2017 IL App (5th) 170205-U

NO. 5-17-0205

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

In re E.R., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Marion County.
	)	
Petitioner-Appellee,	)	
	)	No. 15-JA-38
v.	)	
	)	
Carolyn R.,	)	Honorable
	)	Ericka A. Sanders,
Respondent-Appellant).	)	Judge, presiding.

JUSTICE WELCH delivered the judgment of the court.
Presiding Justice Moore and Justice Goldenhersh concurred in the judgment.

ORDER

¶ 1 *Held*: The circuit court's order terminating the respondent mother's parental rights to her minor child is affirmed where the court's findings that she failed to make reasonable efforts and progress toward the minor's return during the specified nine-month periods following the adjudication of neglect and that termination of her parental rights was in the best interests of the minor are not against the manifest weight of the evidence.

¶ 2 The respondent mother, Carolyn R., appeals the judgment of the circuit court of Marion County terminating her parental rights to her minor child, E.R. On appeal, Carolyn R. argues that the court's findings that she failed to make reasonable efforts to correct the conditions that were the basis for E.R.'s removal during any nine-month

period following the adjudication of neglect under section 2-3 of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3 (West 2016)), that she failed to make reasonable progress toward E.R.'s return during any nine-month period following the adjudication of neglect under section 2-3 of the Juvenile Court Act, and that she was unable to discharge her parental responsibilities are against the manifest weight of the evidence. She further argues that the court's finding that termination of her parental rights was in the best interests of E.R. is against the manifest weight of the evidence. For the reasons that follow, we affirm.

¶ 3 BACKGROUND

¶ 4 As a preliminary matter, because this appeal involves a final order terminating parental rights, Illinois Supreme Court Rule 311(a)(5) (eff. Feb. 26, 2010) requires that, except for good cause shown, the appellate court issue its decision within 150 days of the filing of the notice of appeal. Accordingly, the decision in this case was due on October 31, 2017. The case was placed on the November 1, 2017, oral argument setting and we now issue this Rule 23 order.

¶ 5 E.R. was born on June 27, 2011, to Carolyn R. and Donnie R. Although Donnie R.'s parental rights were also terminated, this appeal only involves the termination of Carolyn R.'s parental rights. Thus, we will only discuss those facts pertinent to the termination proceedings involving Carolyn R.

¶ 6 On May 4, 2015, the State filed a petition for adjudication of wardship, asserting that E.R. was a neglected minor and requesting that she be adjudicated a ward of the court. The petition alleged as follows: that E.R. was neglected in that her environment

was injurious to her welfare in violation of section 2-3(1)(b) of the Juvenile Court Act (705 ILCS 405/2-3(1)(b) (West 2014)) where her residence was dirty, smelled of cat urine, and had cat feces on the floor; her body was dirty; and her clothing smelled of cat urine. At the time, Carolyn R. and E.R. lived with Carolyn R.'s mother at her residence.

¶ 7 On May 5, 2015, the trial court entered a temporary custody order, placing temporary custody of E.R. with the Illinois Department of Children and Family Services (DCFS). On July 7, 2015, a service plan was prepared, requiring Carolyn R. to complete the following tasks: (1) keep her residence free of debris, clutter, and any safety hazards, including animal feces, animal urine, and trash; (2) allow the caseworker access to the residence; (3) meet with the caseworker at least once per month to discuss any concerns and monitor whether the residence is clean; (4) make sure that all medications, sharp objects, and any other item that could pose a safety threat to E.R. are out of reach; (5) attend, participate, and successfully complete parenting class; (6) demonstrate the ability to appropriately care for, properly interact with, and provide proper supervision of E.R.; (7) provide age-appropriate discipline and home safety for E.R.; (8) refrain from using profanity in E.R.'s presence; (9) refrain from using corporal punishment on E.R.; (10) locate and maintain employment; (11) provide proof of employment to the caseworker on a bi-weekly basis; (12) remain employed; (13) notify the caseworker of any employment changes within three business days; (14) allow the caseworker access to the home; (15) advise the caseworker of any change in address or phone number within two business days; (16) sign consents for release of information; (17) keep all scheduled and unscheduled visits made by the caseworker; (18) be open and honest with the caseworker

and other service providers; (19) fully cooperate with DCFS/Caritas Family Solutions (CFS) and other recommended service providers; (20) advise the caseworker of any involvement with law enforcement; (21) complete a mental health evaluation; (22) follow all recommendations made from the mental health evaluation, which includes attending mental health counseling and obtaining a psychological evaluation; (23) complete a psychiatric evaluation; (24) follow all recommendations made from the psychiatric evaluation; (25) cooperate and provide information to obtain past treatment records for review; (26) follow up with a primary care physician about medical issues; and (27) follow any recommendations made by a primary care physician. The permanency goal was to return E.R. home in 12 months.

