

2016 IL App (2d) 160288-U  
No. 2-16-0288  
Order filed August 22, 2016

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IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

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<i>In re</i> MONTIQUE B., a Minor	)	Appeal from the Circuit Court
	)	of Winnebago County.
	)	
	)	No. 13-JA-188
	)	
(The People of the State of Illinois, Petitioner- Appellee, v. Theresa B., Respondent- Appellant).	)	Honorable Mary Linn Green, Judge, Presiding.

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JUSTICE SPENCE delivered the judgment of the court.  
Presiding Justice Schostok and Justice McLaren 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 his best interest to terminate her parental rights, were not against the manifest weight of the evidence. Therefore, we affirmed.
- ¶ 2 Respondent, Theresa B., appeals from the trial court's rulings terminating her parental rights to her son, Montique B. Respondent argues that the trial court's findings, that she (1) failed to maintain a reasonable degree of interest, concern, or responsibility as to his welfare (750 ILCS 50/1(D)(b) (West 2014)) and (2) failed to make reasonable progress towards his 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. She also argues that the trial

court erred in finding that it was in Montique's best interest to terminate her parental rights. We affirm.

¶ 3

### I. BACKGROUND

¶ 4 Respondent has four sons: Dontaye, born on January 19, 1997; Bernard, born on August 19, 2000; London, born on July 2, 2002; and Montique, the only minor involved in this appeal, born on September 8, 2011.

¶ 5 On May 3, 2013, the State filed a petition alleging that Montique was neglected because: (1) he had no shelter and had spent at least a portion of a night outside; and (2) his environment was injurious to his welfare because respondent had not obtained stable shelter for him. At a hearing that day, there was testimony that respondent and her children were currently homeless and had spent a night outside. After being alerted of the situation, the Department of Children and Family Services (DCFS) learned that the family was not able to stay at a shelter due to the behavior of the two middle children, Bernard and London. Therefore, DCFS paid for them to stay at a hotel for one week while they looked for housing. At the end of that time, respondent still had not secured stable housing. DCFS was willing to pay for one more week at the hotel, but the hotel did not want the family to stay any longer because of Bernard's and London's behavior. The trial court found probable cause to believe that Montique was neglected, and temporary guardianship and custody was given to DCFS.

¶ 6 An adjudication hearing took place on July 24, 2013. A DCFS investigator testified that he had not been able to confirm any potential fathers of the children, and notice was published. The DCFS investigator testified regarding the initial hotline call and how two of the minors' behavior had precluded further housing aid. Respondent disputed having spent the night outside. She testified that they had gotten kicked out of a shelter and that she was calling family and

friends to try to find somewhere to stay but was unsuccessful. A woman who worked at the shelter named “Jayda” came out and walked with them to her friend’s house to sleep. On August 7, 2013, the trial court adjudicated Montique neglected, finding that the State had met its burden of proof by a preponderance of the evidence on both counts.

¶ 7 Respondent was not present for the dispositional hearing on October 1, 2013. The DCFS report to the court stated as follows, in relevant part. Respondent was still homeless and was temporarily staying with a friend. Respondent blamed her housing situation on others and did not take responsibility for her lack of housing or her children’s behavior. Respondent appeared to have a mental health issue, and she was referred to counseling. At a family meeting with the therapist, respondent could not identify any areas of concern for herself. Bernard was in a residential facility due to his many issues. The other children were in relative foster care. The trial court found that respondent was unfit and unable to properly care for the children at that time. Upon remand from this court, on January 23, 2014, the trial court provided factual findings to support the finding of unfitness. This court affirmed the trial court’s ruling on March 6, 2014. *In re Montique B., London B., Bernard B., and Dontaye B.*, 2014 IL App (2d) 131014-U.

