend his doctor's appointments and participate in services related to his developmental delays.

¶ 39 The State analogizes this case to *In re C.E.*, 406 Ill. App. 3d 97 (2010). There, the mother claimed that the trial court's finding that she failed to maintain a reasonable degree of interest, concern, or responsibility as to her children's welfare was against the manifest weight of the evidence because she had maintained a reasonable degree of interest in her children by attending all of the visits and service appointments, engaging in the clinical process, and trying to change her life. *Id.* at 109-10. The appellate court disagreed, stating that she had not attended any of the children's dental, vision, or hearing appointments even though she had been provided with bus fare; she had not attended any of their school meetings or appointments; and the evidence did not indicate that she showed reasonable concern or interest when visiting with them, in that she was not affectionate with them and could not meet their basic needs without prompting from other adults. *Id.*

¶ 40 The State argues that the trial court's finding that respondent failed to make reasonable progress towards Noah's return within a nine-month period after adjudication was also not against the manifest weight of the evidence. The State argues that there is one relevant time period, August 22, 2014, to May 22, 2015, which was covered by the permanency review on April 14, 2015, that showed no reasonable progress. The State points out that respondent missed multiple drug drops; she had a drug test that tested positive for cocaine; as a result, she was directed to complete another substance abuse assessment but failed to do so; she denied ever

using cocaine; and as a result of the failed drug test, she was dismissed from parenting classes. The State further argues that although respondent denied a relationship with Kendrick P., there was evidence making this claim suspect, such as men's shoes at respondent's house, the fact that she brought his medical documents to court after allegedly running into him by chance, and the fact that he listed respondent's address as his own address on the medical documents. Finally, the State points to evidence that respondent did not attend Noah's doctor appointments and was not involved in his intervention services.

¶ 41 We conclude that the trial court's finding that respondent had failed to make reasonable progress during the period of August 22, 2014, to May 22, 2015, was not against the manifest weight of the evidence. To be sure, respondent obtained full-time, on-going employment during this time, as well as stable housing, and we commend her for that. However, full-time employment and stable housing alone do not automatically equate to reasonable progress. For example, in *In re A.F.*, 2014 IL App. 3d 140060, ¶ 18, the appellate court affirmed the trial court's finding that the mother had failed to make reasonable progress, even though she was visiting her children and maintaining stable housing and employment. The appellate court stated that she was not successfully completing other tasks, like counseling and psychiatric sessions, she had missed several drug drops, and she continued to have a relationship with the child's father despite being informed that it could prevent her from becoming fit.

¶ 42 Here respondent tested positive for cocaine for a drug drop taken in February 2015. Although respondent argues that she should not be found unfit based on a single positive drug test, two positive drug tests are sufficient to support a finding of drug addiction as an independent ground for finding a parent unfit (*In re Angela D.*, 2012 IL App (1st) 112887, ¶ 31), so even a single positive drug test is relevant to the question of reasonable progress. Moreover,

the relevant nine-month period has to be considered in the context of the entire case (see *In re C.N.*, 196 Ill. 2d at 216-17 (progress towards the child's return is measured by the parent's compliance with the service plans and the court's directives, in light of both the condition which caused the child's removal and conditions that became known later and which would prevent the court from returning custody of the child to the parent)), and respondent had previously tested positive for drugs and received treatment. Therefore, a subsequent positive test would be highly relevant to the question of whether she was making reasonable progress for that time period or was backsliding. Indeed, while the prior positive drug tests showed the presence of marijuana, this drug test was positive for cocaine, a more potent drug. Additionally, during the specific nine-month period, respondent had missed several drug drops, and the agency considered missed drops to be positive for drugs. Further, rather than take responsibility for her drug use, respondent denied ever taking cocaine and failed to obtain a substance abuse assessment and treatment following the positive result. The positive test also caused respondent to be unsuccessfully discharged from her parenting classes. Accordingly, we cannot say that the trial court's finding that respondent failed to make reasonable progress during the relevant nine-month period was against the manifest weight of the evidence.

¶ 43 As a trial court's finding of unfitness can be sustained on a single statutory ground (*In re P.M.C.*, 387 Ill. App. 3d at 1149), we do not address respondent's challenge to the trial court's ruling that she was also unfit on the basis that she failed to maintain a reasonable degree of interest, concern, or responsibility as to Noah. See *In re Shauntae P.*, 2012 IL App (1st) 112280, ¶ 103 (appellate court did not address additional bases for which the mother was found unfit).

¶ 44 Turning to Lakendra, respondent does not challenge the trial court's finding that the State proved respondent to be unfit by clear and convincing evidence. However, she argues that the

trial court's finding that it was in Lakendra's best interests to terminate her parental rights was against the manifest weight of the evidence.

