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FILED

May 5, 2017
Carla Bender
4th District Appellate
Court, IL

2017 IL App (4th) 160931-U

NOS. 4-16-0931, 4-16-0933, 4-16-0934 cons.

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: C.L., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Champaign County
v. (No. 4-16-0933))	No. 13JA69
COURTNEY LINDSEY,)	
Respondent-Appellant.)	
-----)	
In re: C.L., a Minor,)	No. 13JA69
THE PEOPLE OF THE STATE OF ILLINOIS,)	
Petitioner-Appellee,)	
v. (No. 4-16-0934))	
MELISSA CARTER,)	
Respondent-Appellant.)	
-----)	
In re: Ju. L. and Jo. L., Minors,)	No. 14JA62
THE PEOPLE OF THE STATE OF ILLINOIS,)	
Petitioner-Appellee,)	
v. (No. 4-16-0931))	Honorable
COURTNEY LINDSEY,)	John R. Kennedy,
Respondent-Appellant.)	Judge Presiding.

JUSTICE HOLDER WHITE delivered the judgment of the court.
Presiding Justice Turner and Justice Knecht concurred in the judgment.

ORDER

- ¶ 1 *Held:* The appellate court affirmed, concluding the trial court's fitness and best-interest findings were not against the manifest weight of the evidence.
- ¶ 2 In March 2016, the State filed a motion to terminate the parental rights of respondents, Courtney Lindsey and Melissa Carter, with respect to their child, C.L. (born October 4, 2013). In June 2016, the State filed a motion to terminate Lindsey's parental rights

with respect to Ju. L. (born May 19, 2008) and Jo. L. (born August 19, 2009). The mother of Ju. L. and Jo. L. is not a party to this appeal. In October 2016, the trial court found respondents unfit. Following a December 2016 best-interest hearing, the court terminated respondents' parental rights.

¶ 3 Respondents appeal, asserting the trial court's fitness and best-interest findings were against the manifest weight of the evidence. We affirm.

¶ 4 I. BACKGROUND

¶ 5 Because the substantive and procedural history for C.L.'s case is different from that of Ju. L. and Jo. L., we address their backgrounds separately.

¶ 6 A. C.L.'s Case (Nos. 4-16-0933, 4-16-0944)

¶ 7 In December 2013, the State filed a petition for adjudication of neglect, alleging C.L. was neglected due to an injurious environment where (1) Lindsey and/or Carter subjected him to domestic violence, substance abuse, and Carter's mental illness; and (2) Lindsey had failed to correct the conditions which led to him being adjudicated unfit to parent C.L.'s half-siblings, Ju. L. and Jo.L, in Champaign County case No. 09-JA-41. 705 ILCS 405/2-3(1)(b) (West 2012). The Department of Children and Family Services (DCFS) became involved when Carter was admitted to the emergency room after a suicide attempt that followed a physical altercation with Lindsey in C.L.'s presence.

¶ 8 In March 2014, the trial court entered an adjudicatory order finding C.L. was in an environment injurious to his welfare. Following a dispositional hearing the next month, the court adjudicated C.L. neglected, made C.L. a ward of the court, and placed guardianship with DCFS. The court thereafter found Lindsey unfit and unable to care for C.L. due, in part, to

Lindsey's recent incarceration for an unrelated drug offense. However, the court found Carter was fit, willing, and able to exercise custody of C.L., and it therefore placed custody with Carter.

¶ 9 In September 2014, the State filed a motion to declare Carter unfit to parent C.L. after she was arrested on outstanding warrants, at which time DCFS learned Carter was not taking sufficient care of C.L. Later that month, the trial court granted the State's request for shelter care and removed custody of C.L. from Carter. Following a new dispositional hearing in October 2014, the court found Carter unable to parent C.L. and granted custody to DCFS.

¶ 10 In March 2016, the State filed a motion to terminate the parental rights of both Lindsey and Carter. Count I alleged Lindsey failed to make reasonable efforts to correct the conditions that resulted in C.L. being taken into custody within the first nine months—March 14, 2014, through December 14, 2014—following the adjudication of neglect. 750 ILCS 50/1(D)(m)(i) (West 2014). Count II alleged Lindsey failed to make reasonable progress toward the return home of C.L. during the initial nine-month period—March 14, 2014, through December 14, 2014—following the adjudication of neglect. 750 ILCS 50/1(D)(m)(ii) (West 2014). Count III alleged Carter failed to make reasonable progress toward the return home of C.L. during the nine-month period from January 26, 2015, through October 26, 2015. *Id.* Count IV alleged both Carter and Lindsey failed to demonstrate a reasonable degree of interest, concern, or responsibility for C.L. 750 ILCS 50/1(D)(b) (West 2014).