¶ 8 The first permanency review hearing took place on April 15, 2014. The DCFS report to the court stated as follows. Respondent was very reluctant to engage in therapy and had a difficult time identifying reasons that she would benefit from counseling. The therapist, Carol Fisher, wrote a letter dated December 13, 2013, recommending a psychological assessment. The DCFS report stated that respondent blamed others for her housing situation and initially declined DCFS assistance with locating housing. She later agreed to participate in the referral process, and she was referred to the City of Rockford. Respondent had located an apartment but had still not moved due to problems with her current landlord. City of Rockford housing advocate Angie

Walker had written a letter dated February 13, 2014, stating that respondent accused her of not doing her job by not taking her out apartment hunting frequently enough, even though the advocate had done so on several occasions and had provided her with numerous housing listings. Walker stated that the last time someone from the agency took respondent out, respondent yelled at a potential landlord because he told her that five people were too many for his small two-bedroom units. Walker further stated that at a self-sufficiency class with the agency, which encouraged open dialogue, respondent talked about irrelevant things, interrupted another student, went off on a rant about DCFS, yelled at the speaker, and engaged in a nonsensical “tirade” for 10 to 15 minutes. Walker thought that respondent would benefit from a mental health assessment. The trial court found that it was in Montique’s best interests for the goal to remain return home in 12 months. It found that respondent had made reasonable efforts.

¶ 9 The next permanency review hearing took place on October 27, 2014. The DCFS report to the court stated as follows. Respondent had moved into a one-bedroom apartment in April 2014 and still resided there. She continued to look for a bigger residence for her and her children. She had successfully completed parenting classes in June 2014. She maintained weekly visits with the children, provided snacks and activities, and behaved appropriately. She had completed a psychological assessment in August 2014 with Dr. Bouchard, who recommended that she complete a psychiatric evaluation. Dr. Bouchard stated that respondent did not understand why her children came into care, and she blamed others. Dr. Bouchard labeled respondent’s judgment and insight as “very poor.” She stated that respondent had difficulty focusing and answering questions, and showed classic bi-polar disorder symptoms. The report to the court stated that respondent knew people with that diagnosis and did not feel that she was bi-polar. The trial court found that respondent had made reasonable efforts but not

reasonable progress.

¶ 10 Another permanency review hearing took place on April 27, 2015. The DCFS report to the court stated as follows. Respondent completed a mental health assessment through Rosecrance Ware on October 25, 2014, but it was determined that she did not meet the criteria for services. Fisher agreed to see her again if she completed a psychiatric evaluation, as recommended in Dr. Bouchard's psychological evaluation. Respondent was cooperative in attending the requested meeting and appointments. She had taken steps to get her GED and was on the wait list for a bigger residence. She had maintained her one-bedroom apartment for about one year. Respondent had filled out job applications and continued to receive money from Social Security. Respondent "adamantly disagree[d]" with Dr. Bouchard's findings. The trial court found that respondent had made reasonable efforts but not reasonable progress. It found that it was in Montique's best interest to change the permanency goal to substitute care pending termination of parental rights.

¶ 11 On May 28, 2015, the State filed motions to terminate respondent's parental rights as to Montique. 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)); and (2) failed to make reasonable progress towards the return of the child within certain nine-month periods after the adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2014)), specifically from August 7, 2013, to May 7, 2014, and from May 7, 2014, to February 7, 2015.

¶ 12 The fitness hearing took place on July 30, 2015, August 26, 2015, and September 25, 2015. DCFS caseworker Judy Lange provided the following testimony. She had been Montique's caseworker for about 14 months. When she became the caseworker, respondent was

to complete parenting classes, locate housing, complete a psychological evaluation, and reengage in counseling. Safe and stable housing was especially important because there had been a chronic history of housing instability and homelessness.

¶ 13 Lange identified four service plans dated October 28, 2013; April 12, 2014; November 14, 2014; and April 24, 2015. Each plan evaluated the prior six months and set goals for the next six months.