¶ 8 A CFS report dated May 21, 2015, indicated that a home check was conducted, and the caseworker reported that the animal feces had been cleaned but that there was still an odor in the home, the kitchen table had cat urine and cat hair on it, and the bedroom and bathroom walls were a safety concern. The report also indicated the following: E.R. was placed in foster care; she was terrified of the bathroom; she was overweight; and she had a double ear infection.

¶ 9 On July 22, 2015, the circuit court entered an adjudicatory order, finding that E.R. was a neglected minor in that she was in an environment that was injurious to her welfare. That same day, the court entered a dispositional order, finding that Carolyn R. was unfit and leaving custody and guardianship of E.R. with DCFS. The court also found that Donnie R. was unfit and unable to care for, protect, train, educate, supervise, or discipline E.R. and that placement with him was contrary to E.R.'s best interests because

he was in prison. The court further determined that reasonable efforts had been made to keep E.R. in the home in that Carolyn R. is working toward completion of services, but she had not eliminated the necessity for removal and leaving E.R. in the home would be contrary to her health, welfare, and safety. The permanency goal remained to return E.R. home within 12 months.

¶ 10 A CFS report completed October 19, 2015, revealed that Carolyn R. was enrolled in mental health counseling, was unemployed, and still lived with her mother but had applied for public housing with her boyfriend. The caseworker had encouraged her to find new housing because her mother's residence had major safety concerns and did not pass a home-safety check. Her weekly visitation with E.R. occurred outside the home because of the safety issues. The report indicated that, during the visits, Carolyn R. relied on her mother to do most of the parenting. A service plan evaluation completed on November 18, 2015, indicated that Carolyn R. had started attending parenting classes and a life skills group, had completed a mental health evaluation, had followed all recommendations from the mental health evaluation, had enrolled in mental health counseling, had allowed the caseworker access to her home, had been open and honest with her caseworker, had fully cooperated with DCFS/CFS, and had kept all appointments with her caseworker. However, she was rated unsatisfactory for employment because she remained unemployed. She was also rated unsatisfactory for housing because her home had several safety concerns and, thus, it was not suitable as a return home option. She had made no progress in cleaning her residence and correcting the conditions that brought E.R. into care. She was rated unsatisfactory for parenting

because she had not completed parenting classes. The report indicated that she was scheduled to begin parenting classes in November 2015. She was further rated unsatisfactory for not completing her psychological evaluation, but the evaluation could not be completed until a referral was received from DCFS.

¶ 11 On January 20, 2016, the trial court entered a permanency order, finding that Carolyn R. had not made substantial progress toward E.R. returning home. The permanency goal remained to return E.R. home within 12 months. On April 7, 2016, CFS filed another progress report, which revealed that Carolyn R. was enrolled in mental health counseling and parenting classes. She was denied public housing because she could not live with her boyfriend in public housing unless they were married. They married in March 2016, and she reapplied for public housing. She was still living with her mother and remained unemployed.

¶ 12 A service plan evaluation completed May 11, 2016, indicated that Carolyn R. was participating in mental health counseling and had obtained employment. Although she was attending parenting classes, the caseworker noted that it appeared that she was not bonding well with E.R. and that she continued to let her mother do most of the parenting. She had moved into public housing, but the caseworker had not completed a home-safety check. Her psychological evaluation was scheduled for June 2016.

¶ 13 On June 14, 2016, the State filed a petition for termination of parental rights and for appointment of guardian with the power to consent to adoption, asserting, *inter alia*, that Carolyn R. was unfit to have E.R. under section 1(D)(g) of the Adoption Act (750 ILCS 50/1(D)(g) (West 2016)) in that she failed to protect E.R. from conditions within

her environment that were injurious to her welfare; under section 1(D)(m)(i) of the Adoption Act (750 ILCS 50/1(D)(m)(i) (West 2016)) in that she failed to make reasonable efforts to correct the conditions that were the basis for E.R.'s removal during any nine-month period after the adjudication of neglect; and under section 1(D)(m)(ii) of the Adoption Act (750 ILCS 50/1(D)(m)(ii) (West 2016)) in that she failed to make reasonable progress toward E.R.'s return during any nine-month period after the adjudication of neglect.