¶ 11 *1. Fitness Hearing*

¶ 12 The fitness hearing commenced in August 2016, where the trial court considered the following evidence.

¶ 13 a. Tracy Hewitt

¶ 14 Tracy Hewitt, a child welfare senior specialist for DCFS, testified she was C.L.'s caseworker from May 2014 through November 2014. Lindsey was incarcerated throughout her tenure as a caseworker. Hewitt sent letters to Lindsey requesting a release of information and recommending services for him to complete. According to Hewitt, she received no response from Lindsey.

¶ 15 b. Dominique Kinnie

¶ 16 Dominique Kinnie was previously employed by Cunningham Children's Home and the Center for Youth and Family Solutions, where she served as the family's caseworker from June 2014 through April 2016 with respect to C.L.'s case. Kinnie testified Carter participated in services inconsistently, and Carter's move to the Des Plaines, Illinois, area in August 2015 complicated Kinnie's ability to find the necessary services. Carter would return to the Champaign area for services as often as possible. However, because of the distance, Carter's participation in services and visits was inconsistent, as was her contact with Kinnie. Kinnie noted Carter lacked parenting abilities during visitations, and Kinnie believed unsupervised visitation would compromise C.L.'s safety. Although Carter's skills improved over time, Kinnie did not believe her progress was such that unsupervised visitation was appropriate. Due to Carter's inconsistency, Kinnie was unable to plan for C.L.'s return home.

¶ 17 As to Lindsey, Kinnie testified he was inconsistent regarding his participation in services. Specifically, Kinnie said Lindsey had difficulty getting excused from work to attend domestic-violence and individual counseling. He was eventually discharged unsuccessfully from individual therapy for his failure to attend.

¶ 18 Kinnie noted Lindsey attended almost every visit after his release from prison, but his attendance dwindled during the period of time when he moved out of town. According to

Kinnie, C.L. and Lindsey were bonded, and Lindsey tended to C.L.'s needs during visits. There were no safety concerns with respect to Lindsey's visits with C.L. However, Kinnie testified Lindsey lacked adequate housing for C.L. Kinnie testified she could never recommend unsupervised visitation for Lindsey because he was inconsistent with his service plan progress.

¶ 19 c. Tammy Roedl

¶ 20 Tammie Roedl, the associate director for foster care at Cunningham Children's Home, testified she had been the family's case supervisor for the past two years. According to Roedl, Lindsey and Carter had been regularly participating in visits. Since April 2016, neither Lindsey nor Carter had missed any visits with C.L. Both parents brought appropriate toys and supplies to the visits.

¶ 21 From October 2015 to February or March 2016, Carter moved to Des Plaines, Illinois, to seek employment and was unable to participate in services. Because she was not participating in services, Carter was unable to obtain the psychiatric medication she required for her mental health. During that time, she also missed numerous visits due to her work schedule. Although Carter had finally obtained stable housing, this had only occurred recently. There were also a few instances where Carter failed to meet with her therapist, failed to take her medication, and made concerning statements.

¶ 22 According to Roedl, Lindsey participated in services and visitation, though there was a delay when he briefly moved from the area around February or March 2016. Roedl agreed Lindsey and C.L. appeared to have bonded with one another. Lindsey completed parenting classes, a substance-abuse assessment, and counseling at Cognition Works. The only service he needed to complete was individual counseling. Lindsey lived with family and friends.

¶ 23 d. Dr. Judy Osgood

¶ 24 Dr. Judy Osgood, a licensed clinical psychologist, testified she performed a parenting-capacity assessment on Carter in February 2016 with respect to C.L.'s case. Dr. Osgood noted that parents diagnosed with bipolar disorder, like Carter, exhibit physical aggression, extreme irritability, and loss of control, all of which could be regulated with medication. If left untreated, however, a parent with bipolar disorder would have a limited ability to respond appropriately to a child. Because Carter was pregnant at the time she met with Dr. Osgood (a child not subject to this appeal), she was not on any medication to regulate her bipolar disorder. According to Dr. Osgood, Carter admitted to self-medicating with marijuana prior to her pregnancy rather than remaining in compliance with her medication. Dr. Osgood expressed concerns over Carter's reported bouts of severe depression, her lack of psychological stability, and her lack of a support system. Dr. Osgood noted Carter minimized her threats to commit self-harm while in C.L.'s presence, which was part of the domestic-violence incident which led to C.L.'s removal from the home. Moreover, Dr. Osgood testified Carter minimized her substance-abuse problem and admitted using marijuana after C.L. was removed from the home to self-medicate when she was depressed.