¶ 14 During the period of May 7, 2014, to February 7, 2015, DCFS had not been able to move towards increased visitation or unsupervised visits between respondent and Montique. The children came into care partially due to unstable housing, and part of the reason that there were housing issues were London's and Bernard's mental health problems. Some of their problems went untreated, such as not following through on medications. Thus, the agency was concerned about respondent's inability to interpret risky behaviors that needed intervention, as well as the instability in respondent's own behavior. Dr. Bouchard had recommended a psychiatric evaluation, but Rosecrance Ware evaluated respondent as not needing any services. DCFS tried to reengage respondent with counseling, but the therapist said that respondent first needed to become psychiatrically stable. Lange contacted Parents with Promise in an attempt to have a parenting capacity assessment completed and obtain counseling, but that group also would not accept a referral because respondent was not psychiatrically stable.

¶ 15 One example that Lange believed showed respondent's mental instability occurred during the administrative case review (ACR) at the end of May 2015 or the beginning of June 2015. Lange had previously learned that respondent had been filling out job applications for Dontaye, and Lange told her that she should not fill out any forms in Dontaye's name. A few days before the ACR, Lange learned that respondent had filled out a housing application in

Dontaye's name, reasoning that she had too many evictions in her own background. When confronted, respondent did not take responsibility and said that Lange already knew that she was filling out forms in Dontaye's name. The ACR "reviewer" had to step in but had a difficult time getting respondent to refocus, and respondent said that they were conspiring against her and that she was getting a lawyer.

¶ 16 At another meeting around the same time period, which was focused on Dontaye, the group discussed that Dontaye had been expelled from school for getting into a fight, and that he had been arrested for mob action. Respondent was convinced that Dontaye was innocent, even though Dontaye said that he had instigated the confrontation. Respondent then started talking about her hopes and dreams about becoming a singer, and about how talented Dontaye was, even though the group needed to address Dontaye's present needs. Respondent's attitude towards Dontaye put him at certain risks, and there was even more risk for Montique, who was much younger and had limited verbal skills.

¶ 17 Respondent had attended three therapy sessions with Fisher, but Fisher then indicated that respondent was not ready for talk therapy. Respondent had also done a psychological assessment with the Social Security Department to maintain her benefits, and respondent had done either a psychological or psychiatric evaluation through her insurance. DCFS had attempted to obtain the latter evaluation but had not yet received it. Respondent said that the clinic had recommended counseling services and that she was trying to schedule an appointment, but that the clinic had not followed through.

¶ 18 Respondent had weekly, two-hour visitation at the library with Montique, Dontaye, and Bernard. She consistently attended visitation and brought snacks, books, crayons, and small gifts. During one visit, she brought a nice Easter basket. However, at a visit at the end of June

2015 or beginning of July 2015, respondent was almost interrogating the children about the foster mother. Respondent had a consistent pattern of discussing the foster home and employment and housing issues. When Lange first became the caseworker in 2014, London had become consumed with helping respondent with housing, finances, and employment, and Lange had told respondent not to address such adult topics during visitation. Respondent should have been talking with the younger children about topics such as their plans, activities, sports, and behavior. Respondent did not listen when the case aides attempted to redirect her. Respondent's behavior with Montique was appropriate.

¶ 19 Respondent had located a one-bedroom apartment with the assistance of the City of Rockford in April 2014 and was still residing there. She was not able to have visits at the home because she had no furniture, a chronic problem with rodents, issues with the water in the bathroom, and a tenant who was harassing her. DCFS could assist her with moving furniture but could not help her buy furniture unless the children were in the position to return home at the time. Her current apartment was not adequate housing for the children, and she was having housing trouble even without the children living with her. The housing issue went beyond respondent's financial difficulties, as her mental health issues and inability to control her children impeded her. Lange had received confirmation at the last court date that respondent had put in applications to improve her housing situation.

¶ 20 Respondent had not been involved with any of Montique's doctor's appointments, though Lange admitted that she was not told that she could attend. Once she questioned a haircut that had left Montique's skin a little irritated.

¶ 21 Montique was living with a godparent, which was considered a relative under DCFS guidelines. The foster parent had extended invitations to gatherings like Thanksgiving and



Christmas, and it was Lange's understanding that respondent never attended. However, the foster mother was not open to regular communication because, prior to Lange taking over the case, respondent had made accusations regarding the children's care and had asked her kids to find out information about the foster mother's private life, such as who she was dating and with whom she was hanging out.