¶ 14 CFS completed a progress report on July 11, 2016, which indicated that Carolyn R. was regularly attending parenting classes and counseling, she completed her psychological assessment, and she was accepted into public housing and was living in a two-bedroom apartment with her husband. Her apartment had been kept clean, but the caseworker noticed a "strong odor" in the apartment. She was employed for two weeks but was recently laid off and was searching for employment.

¶ 15 On July 20, 2016, the trial court entered a permanency order, changing the permanency goal to substitute care pending the parental rights determination. On August 9, 2016, Carolyn R.'s psychological evaluation was filed, which revealed that she had a history of anxiety and depression, had self-reported diagnoses of bipolar disorder and attention-deficient/hyperactivity disorder (ADHD), and functioned within the borderline range of intellectual abilities. The evaluation indicated the following regarding Carolyn R.: that she displayed extremely limited insight and judgment, which contributed to her history of inappropriate decision making; these limitations could cause problems in her ability to successfully complete parenting training, to make progress in therapy, and to

take care of E.R.; she displayed minimal command of adult daily living skills, limited executive functioning, and minimal problem-solving abilities; and she was dependent on her mother and husband for housing, paying bills, financial support, and transportation. The evaluation noted that it was unclear whether she could successfully plan and execute nutritious meal planning and that E.R.'s obesity may continue to be problematic if she was unable to provide appropriate nutrition and care. She genuinely cared for E.R. but did not have an adequate understanding of E.R.'s needs and had not been able to appropriately react to E.R.'s emotional outbursts.

¶ 16 On August 25, 2016, the State filed an amended petition for termination of parental rights, adding a fourth unfitness allegation, *i.e.*, that Carolyn R. was unfit to have E.R. under section 1(D)(p) of the Adoption Act (750 ILCS 50/1(D)(p) (West 2016)) in that she was unable to discharge her parental responsibilities. CFS filed another progress report on September 12, 2016, which indicated that Carolyn R. was unsuccessfully discharged from services for lack of attendance at counseling and parenting classes. She scheduled an appointment to restart services on September 28, 2016, and she started in-home parenting classes. On October 13, 2016, CFS filed another progress report, revealing that she attended the appointment to restart services. The November 14, 2016, progress report from CFS indicated that she was engaged in in-home parenting classes but had missed three appointments due to illness. The caseworker completed a home-safety check and observed dirty dishes on the stove, that the apartment was slightly cluttered, and that the apartment had an odor. Carolyn R. was still searching for employment and had scheduled two job interviews.

¶ 17 A November 17, 2016, service plan evaluation revealed that Carolyn R. was rated unsatisfactory on parenting because she was not bonding well with E.R. Although she allowed the caseworker access to her home and had kept all appointments with the caseworker, she had not been consistent with services. On October 25, 2016, she was unsuccessfully discharged from parenting classes and mental health counseling because she had failed to keep appointments and failed to keep in contact with her service provider.

¶ 18 A CFS report completed December 20, 2016, indicated that Carolyn R. had restarted services. She completed a mental health evaluation on December 1, 2016, which recommended 6 to 12 months of treatment, and was referred to an independent living skills group. She started in-home parenting classes in August 2016, was engaged in the program, and was expected to discharge on January 31, 2017. She was getting visitation once a month with E.R., but the caseworker observed that her interaction with E.R. was very limited, and it did not appear that they had a strong bond or attachment.

¶ 19 A termination report was filed by CFS on February 8, 2017, which indicated that Carolyn R. had missed four mental health counseling appointments, had not engaged in any independent living skills classes, and had been inconsistent with her attendance at parenting classes. On March 9, 2017, the State filed a second amended motion for termination of parental rights, which omitted the allegation that Carolyn R. was unable to discharge her parental responsibilities but identified the relevant nine-month time periods related to reasonable efforts and reasonable progress as July 23, 2015, to April 22, 2016, and April 23, 2016, to January 22, 2017. On March 13, 2017, the State filed a third

amended motion for termination of parental rights, which again alleged that Carolyn R. was unfit because she was unable to discharge her parental responsibilities.

¶ 20 At the March 15, 2017, fitness hearing, Frank Kosmicki, a clinical psychologist, testified that he completed the psychological assessment on Carolyn R., which consisted of a clinical interview of Carolyn R. and her mother, Malinda H., and IQ and personality testing. Before performing the evaluation, he reviewed the DCFS service plans, social history, and referral form, which explained DCFS involvement in the case. The IQ test revealed that Carolyn R. had borderline intellectual ability, which means that her intellectual ability falls below the low-average range, and the personality test was invalid because the results indicated "unsophisticated attempts to present in an overly positive manner."