¶ 25 Dr. Osgood opined Carter would need to take her medication, engage in mental-health counseling, and demonstrate long-term compliance with her treatment before she could properly parent a child. Further, Carter would need to develop and implement lifestyle changes to promote stability. If Carter stopped her medication or counseling, Dr. Osgood opined she would pose a danger to C.L.

¶ 26 e. Ethan Hawkes

¶ 27 Edwin Hawkes, a case manager at Rosencrance, testified he assisted Carter with mental-health services beginning in fall 2012. Overall, he found Carter cooperative with

services. Hawkes said Carter regularly attended meetings with him, which were scheduled for two to four times a month. At their initial meetings, Hawkes described Carter as unstable but, as the years progressed, she received a rent subsidy, rented an apartment, and obtained employment. To the best of his knowledge, since giving birth in summer 2016, Carter had been regularly receiving psychotropic services.

¶ 28 f. Robin Gill

¶ 29 Robin Gill, Carter's sister, testified she regularly observed visits between Carter and C.L. between September 2014 and October 2015, as Gill was C.L.'s foster mother at that time. Gill testified Carter consistently attended visits, provided diapers and other necessary items, and remained in constant contact with Gill regarding C.L.'s well-being.

¶ 30 g. Melissa Carter

¶ 31 Carter testified about her progress in C.L.'s case. Carter said she had completed parenting classes, domestic-violence counseling, and individual counseling. As a result of these services, Carter stated she was using the skills from her domestic-violence and parenting classes to redirect C.L.'s behaviors. She had also been submitting clean drug screens and had maintained her sobriety for two years. During this time, Carter's living situation also became more stable. She received rent assistance that allowed her to enter into a one-year lease on her apartment, and she had been employed full-time since January 2016. According to respondent, she had been involved in mental-health services at Rosencrance since June 2, 2016, and began taking prescription medication to address her bipolar disorder and anxiety shortly after giving birth. She was also taking medication for her mental health prior to her pregnancy.

¶ 32 Carter moved to Des Plaines for a period of time, but she moved back in January 2016. While in Des Plaines, Carter's caseworker was unable to arrange services due to long

waiting lists and scarce resources in the area. However, Carter testified she reengaged in mental-health treatment following the birth of her baby. As a result of her participation in services and maintaining stability, Carter believed she had corrected the conditions that caused C.L. to be removed from her care.

¶ 33 h. The Trial Court's Findings

¶ 34 As to C.L., the trial court found the State had met its burden of demonstrating Lindsey failed to make reasonable (1) efforts to correct the conditions that caused C.L. to be taken into custody and (2) progress toward the return home of C.L. within the initial nine-month period following the adjudication of neglect—March 14, 2014, through December 14, 2014. Further, the court found Carter failed to demonstrate reasonable progress during the nine-month period from January 26, 2015, through October 26, 2015.

¶ 35 2. *Best-Interest Hearing*

¶ 36 In December 2016, the trial court held a best-interest hearing. The parties presented no testimony, but the court took judicial notice of the best-interest report. The best-interest report in C.L.'s case indicated C.L. appeared to be well-adjusted and comfortable with his foster family. However, while at day care, C.L. would exhibit aggressive tendencies, such as kicking and throwing items. He would also engage in self-harm, such as biting himself or hitting his head when frustrated. This behavior would also occur after visits with his parents. The caseworker attributed this to C.L. being subjected to unstable caregivers within his first two years of life. C.L. had bonded with his foster family, and they were willing to provide an adoptive home. The report outlined its concern for C.L.'s mental health if his situation lacked permanence. To take him from his current caregiver could lead to irreparable trauma.

¶ 37 The best-interest report noted Carter obtained stable housing for the next year, but this followed a significant period of instability, including periods of homelessness. Carter was working a full-time and a part-time job. The report stated Carter was making progress with her psychiatric counseling; however, Carter continued to deny she had bipolar disorder and did not think the medication helped her, despite evidence to the contrary.

¶ 38 Lindsey had stable housing with his roommate of four years. He was currently unemployed, with the majority of his previous employment being side jobs and temporary employment. A brief move to Mississippi interrupted his progress in services at the beginning of 2016. Since August 2016, Lindsey regularly attended and actively participated in individual counseling, even though he did not believe he needed it. Lindsey completed his parenting class, though the final report suggested Lindsey had maladaptive thinking processes that could affect his parenting ability. Additionally, Lindsey successfully completed domestic-violence counseling, though the caseworker expressed concern over Lindsey and Carter continuing their volatile relationship. Although Lindsey obtained a substance-abuse assessment that required no further treatment, he tested positive for cocaine in October 2016 and got into an accident in March 2016 that was possibly alcohol-related.