¶ 22 Respondent testified as follows. The apartment where she was currently living was not in good condition. Water leaked in the closet when it rained. There was still a rodent problem even though respondent had told the landlord and maintenance man and had tried remedying the problem herself. The maintenance man lived upstairs and harassed her. Respondent continued to live in the apartment because she wanted to show that she was stable and was trying to resolve problems. She knew that the home was not appropriate for Montique. Respondent had ended up with a one-bedroom apartment because the housing agency could not find a two or three-bedroom apartment and encouraged her to look for a one-bedroom apartment.

¶ 23 Respondent had completed the parenting classes required in her service plan. She implemented what she had learned and was using reinforcement and redirecting the kids' behavior and conversation. The children would bring up the topic of the foster mother, saying things like her children were hitting Montique, and the case aides would ask additional questions and keep the conversation going. Respondent told the children to talk about the issues with the caseworker or guardian *ad litem*. Respondent also brought up some of the issues they raised to the caseworker. She saw injuries on Montique more than five times and reported them.

¶ 24 Respondent met the foster mother at the beginning of 2013, before the children were removed, when Dontaye was dating the woman's daughter. Dontaye, who was 16 at the time, would spend the night at their house with respondent's permission. Respondent would not have

allowed Montique to spend the night there because Dontaye could communicate, whereas Montique would not have known how to take care of himself.

¶ 25 During visitation with Montique, respondent provided him with food, clothing, cards, and gifts. She would do workbooks with him, read books, and play on the computer. She would try to redirect his behavior when he was running around by telling him that they had to be quiet in the library and that the security guard could make them leave. She would also show him books. Respondent had tried to implement suggestions about her own behavior at meetings by trying to remain calm and not talk over other people. Also, if she believed that people were not acting appropriately towards her, she could talk to their bosses rather than arguing with them.

¶ 26 Respondent had a mental health evaluation done in June 2015 at the Filson Clinic. Before that, she had an evaluation in April 2015 for Social Security, which did not require any subsequent counseling. Prior to that, she had an evaluation at Rosecrance, which had recommended counseling. Respondent had gone to only two counseling sessions with Fisher, which she believed was due to a contract issue. Fisher also said that respondent needed an evaluation and something more than just her regular counseling. Respondent currently had a counseling session scheduled. Respondent had been on Social Security disability since she was 18. Social Security ended the payments after its own evaluation, but after respondent submitted Dr. Bouchard's evaluation, she began receiving payments again.

¶ 27 At the May 2015 meeting addressing Dontaye's expulsion, respondent realized that Dontaye had previously exaggerated or lied to her about what had happened. Respondent told Dontaye that he needed to focus on school. Dontaye did not listen to respondent anymore now that he was older, and respondent told him that he had to set a positive example for his brothers.

¶ 28 Respondent denied yelling at a landlord when she was looking for housing. When

respondent had first called the landlord, he began flirting with her and seemed willing to rent her the apartment. In person, he acted differently, and respondent was frustrated with the situation.

¶ 29 Respondent denied verbally attacking the speaker at the class through the housing agency. Rather, the speaker was showing off by saying that respondent's family was not helping her, and respondent corrected her by saying that her family did help her but lived far away. Everyone was talking over each other, and respondent had to speak louder just to be heard. Also, another person in the class did not like her, and she had a "back and forth talk" with her.

¶ 30 The parties stipulated that Dr. Bouchard would testify consistently with her report dated September 28, 2014, for a psychological evaluation conducted on August 19, 2014. They also stipulated that housing advocate Walker would testify consistently with her February 13, 2014, letter, and that Fisher would testify consistently with her letter dated December 30, 2013.