¶ 45 A trial court's ruling that a parent is unfit does not automatically mean that it is in the child's best interest to terminate parental rights. *In re B.B.*, 386 Ill. App. 3d at 698. Still, during the best interests hearing, "the parent's interest in maintaining the parent-child relationship must yield to the child's interest to live in a stable, permanent, loving home." *In re S.D.*, 2011 IL App (3d) 110184, ¶ 34. In determining a child's best interest, the trial court is required to consider the following statutory factors of the Juvenile Court Act in light of the child's age and developmental needs: (1) the child's physical safety and welfare, including food, shelter, health, and clothing; (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 attachment, including love, sense of security, sense of familiarity, continuity of affection of the child, and least disruptive placement for the child; (5) the child's wishes and goals; (6) the child's community ties, including church, school, and friends; (7) the child's need for permanence; (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 2014). The court may also consider the nature and length of the relationship that the child has with his or her present caregiver and the effect a change in placement would have on the child's emotional and psychological well-being. *In re S.K.B.*, 2015 IL App (1st) 151249, ¶ 48. The State must show by a preponderance of the evidence that termination of parental rights is in the child's best interest. *In re Curtis W., Jr.*, 2015 IL App (1st) 143860, ¶ 53. We will not disturb a trial court's determination that it is in the child's best interest to terminate parental rights unless the ruling is against the manifest weight of the evidence. *Id.* ¶ 54.

¶ 46 Respondent cites *In re C.W.*, 199 Ill. 2d 198, 216-17 (2002), where our supreme court stated that although successful completion of services will not preclude a finding of unfitness based on the conduct which led to the removal of a child, the full range of the parent's conduct can be considered during the best interests hearing. Respondent argues that her progress in services and her conduct for approximately one year before termination weigh in favor of reversing the trial court's order. She points to: her completion of her drug assessment in April 2014 with no further treatment recommendations; her full-time employment; her suitable housing; her successful discharge from individual counseling in November 2014; her full participation in parenting classes in 2015 until she was dropped due to the positive drug test; her consistent attendance at visitation and her appropriate interactions during the visits; and the fact that in February 2015 the agency was developing a plan to have overnight visitation within two months.

¶ 47 Respondent argues that the statutory best interest factors also favor her retaining her parental rights. She argues that: she has demonstrated that she is able to care for Lakendra's physical welfare (factor 1); Lakendra identifies her as "Mom" and has a strong bond with her, as shown through spontaneous displays of affection during visits and playful and positive interaction (factors 2, 3, 4); Lakendra clearly has a sense of attachment, including love, security, familiarity, and continuity of her parental relationship with respondent (factor 4); there is no evidence that Lakendra wishes to terminate the parental relationship (factor 5); respondent is able to provide permanence for Lakendra (factor 7); and based on respondent's progress in services, it is likely that Lakendra would be able to be transitioned in the near future (factor 8).

¶ 48 The State argues that although respondent made efforts in 2014 and 2015, she did not make reasonable progress, and it does not change the fact that Lakendra had been with her foster

family for years and has developed a considerable bond with them. The State argues that the testimony clearly established by a preponderance of the evidence that Lakendra had stability and love from her foster family, that she considered them to be her family, and that any disruption in the stability would be traumatic for her.

¶ 49 We conclude that the trial court's finding, that the State had proven by a preponderance of the evidence that it was in Lakendra's best interests to terminate respondent's parental rights, was not against the manifest weight of the evidence. As the trial court rightly noted, there was evidence that Lakendra felt affection for respondent. Lakendra called her "Mom," showed spontaneous physical affection for her, and enjoyed their time together. However, the caseworker described their relationship more as playmates, whereas she interacted with her foster parents as her care providers. The caseworker testified that she also called Cynthia "Mom," showed spontaneous affection towards her foster parents, considered their biological children to be her brother and sister, and were integrated with the foster parents' extended family. Cynthia testified that Lakendra needed to be constantly monitored due to her sensory issues, and the caseworker testified that Cynthia gave Lakendra the attention she needed. The caseworker also testified that Cynthia took Lakendra to her many doctor and therapy appointments and worked with the school on her issues. Lakendra was about four years old at the time of the hearing, and she had been living in that home for three years, so it was quite likely a change in placement would very negatively impact her emotional and psychological well-being. Although respondent largely focuses on her own progress on services, which can be considered during the best interests stage, the child's best interest is paramount during the best interest hearing (*In re B.B.*, 386 Ill. App. 3d at 697-98). We cannot say that the trial court's

ruling that it was in Lakendra's best interests to terminate respondent's parental rights was against the manifest weight of the evidence.

¶ 50 Last, given that we ordered supplemental briefing in this case, we have good cause for issuing our decision beyond the 150-day deadline under Illinois Supreme Court Rule 311(a)(5) (eff. Mar. 8, 2016).

¶ 51

III. CONCLUSION

¶ 52 For the reasons stated, we affirm the judgment of the Winnebago County circuit court.

¶ 53 Affirmed.