¶ 39 Following arguments by the parties, the court found the physical safety and welfare of C.L. was better served by his current foster placement, whereas Lindsey's ability to provide adequate food, shelter, housing, and clothing was more doubtful. The court also found C.L.'s identity was being developed in his current home. Moreover, the court considered C.L.'s sense of attachment to his foster family and need for permanence in determining the least disruptive placement was to terminate respondents' parental rights. The court also gave weight to Roedl's statement that removing C.L. from his current placement to live with either

respondent, with whom he has not lived for a significant period of time, might be detrimental to C.L.'s mental health. The court found it was not in C.L.'s best interest to delay his opportunity for stability. Therefore, the court terminated the parental rights of both Carter and Lindsey as to C.L.

¶ 40 B. Ju. L.'s and Jo. L.'s Cases (No. 4-16-0931)

¶ 41 In September 2014, the State filed a petition for adjudication of neglect and for shelter care, alleging Ju. L. and Jo. L. were neglected in that they were subjected to an injurious environment due to (1) Lindsey's failure to correct the condition which led to the prior adjudication of unfitness to exercise custody or guardianship of the children; (2) their mother, Regina Wilson, having a history of mental illness; and (3) Wilson subjecting them to domestic violence. 705 ILCS 405/2-3(1)(b) (West 2012). At the time, Lindsey was incarcerated at Vandalia Correctional Center, where he remained until November 2014. DCFS sought shelter care when Wilson was arrested and incarcerated in the Champaign County correctional center after battering her sister in front of the children, then attempting to elude police by abandoning the children during the police pursuit. Later that month, the trial court granted the motion for shelter care.

¶ 42 In November 2014, the trial court entered an adjudicatory order finding the children were subjected to an injurious environment. Following a dispositional hearing the next month, the court found Lindsey unfit, unwilling, and unable to parent the children. The court also found Wilson unfit and unable to parent the children. The court thereafter made the children wards of the court and granted custody and guardianship to DCFS.

¶ 43 In June 2016, the State filed a petition to terminate Lindsey's parental rights as to Ju. L. and Jo. L. The petition alleged Lindsey was unfit for failing to (1) demonstrate a

reasonable degree of interest, concern, or responsibility for the children's welfare (750 ILCS 50/1(D)(b) (West 2014)); (2) make reasonable efforts to correct the conditions that were the basis of the children's removal during any nine-month period following adjudication, specifically, November 5, 2014, through August 5, 2015 (750 ILCS 50/1(D)(m)(i) (West 2014)); (3) make reasonable progress toward the return home of the children during any nine-month period, specifically, November 5, 2014, through August 5, 2015 (750 ILCS 50/1(D)(m)(ii) (West 2014)); and (4) make reasonable progress toward the return home of the children during any nine-month period, specifically, September 5, 2015, through June 5, 2016 (*id.*).

¶ 44 *1. Fitness Hearing*

¶ 45 In September 2016, the case proceeded to a fitness hearing. Because Wilson is not a party to this appeal, we outline only the evidence pertaining to Lindsey. The court took judicial notice of the file in Champaign County case No. 14-JA-62 (the present case) and in Champaign County case No. 09-JA-41, a closed case that involved the same children and where Lindsey was found unfit.

¶ 46 *a. Johniesha Deberry*

¶ 47 Johniesha Deberry, a former caseworker for the Children's Home and Aid Society, testified she was the family's caseworker from the beginning of the case until May 2016. Deberry assessed Lindsey for services in November 2014 and determined he needed parenting classes, domestic-violence counseling, a substance-abuse assessment, and mental-health services. According to Deberry, Lindsey participated in all of the recommended services. However, in March 2016, Lindsey stopped attending individual counseling. Notably, this was voluntary counseling. After his termination from the program, Deberry referred Lindsey for a subsequent substance-abuse assessment, and the results indicated he did not need further treatment. Deberry

noted only one instance where she smelled marijuana on Lindsey, and his drug test returned as diluted.

¶ 48 During the case, Lindsey had supervised visits with the children, which went "very well." He maintained interest in the children throughout the case and provided appropriate parenting. The children were very bonded to Lindsey. Lindsey progressed to unsupervised day visits, but sufficient housing and unemployment remained an ongoing problem. Starting in March 2016, Lindsey's visits became more inconsistent, with him cancelling several of his scheduled visits due, in part, to transportation issues. The transportation issues resulted from Lindsey needing to travel to Decatur for the visits. Although the housing was appropriate for the children, Lindsey's roommate was not interested in having the children returned to the home they shared, nor was he willing to participate in any services.