¶ 31 Susan Yates, a case manager for One Hope United, provided the following testimony. She supervised visitation with Montique from August 2014 to July 2015. Eight or nine months before, respondent noted some bruises on Montique's back, and Yates included that information on her report. The bruises were not significant enough for Yates to call the hotline. There was no other time that bruising was brought to Yates's attention, though Yates later agreed that Montique once had a bruise on his cheek, around the time he was learning how to walk.

¶ 32 Yates never initiated conversation about the foster placement during visitation. Respondent would talk about it during visits, and Yates would redirect her. Respondent would comply with the redirection. The minors would also bring up issues about the foster home, and respondent would ask a lot of questions and ask Yates what to do about it. Yates told her to talk to the caseworker. Respondent discussed the foster placement on multiple occasions, and the issue was significant enough that DCFS implemented a rule that respondent could not talk about

it during visits.

¶ 33 The trial court made its ruling on September 25, 2015, finding that respondent was unfit under both counts. It stated as follows, in relevant part. One of the main issues with respondent had been housing instability. She had a one-bedroom apartment for over one year which would not have been appropriate for Montique. The apartment was also not suitable for visitation because there was no furniture and it had chronic rodent and water issues, as well as another tenant harassing respondent.

¶ 34 During the time periods alleged, there was no increase in visitation with respondent and no moves towards placing Montique with her. There continued to be concerns about respondent's inability to identify risks to the minors and her mental health issues, for which Dr. Bouchard had grave concerns. DCFS wanted respondent to engage in a protective parenting assessment and individual counseling, but those could not be done until she was receiving psychiatric treatment and had stable mental health, which had not yet occurred.

¶ 35 On the subject of visitation, the case aide testified that respondent consistently brought up issues about the foster parent and had to be redirected. Lange testified that the mother conducted almost an interrogation about the foster placement, which respondent denied, but this seemed to be supported by the case aide's testimony. The case worker was more credible in her testimony that respondent kept raising the subject of the foster parent. Respondent had completed a parenting class, but the evidence showed that she had not integrated the skills into her visits.

¶ 36 As to count I specifically, respondent had an interest and concern for the children, but she needed more psychiatric care and medication. She was indicated for inadequate shelter for Montique, and she continued with inappropriate housing during the course of the case. As to count II, reasonable progress was an objective standard. During the May 7, 2014, to February 7,

2015, period, respondent was found not to have made reasonable progress, and the October 27, 2014, permanency review fell “squarely” within that time period. In the service plan dated April 12, 2014, respondent was found to have made unsatisfactory progress, which would fall with the time period of August 7, 2013, to May 7, 2014. The trial court commented that “just from the documentary evidence alone, one can see that she was found to have not made reasonable progress during those two time periods.”

¶ 37 The trial court then proceeded to the best interests hearing, and testimony was additionally heard on November 5, 2015, and December 17, 2015.

¶ 38 Lange testified as follows. Montique had just turned four. He resided in the same foster care placement since he came into care, about two years ago. The foster mother had five children of her own, who ranged in age from about 10 to 18 years old, and Bernard and Dontaye also lived there. Dontaye was 18, and his permanency goal was independence. Bernard was 14, and his permanency goal was return home. London had been in residential facility for about one year, which was the same facility that Bernard had previously attended, and his goal was return home as well.

¶ 39 Lange had seen Montique in the foster home at least monthly. Montique called the foster mother “Mama,” and they were affectionate towards each other. He seemed comfortable in the home and with the other children. Montique became current on his immunizations after being placed in the foster home, and he had no medical or developmental issues. Montique had never been removed from his foster placement due to concerns about neglect. Towards the end of July 2015, it was reported that Montique had a mark on his cheek. Montique told Lange that Bernard had accidentally scratched him. There was nothing that Lange had observed in the home that caused her concern about Montique’s safety. Montique was involved in family celebrations with

the foster family, and the entire family had participated in events like swimming, barbecues, and watching movies.