¶ 21 Kosmicki testified that the interviews raised questions for him as to Carolyn R.'s support system and her ability to care for herself. Specifically, during both interviews, they discussed allegations that Carolyn R.'s stepfather, Michael H., had molested her half-sisters, Scarlett (who was 17 years old at the time) and Shania. Michael H. was also Scarlett and Shania's stepfather, and he was in prison for sexually abusing Scarlett. Carolyn R. and Malinda both acknowledged that he was sexually involved with Scarlett, but they both reported that it had been consensual. Kosmicki believed that Carolyn R. did not understand that her stepfather might be an imminent danger to E.R. He also noted that Malinda reported that the sexual abuse was "just [Michael H.] being stupid" and that Michael H. could have at least waited until Scarlett turned 18. She was adamant that he

would be moving back home when he was released from prison. Neither Carolyn R. nor her mother believed Shania's sexual-abuse allegations.

¶ 22 Kosmicki reached the following conclusions from the evaluation. Carolyn R. had never been financially independent, had never ran a household, had boundary issues, and did not understand what constituted consent when a minor and an adult were having sexual relations. He believed that she cared for her daughter and wanted to parent, but he questioned her ability to provide for herself and provide a stable environment. He questioned her judgment, including her judgment regarding decisions about E.R., and her insight. He believed that she did not have enough adult daily living skills ability to parent a child because she had never had a bank account, had never ran a household, had never paid bills, and had past problems with living in unhygienic conditions.

¶ 23 Kosmicki recommended that Carolyn R. participate in counseling to address some of her past trauma and her boundary issues, that she attend parenting training to give her concrete skills to care for her child and assistance in developing daily living skills, and that her husband be evaluated to see if he was safe in the household. He believed that there might be some improvement in her judgment if she participated in counseling and worked on daily living skills and parenting. However, he explained that, because intellectual ability tended to be fairly stable, there would likely be no appreciable changes in her ability to confront new situations and make good judgment calls, and her ability to parent would be poor.

¶ 24 Brigid Nalewajka, a substance abuse and mental health therapist at the Community Resource Center, testified that she was Carolyn R.'s counselor. Carolyn R.'s first mental

health assessment was June 17, 2015, but she did not complete this assessment. She returned in September or October 2015 for another assessment, and a treatment plan was subsequently created. She attended parenting classes and individual counseling at the Community Resource Center through July 2016, but she had not successfully completed any of the recommended counseling programs as of December 2016.

¶ 25 Brigid testified that the following were the objectives of Carolyn R.'s treatment plan: identify coping skills to help manage depression, stress, and low self-esteem; gain skills to help with stress management; openly discuss and report progress at each session; learn daily living skills; learn about money management and improve overall environment; attend and participate in parenting group and report progress and concerns with therapist; and learn how to take medication appropriately and report any changes to her medications.

¶ 26 Brigid testified that Carolyn R. was initially quiet in their first therapy session but opened up more in later sessions. She testified that the therapy sessions had not addressed daily living skills, which Carolyn R. could benefit from, but it would be addressed in future sessions. Carolyn R. was an active client from November 2015 through July 2016 but was unsuccessfully discharged from all services in September 2016 because of missed appointments. She scheduled another mental health assessment on September 16, 2016, to restart services but not did complete the assessment. She completed another mental health assessment in December 2016 to restart services, and another treatment plan was created. The objectives of the treatment plan were similar to

the previous plan, which focused on her parenting, individual counseling, and development of daily living skills.

¶ 27 Susan Williams, a foster care caseworker at Caritas Family Solutions, testified that she was Carolyn R.'s caseworker from May 2015 through September 2016. Carolyn R. attended mental health counseling and parenting classes at the Community Resource Center, and Susan referred her to in-home parenting classes and a living skills group. Carolyn R. failed to obtain appropriate housing during the first two service plan time periods. During the third service plan period (which began in May 2016), she found housing that was "[f]or the most part" clean and appropriate and was engaged in parenting group classes, but she had not found employment, had not completed mental health counseling, and had not completed her parenting classes. She had successfully completed individual tasks, such as allowing the caseworker into her home, not using profanity around E.R., making sure dangerous items were not within E.R.'s reach, notifying her caseworker regarding her address change, signing all consents, keeping all scheduled and unscheduled visits, cooperating with DCFS and service providers, and completing a mental health evaluation.