¶ 49 b. Kristin Kaufman

¶ 50 Kristin Kaufman testified she was the program supervisor at the Children's Home and Aid Society, and she was the supervisor of Lindsey's case until September 2016. Kaufman stated there was no period of time in which she could recommend the children return home. The biggest concern with Lindsey was stable housing—which included a cooperative roommate—and obtaining employment that would allow him to support the children. Kaufman was also concerned about his alcohol use following a March 2016 car accident. According to Kaufman, Lindsey still needed to complete individual counseling. Kaufman also acknowledged individual counseling was not made available to Lindsey until a few weeks prior to the fitness hearing.

¶ 51 c. Krista Eiskamp

¶ 52 Krista Eiskamp, a case aid for the Children's Home and Aid Society, supervised more than 12 of Lindsey's visits with the children from April to August 2015. While Lindsey

had supervised visits, Eiskamp provided transportation. However, once Lindsey received unsupervised visits, he was responsible for obtaining his own transportation to visit the children in Decatur. According to Eiskamp, Lindsey was appropriate with the children and never needed his parenting corrected. He fed, played with, and read with the children. The children were happy to see him and he engaged with them throughout the visit. The children and Lindsey showed affection for one another.

¶ 53 d. Conrad Hayes

¶ 54 Conrad Hayes, a group facilitator for Cognition Works, testified Lindsey attended a parenting education group, which he completed in July 2015. Lindsey's participation was minimal to moderate. Lindsey also participated in and completed a 26-week domestic-violence program. Hayes evaluated Lindsey's participation as moderate because it was unclear whether he had a full understanding of the concepts or would implement them in his daily life. Hayes expressed concern that Lindsey would not take responsibility for his actions but, rather, blamed others for his actions.

¶ 55 e. Officer Dillon Holloway

¶ 56 Officer Dillon Holloway of the Champaign police department testified that on March 14, 2016, he responded to an accident where Lindsey crashed his vehicle into a building. Lindsey told Officer Holloway he lost control of his vehicle when turning a corner. Officer Holloway observed Lindsey to have facial injuries from the accident, as evidenced by large lacerations across his forehead, a swollen nose, and blood on Lindsey's face. Lindsey was swaying and stumbling when he walked and his speech was slurred. However, Officer Holloway did not detect the odor of alcohol on Lindsey's person. At the scene, Lindsey denied consuming any alcohol or illegal drugs. However, while Lindsey was undergoing medical treatment, Officer

Holloway overheard him telling nurses that he was intoxicated. Lindsey admitted to Officer Holloway that he consumed alcohol but denied being intoxicated. By this time, Officer Holloway observed Lindsey's face was so swollen that it became difficult to understand him. Lindsey refused any urine or blood tests to determine whether he had alcohol in his system.

¶ 57 f. Courtney Lindsey

¶ 58 Lindsey testified regarding his progress on the service plan. Lindsey explained he had difficulty with active participation in his group counseling sessions because he was shy. He would "doodle" during classes as a way of calming himself, but his attention remained on the group. He also admitted difficulty reading and understanding those who used an extensive vocabulary. Although he was initially intimidated by his groups, he would "open up" more as the groups progressed. According to Lindsey, he incorporated lessons from his group sessions into his daily decision-making process. For example, he learned that while he can't control other people, he can control himself and his reaction to the circumstances around him. If a child misbehaved, he would correct the child's behavior without yelling or resorting to corporal punishment. Lindsey was currently in individual counseling, as recently recommended by his caseworker, which he had been attending for approximately three weeks prior to the fitness hearing.

¶ 59 Lindsey described his relationship with his children positively, and he noted the most difficult part of the visits was leaving. Once unsupervised visits began, Lindsey struggled to find transportation to Decatur during a time when his caseworker could not provide any assistance. With respect to his housing, Lindsey stated the issue was the fact that he was not on the lease and his roommate, when he was in certain moods, did not want Lindsey's children in

the home. Lindsey indicated his caseworkers failed to assist him in finding a new home, and they also initially neglected to explain that he needed employment to receive housing assistance.

¶ 60 g. Eddreana Lindsey

¶ 61 Eddreana Lindsey, Courtney Lindsey's sister, testified she has had custody of Jo. L. and Ju. L. for the past two years. She was the third-party supervisor for Lindsey's visits with the children. Eddreana testified the children would "light up" when they saw Lindsey and would look forward to and plan the visits. According to Eddreana, the children would do art projects or play sports with Lindsey. Lindsey would show them his drawings and explain how to sketch or draw certain items, and he would devote every moment of the visit to the children. He would bring dresses, art supplies, bubbles, and other items for the children. Eddreana expressed no concerns about the children's safety with Lindsey. Lindsey maintained contact with Eddreana and checked on the children. If he ever needed to cancel a visit, he called Eddreana ahead of time to let her know. Although procuring rides to Decatur caused some initial difficulty, once Lindsey's caseworker found a way to provide bus tickets, he participated in every scheduled visit.