¶ 40 There was a concern that respondent would not be able to meet Montique's educational needs because her other children were significantly behind in their education. The chronic homelessness and instability resulted in them not going to school all of the time. Lange also had concerns about respondent's ability to identify potentially risky situations for Montique and her ability to recognize the importance of consistent medical appointments and treatment. There were concerns about Dontaye being returned home to respondent, even though he was 18, so the concerns with Montique were even greater. Lange believed that it was in Montique's best interests to remain with his foster mother, who was willing to adopt him.

¶ 41 Visits between respondent and Montique were initially weekly for two hours, and then it was reduced to twice per month. Lange did not personally observe the visits but relied on visitation notes. Montique had a positive relationship with respondent. They were affectionate towards each other and appeared to have a bond. Lange believed that Montique would be affected by the loss of the relationship but that being removed from his foster home would have a greater impact given the length of time that he had been there and his relationship with the foster mother.

¶ 42 Respondent denigrated the foster mother during visits, which created some disruption in the foster home. Montique had a sibling bond with Dontaye. They spent time together and goofed around. Montique had the most interaction with Bernard. London was currently in a residential facility and not living in the home, but Montique had sibling visitation with him, and they had a good relationship. Respondent knew the foster mother before the kids came into care and had identified her as a placement, so she could continue to maintain a relationship with her

even after a termination of parental rights.

¶ 43 Respondent testified as follows. She took care of Montique until the time he came into care, and she regularly took him to medical appointments. She was not aware that she could go to appointments once he was in foster care. Montique was close to all of his brothers and was especially close to Bernard. Respondent used to take the children many places like the mall and Old Country Buffet. They would celebrate holidays and birthdays. After they were taken into protective custody, respondent would still take them places, such as Chuck E. Cheese's, when she had extra money. However, it was difficult to take them anywhere because the visits were only two hours. She tried to celebrate birthdays during visits by bringing cupcakes and gifts. Respondent would also bring gifts to celebrate other holidays.

¶ 44 Respondent was receiving Social Security disability income of \$773 per month, and her rent was \$41<sup>1</sup> because it was low-income housing. She was currently receiving \$158 for food stamps, but she would receive more if the kids were returned to her. Respondent was taking GED classes, and "ServiCom" said that it could give her a job once she finished the degree.

¶ 45 Respondent was now living in a two-bedroom apartment, and her rental contract was admitted as an exhibit. She was hoping for a three-bedroom, but the wait would have been longer. Respondent had obtained a "table set" and a couch, and she had housewares. She was saving money to buy more furniture.

¶ 46 Montique enjoyed visiting respondent's family, such as her twin sister and her children. He was also happy to see respondent's grandmother. He had not seen them for a while but still enjoyed talking to them on the phone. Respondent identified letters written by her sister and grandmother on her behalf. She also identified a number of pictures of her and the children

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<sup>1</sup> Respondent did not clarify whether this was the weekly or monthly rent.

during various visitations, celebrations, and outings.

¶ 47 The foster mother testified that she had been taking care of Montique since May 1, 2013. She testified that he was a bright, fun-loving child and had become as much of a part of her family as he was part of his biological family. She just wanted whatever was best for him.

¶ 48 The trial court took judicial notice of the testimony and evidence from the fitness portion of the trial. It found that the State had proven by at least a preponderance of the evidence that it would be in Montique's best interests to terminate respondent's parental rights. It stated that Montique had been in the foster home for 2½ years, the foster mother continued to meet his daily needs, and Montique felt secure there. The home included two of his three biological siblings, whom he could see daily. His "[c]ontinuity" of affection was with the foster mother, and it was his least disruptive placement. Montique had developed and would continue to develop community ties in the foster home, and his age and developmental stage required permanency. There was no evidence that the foster mother would not allow Montique to continue to see respondent, if it was in his best interest to do so.

¶ 49 Respondent timely appealed.

¶ 50 **II. ANALYSIS**

¶ 51 On appeal, respondent argues that it was against the manifest weight of the evidence for the trial court to find that: (1) she failed to maintain a reasonable degree of interest, concern, or responsibility as to Montique's welfare; (2) she failed to make reasonable progress during the alleged time periods; and (3) it was in Montique's best interest to terminate her parental rights.