¶ 62 Eddreana noticed changes in Lindsey's demeanor over time, including learning to listen more, being less stubborn, and generally exhibiting more mature behavior. He also had a positive attitude. Eddreana believed Lindsey was ready to parent the children on his own. She also expressed a willingness to coparent with Lindsey if necessary.

¶ 63 h. The Trial Court's Fitness Finding

¶ 64 As to Ju. L. and Jo.L, the trial court found Lindsey failed to make reasonable efforts to correct the conditions that were the basis for the children's removal and reasonable progress toward reunification during the period of November 5, 2014, through August 5, 2015.

The court also found Lindsey failed to make reasonable progress from September 5, 2015, through June 5, 2016, due to the car accident impeding his ability to have custody returned.

¶ 65

2. Best-Interest Hearing

¶ 66

In December 2016, the trial court held a best-interest hearing. The parties presented no testimony, but the court took judicial notice of the best-interest report.

¶ 67

According to the best-interest report, Ju. L. and Jo. L. had been living with Eddreana for the past two years. She provided them with a stable and loving home and expressed a willingness to adopt. The children appeared to trust Eddreana and felt secure in the home. The children were current with their medical and dental exams and were attending school. The caseworker also pointed out Eddreana intended to maintain the children's relationship with their biological parents in the event their rights were terminated.

¶ 68

The caseworker expressed concern that Lindsey consistently paid rent on the apartment he shared with his roommate, yet had no source of reported income. Lindsey visited the children regularly and participated in recommended services.

¶ 69

After considering the report, the trial court recognized Lindsey had successfully completed the recommended services and established a close relationship with the children. However, the court was troubled by Lindsey's inability to provide a stable home, whereas Eddreana had the ability to provide immediate permanence for the children. Lindsey had been unable to provide permanence in the past, and the court found the evidence did not support a finding that Lindsey could provide permanence in the foreseeable future. The court also noted Lindsey would still be in a position to continue his relationship with the children despite his parental rights being terminated because Eddreana was his sister and supported his role in the

children's lives. Accordingly, the court terminated Lindsey's parental rights as to Ju. L. and Jo. L.

¶ 70 This appeal followed. We have docketed Lindsey's and Carter's cases as they relate to C.L. as Nos. 4-16-0933 and 4-16-0934, respectively. Lindsey's case as it relates to Ju. L. and Jo. L. is docketed as No. 4-16-0931. We have consolidated these cases for review.

¶ 71 II. ANALYSIS

¶ 72 On appeal, respondents assert the trial court's adjudicatory and dispositional findings were against the manifest weight of the evidence. We address these assertions in turn.

¶ 73 A. The Trial Court's Fitness Findings

¶ 74 The State has the burden of proving parental unfitness by clear and convincing evidence. *In re Jordan V.*, 347 Ill. App. 3d 1057, 1067, 808 N.E.2d 596, 604 (2004). A reviewing court will not overturn the trial court's finding of unfitness unless it is against the manifest weight of the evidence. *Id.* "A decision is against the manifest weight of the evidence only if the facts clearly demonstrate that the court should have reached the opposite result." *In re Jay. H.*, 395 Ill. App. 3d 1063, 1071, 918 N.E.2d 284, 291 (2009). The court's decision is given great deference due to "its superior opportunity to observe the witnesses and evaluate their credibility." *Jordan V.*, 347 Ill. App. 3d at 1067, 808 N.E.2d at 604.

¶ 75 "Reasonable progress" is "an objective standard measured from the conditions existing at the time custody was taken from the parent." *In re A.S.*, 2014 IL App (3d) 140060, ¶ 17, 14 N.E.3d 26. When the petition alleges a parent failed to make reasonable progress in the initial nine months following adjudication, the calculation of that period begins from the date of an adjudication of neglect. *In re D.F.*, 208 Ill. 2d 223, 242, 802 N.E.2d 800, 811 (2003). To establish reasonable progress, the trial court must find some "measurable or demonstrable

movement toward the goal of return of the child." *In re M.S.*, 210 Ill. App. 3d 1085, 1093, 569 N.E.2d 1282, 1287 (1991). In measuring the parent's progress, the court should consider "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 become known and which would prevent the court from returning custody of the child to the parent." *In re C.N.*, 196 Ill. 2d 181, 216-17, 752 N.E.2d 1030, 1050 (2001). A parent demonstrates reasonable progress when the court finds it would be able to return the child to the parent's custody in the near future. *A.S.*, 2014 IL App (3d) 140060, ¶ 17, 14 N.E.3d 26.

¶ 76 We first address the trial court's findings related to C.L.

¶ 77 1. *The Trial Court's Fitness Finding Regarding C.L.*

¶ 78 a. Carter

¶ 79 The trial court found Carter unfit after she failed to demonstrate reasonable progress during the nine-month period from January 26, 2015, through October 26, 2015.

¶ 80 During this period, Carter was participating in services, but she had yet to obtain stable housing. Her continued inability to recognize and appreciate the seriousness of her mental illness despite receiving counseling and medication constituted a significant barrier to her progress. Moreover, when Carter was not taking her medication, she admitted self-medicating with marijuana. At visits, Carter appeared to have difficulty implementing her parenting skills to the extent her caseworker could not recommend further progression to unsupervised visitation. Despite her need for ongoing services, at the end of this nine-month period, Carter opted to accept employment in Des Plaines, Illinois, which severely hindered her ability to continue with the recommended services. This evidence does not support a finding of reasonable progress such that C.L. could be returned to Carter's custody in the near future.

¶ 81 Accordingly, we conclude the trial court's fitness finding as to Carter was not against the manifest weight of the evidence.

¶ 82 b. Lindsey

¶ 83 The trial court found Lindsey failed to make reasonable (1) progress toward the return home of C.L. and (2) efforts to correct the conditions which caused C.L. to be taken into custody during the nine-month period from March 14, 2014, through December 14, 2014. We begin by addressing whether Lindsey made reasonable progress.

¶ 84 Lindsey's caseworker, Hewitt, testified Lindsey was incarcerated until November 2014. Hewitt sent letters to Lindsey regarding the need to sign a release of information and participate in services. Hewitt received no response from Lindsey during this time.

¶ 85 Lindsey asserts there is no evidence that he was aware that he needed to complete any services, as the evidence does not support a finding that Hewitt sent the letters or that Lindsey received them. However, nothing in the record contradicts Hewitt's statement that she mailed the letters. When a person places an item in the mail with appropriate postage, they may presume the recipient received that item. *First National Bank of Antioch v. Guerra Construction Co., Inc.*, 153 Ill. App. 3d 662, 667, 505 N.E.2d 1373, 1376 (1987).

¶ 86 Regardless, nothing in the record suggests Lindsey reached out to the trial court or DCFS about his obligations, despite his personal appearances in court demonstrating his knowledge of the ongoing DCFS case. A litigant involved with DCFS has a duty to follow the progress of his case. See *In re B.C.*, 317 Ill. App. 3d 607, 613, 740 N.E.2d 41, 46 (2000).

¶ 87 In *In re Shelton S.*, 309 Ill. App. 3d 941, 958, 723 N.E.2d 744, 755 (1999), the appellate court affirmed the trial court's finding of unfitness for failing to maintain a reasonable degree of concern, interest, or responsibility for a child where DCFS sent the respondent service

plans, but the respondent made no attempt to contact his caseworker about the services or request assistance with reuniting his family. Although grounds for a finding of unfitness are different, the reasoning in *Sheltanya* applies here. The record indicates Lindsey appeared in court on several occasions during this time period, so he was well aware of the pending case and his need to participate in services. The record also demonstrates Lindsey was sent a copy of a July 2014 permanency report and a September 2014 dispositional report, both of which highlighted Lindsey's failure to maintain contact with the caseworker. Thus, we find unpersuasive Lindsey's argument that he was unaware of the need for services.

¶ 88 Accordingly, we conclude the trial court's finding of unfitness was not against the manifest weight of the evidence. "When multiple grounds of unfitness have been alleged, a finding that any one allegation has been proved is sufficient to sustain a parental unfitness finding." *In re D.H.*, 323 Ill. App. 3d 1, 9, 751 N.E.2d 54, 61 (2001). Therefore, we need not address whether Lindsey made reasonable efforts to correct the conditions which brought C.L. into custody.

¶ 89 *2. The Trial Court's Fitness Finding Regarding Ju. L. and Jo. L.*

¶ 90 Lindsey next asserts the trial court's fitness finding as to Ju. L. and Jo. L. was against the manifest weight of the evidence. In this case, the trial court found, in part, Lindsey failed to make reasonable progress toward reunification during the nine-month period from September 5, 2015, through June 5, 2016. During this period of time, Lindsey was participating in and had completed most services, and the visitations were proceeding well. In fact, Lindsey had progressed to third-party and unsupervised visitation as his bond with the children grew.