¶ 52 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).

¶ 53 Respondent's first two arguments on appeal challenge the trial court's finding that she was unfit. 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.*

¶ 54 We first address respondent's argument challenging the trial court's determination that she failed to make reasonable progress during the time periods alleged. One statutory ground of unfitness is a parent's failure to make reasonable progress towards the child's return during any nine-month period after the initial nine-month period following the adjudication of neglect. 750 ILCS 50/1(D)(m)(ii) (West 2014). 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). Reasonable efforts is not at issue here.

¶ 55 We summarize respondent's argument. At the time Montique was taken from her custody, she was considered homeless. During the period of August 7, 2013, to May 7, 2014, she was able to obtain a one-bedroom apartment, although there were sanitation concerns regarding the dwelling. She started parenting classes, and she consistently visited her children. During the period of May 7, 2014, to February 7, 2015, she completed a psychiatric evaluation with Rosecrance Ware, which determined that she did not require further services. She completed her parenting classes, continued to maintain her apartment, and continued to visit her children.

¶ 56 Respondent argues that it is clear that she made significant progress, as she went from homelessness to having a secure income<sup>2</sup> and housing. Respondent argues that much additional progress was inhibited by DCFS because it did not accept the evaluation performed by Rosecrance Ware. She asserts that DCFS wasted a great deal of time by forcing her to see other professionals "when the professionals at Rosecrance didn't make a recommendation that went a long [*sic*] with the thinking of the workers at DCFS."

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<sup>2</sup> The record indicates that respondent received Social Security disability income both before and after Montique was taken into custody.

¶ 57 We conclude that the trial court's finding that respondent had failed to make reasonable progress during from the period of August 7, 2013, to May 7, 2014, and from May 7, 2014, to February 7, 2015, was not against the manifest weight of the evidence.

¶ 58 Regarding respondent's mental health, the record reflects that Rosecrance determined that respondent did not need treatment. However, the record does not support respondent's conclusion that only DCFS workers believed that she did. Rather, respondent's initial counselor, Fisher, met with her on more than one occasion and believed that she was a poor candidate for talk therapy and needed a psychiatric evaluation. Housing advocate Walker wrote a letter stating that she believed that respondent had a mental health condition based on her interactions with her and her behavior during a self-sufficiency class. Dr. Bouchard conducted a psychological evaluation that recommended that respondent see a psychiatrist, and the record indicates that respondent used this report to support her claim for continuing Social Security disability benefits, which were therefore at least partially based on a mental health issue. Lange testified that she contacted Parents with Promise so that respondent could have a parenting capacity assessment and obtain counseling, but that group would not accept the referral because respondent was not psychiatrically stable. Thus, many individuals and entities outside of DCFS believed that respondent had mental health issues, and the record supports DCFS's attempts to have respondent participate in mental health treatment. The trial court continuously found that DCFS had made reasonable efforts throughout the case. Moreover, even though respondent's mental health issues seemed to contribute to her inability to make progress, a parent's mental deficiencies do not eliminate the requirement of making measurable progress towards the return home of the child. See *In re J.P.*, 261 Ill. App. 3d 165, 175-176 (1994); *In re Edmonds*, 85 Ill. App. 3d 229, 233-34 (1980); see also *In re Devine*, 81 Ill. App. 3d 314, 320 (1980) (a "child is

no less exposed to danger, no less dirty or hungry because his parent in unable rather than unwilling to give him care”).

¶ 59 The reason the case came into care was in large part because of respondent’s housing insecurity. During the period of August 7, 2013, to May 7, 2014, the City of Rockford was assisting respondent in finding housing. However, in Walker’s February 13, 2014, letter, she stated that respondent had accused her of not doing her job, even though Walker had taken her out on several occasions and provided her with numerous housing listings. Respondent also yelled at a potential landlord and at students and the speaker in a self-sufficiency class. The evidence shows that respondent obtained a one-bedroom apartment in April 2014, but it was not appropriate for the children to even visit, much less live, because there was no furniture, there were chronic rodent and water problems, and there was a tenant who harassed respondent. During the period of May 7, 2014, to February 7, 2015, respondent continued to reside in the apartment despite its problems, meaning that visitation could not progress. As Lange noted, respondent was having housing issues that went beyond financial difficulties even without the children living with her.

¶ 60 Regarding visitation, the evidence showed that respondent consistently attended visitation, was affectionate towards Montique, and behaved appropriately with him. She provided snacks, books, and toys, and she celebrated holidays and birthdays with him. However, the trial court further found that although respondent had completed a parenting class, she had not integrated the skills into her visits, as she repeatedly questioned the children about the foster placement after having repeatedly been told not to. There was also evidence that she discussed her own problems of housing and lack of employment rather than child-centered topics.

¶ 61 Given respondent's inability to apply the parenting skills at visitation, and, much more significantly, her failure to obtain and maintain housing that was appropriate for Montique to even visit, the trial court's finding that respondent failed to make reasonable progress during the relevant nine-month periods was not against the manifest weight of the evidence. 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 Montique. 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).

¶ 62 Respondent's last remaining argument is that the trial court's determination that it was in Montique's best interest to terminate her parental rights was against the manifest weight of the evidence.

¶ 63 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 interest 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.

¶ 64 Respondent argues that it was clear from the record that she attended all of the visits that she was offered, acted appropriately and lovingly towards Montique, and engaged in educational activities with him. She argues that Montique was bonded to her and his siblings and would be affected by not seeing her again. Respondent cites her testimony that she took care of Montique until he was taken into DCFS custody, and she described the types of activities that the family would do together and how they celebrated birthdays and holidays. She identified numerous photographs showing the family members enjoying each other's company, many of them from visitations. Respondent points out that she testified that she was living in a two-bedroom apartment at the time of the hearing and to her testimony that she would be able to provide for Montique based on her Social Security disability income and governmental assistance. She notes that Montique was living with his foster mom and seven other children, including two of his siblings, and she contends that there is nothing in the record indicating that the children had their own beds. Respondent also argues that there was evidence that Montique received bruises or

injuries in the foster parent's care. Respondent maintains that if her parental rights are terminated, there is no guarantee that Montique will ever see her again.

¶ 65 We conclude that the trial court's finding, that the State had proven by a preponderance of the evidence that it was in Montique's best interests to terminate respondent's parental rights, was not against the manifest weight of the evidence. As the trial court stated in its findings, Montique had been in the foster home for 2½ years, the foster mother met his daily needs, and Montique felt secure there. Moreover, it is undisputed that Montique had a bond with his biological siblings, and two of them lived in the foster home with him. The evidence showed that Montique became current on his immunizations only after being placed in the foster home, and that Lange was concerned that respondent was not able to recognize the importance of consistent medical appointments and treatment. Further, while Montique's siblings were significantly behind in their education due to homelessness and instability, Montique was developmentally on target.

¶ 66 As for respondent's argument that there was no evidence that the children had their own beds in foster care, there was also no evidence that they did not have their own beds. Lange visited Montique in the home monthly and found it to be appropriate. In contrast, Montique could not even visit respondent when she was in her one-bedroom apartment, and respondent was still in the process of obtaining furniture for her two-bedroom apartment. On the subject of bruises, Yates testified that respondent once noticed some bruises on Montique's back, and that Montique once had a bruise on his cheek, when he was learning to walk. She testified that the bruises were not significant. Lange testified that Montique had never been removed from the foster home due to concerns about neglect. She also testified that once Montique had a mark on his cheek, and he reported that Bernard had accidentally scratched him. Accordingly, the record

does not reflect any meaningful concerns about Montique's physical treatment in the foster home. Finally, as for a continued relationship with Montique, respondent had suggested the foster mother as a placement, and there was no evidence that she would not allow Montique to continue to see respondent, if it was in his best interest to do so.

¶ 67

### III. CONCLUSION

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

¶ 69 Affirmed.