¶ 91 However, housing and unemployment remained ongoing issues toward which Lindsey made no progress. Lindsey lacked stable housing that would allow the children to return

to him in the near future, as his roommate expressed hesitation over having the children in the home. Although the caseworker and the group to which she referred Lindsey were unable to assist with housing, nothing in the record indicates Lindsey himself took any steps to secure stable housing or convince his roommate to be amenable to children in the home. Moreover, Lindsey lacked employment that would allow him to maintain that housing and provide for the children's needs, and nothing in the record suggests any attempts were made by Lindsey to secure employment.

¶ 92 Accordingly, we conclude the trial court's finding of unfitness was not against the manifest weight of the evidence. Because we have affirmed one ground for the finding of unfitness, we need not consider the others. *Id.*

¶ 93 B. Best-Interest Finding

¶ 94 Once the trial court determines a parent to be unfit, the next stage is to determine whether it is in the best interest of the minor to terminate parental rights. *In re Jaron Z.*, 348 Ill. App. 3d 239, 261, 810 N.E.2d 108, 126 (2004). The petitioner must prove by a preponderance of the evidence that termination is in the best interest of the minor. *Id.* The court's finding will not be overturned unless it is against the manifest weight of the evidence. *Id.* at 261-62, 810 N.E.2d at 126-27.

¶ 95 The focus of the best-interest hearing is determining the best interest of the child, not the parent. 705 ILCS 405/1-3(4.05) (West 2014). The trial court must consider the following factors, in the context of the child's age and developmental needs, in determining whether to terminate parental rights:

"(a) the physical safety and welfare of the child, including
food, shelter, health, and clothing;

(b) the development of the child's identity;

(c) the child's background and ties, including familial, cultural, and religious;

(d) the child's sense of attachments ***[;]

* * *

(e) the child's wishes and long-term goals;

(f) the child's community ties, including church, school, and friends;

(g) 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;

(h) the uniqueness of every family and child;

(i) the risks attendant to entering and being in substitute care; and

(j) the preferences of the persons available to care for the child." *Id.*

¶ 96 1. *Best-Interest Finding Regarding C.L.*

¶ 97 In this case, C.L. was well-adjusted and comfortable with his foster family, and the foster family expressed interest in providing permanence through adoption. Conversely, neither Carter nor Lindsey was in a position to provide permanence in the near future. Carter struggled with her mental health and putting her parenting skills into practice, and the caseworker did not find it appropriate to allow unsupervised visitation. These issues also demonstrate serious concerns over Carter's ability to provide for C.L.'s health and safety.

¶ 98 Similarly, Lindsey was in no position to provide permanence. His roommate expressed either hesitation or refusal at the idea of C.L. moving into the home, which demonstrates Lindsey's inability to guarantee housing for C.L. Lindsey also had no employment or source of income, which made the caseworkers suspicious as to how he managed to pay his rent. He tested positive for cocaine as recently as October 2016 and was in a March 2016 accident that was potentially alcohol-related, which suggests Lindsey was not forthcoming with DCFS regarding his substance abuse. Although Lindsey's visits went well, the caseworker did not find it appropriate to allow unsupervised visits.

¶ 99 Moreover, C.L.'s aggressive tendencies, potentially from his early childhood traumas, surfaced when he was frustrated and after visits with his parents. As the caseworker noted, the ongoing instability in C.L.'s life threatened his mental health, making the need for permanence increasingly important.

¶ 100 Accordingly, we find the trial court's best-interest finding as to C.L. was not against the manifest weight of the evidence.

¶ 101 *2. Best-Interest Finding Regarding Ju. L. and Jo. L.*

¶ 102 Ju. L. and Jo. L. are thriving in their current relative placement, where they have been provided with stability, permanence, and comfort over the past two years. Eddreana expressed an interest in adopting the children and permitting Lindsey to maintain a relationship with the children. By adopting the children, Eddreana allows the children to maintain a family connection that will help them establish a familial, cultural, and religious identity consistent with Lindsey's background.

¶ 103 As noted above, Lindsey was in no position to provide permanence. His roommate expressed unwillingness to accept children into the house, and Lindsey lacked

employment to meet the children's physical needs. Moreover, Lindsey's positive drug test in October 2016 and the accident in March 2016 suggested a need for substance-abuse treatment. After two years in foster care, the children needed stability, permanence, and comfort—all of which Lindsey was not ready to provide.

¶ 104 Accordingly, we conclude the trial court's best-interest finding was not against the manifest weight of the evidence.

¶ 105 III. CONCLUSION

¶ 106 Based on the foregoing, we affirm the trial court's judgment.

¶ 107 Affirmed.