¶ 28 In July 2016, Carolyn R. stopped attending parenting classes and was thereafter unsuccessfully discharged from parenting classes and individual therapy. Susan observed that Carolyn R.'s house was "mostly clean, appropriate for the most part," but it had "a smell."

¶ 29 Carolyn R. initially had once a week visitation with E.R. for one hour but that was changed to once a month visitation when the permanency goal was changed to substitute

care pending termination. She requested additional visitation time, but her request was denied because she was not making progress in her services. While she was living with Malinda, the visitation was held outside the home because the home was not safe. Susan testified that Carolyn R.'s visitation with E.R. went well, but she questioned whether they had a real bond, noting there was hardly any interaction between Carolyn R. and E.R. when the visits occurred at a restaurant, but there was more interaction when they occurred at the park. She explained that Carolyn R. "did okay parenting" when it was just her and E.R., but when Malinda was present, Malinda would parent E.R. The visitation occurred in Carolyn R.'s apartment once she moved to appropriate housing.

¶ 30 Megan Loker, a foster care case manager for Caritas Family Solutions, testified that she first began working on Carolyn R.'s case in September 2016. At that time, Carolyn R. was not in mental health counseling and was unemployed but was participating in in-home parenting classes. The November 17, 2016, service plan revealed that she was unsuccessfully discharged from counseling because she had missed several appointments. Her parenting was rated unsatisfactory because she had not completed the program at that time. She eventually restarted mental health counseling and parenting classes, and she had completed the parenting program at the time of the hearing. In December 2016, Carolyn R. reported that she had applied for social security disability.

¶ 31 Loker testified that E.R. never uses the bathroom in Carolyn R.'s home. However, she had observed Carolyn R.'s interactions with E.R. and did not have any concerns about those interactions being inappropriate.

¶ 32 After hearing the testimony, the court stated as follows:

"Doctor Kosmicki was concerned about boundary issues. That mother understood *** what constitutes consent regarding sexual relations in minors, which is very significant given the conviction of Michael [H.]. It's also significant that the minor will not use the bathroom while she's in her mother's home. Doctor Kosmicki's opinion is that mom does not have the ability to parent. That he had major concerns about mom's judgment, which would persist even with counseling and treatment, especially with new and novel circumstances. So those concerns, he had even existed with the course of treatment.

But we'll talk about treatment because that concerns her progress, and efforts. Regarding her efforts, mom has the ability to show up. Mom's here in court. Mom has shown up to other counseling appointments. But mom did not show up to all of her counseling appointments, and as a result she had to start the assessment process at the Community Resource Center four times. She was discharged unsuccessfully from treatment two times, and the remaining two times didn't start treatment because she hadn't successfully completed the assessment. That concerns her efforts.

With regard to progress, mom was not in treatment long enough to demonstrate she made progress in counseling so that she would have the ability to parent.

Concerning the service plans which were admitted into evidence, and I took judicial notice of those so we didn't have to put duplicate service plans in the file.

> For the most part regarding the important issues of counseling, providing a safe environment for the minor, parenting classes, she was rated unsatisfactory. And that changed later on when she moved out of her mother's house and into housing, where she kept it relatively clean. But for the majority of this case, that was unsatisfactory.
>
> So I'm going to find that the State has proven with regard to mom. That, number one, she's not able to discharge her parental responsibilities. Number two, that for the dates that are specified in the petition, she has failed to make reasonable progress or meet reasonable efforts to correct the conditions that led to the child's removal and to return her home to her care."

¶ 33 After the fitness hearing, the trial court entered an order by docket entry finding, by clear and convincing evidence, that Carolyn R. was unfit. The trial court also entered a permanency order, changing the permanency goal to adoption.

¶ 34 At the May 31, 2017, best-interests hearing, Megan Loker testified that E.R. was five years old, that she was first placed in the care of Joey and Sheena Young in May 2015 and had been there for approximately two years, that they had two boys in their care, and that E.R. considered them as her brothers. She visited them in their home when their children were present and found the home suitable, noting that E.R. had her own room and that it was a very "home family environment."

¶ 35 When E.R. initially came to their home, she was terrified of the bathroom; she would not use the bathroom and would not take a bath. She was now fully potty trained but would still not use the bathroom during her visitation in Carolyn R.'s home. She had

to retake kindergarten because she struggled with math and reading, and she also recently had some behavior problems in school. She would be tested for ADHD for the next school year and was taking summer classes to catch up with the courses. She had observed the foster parents' interactions with E.R., noting that it went "well" and that E.R. called them mommy and daddy. She testified that the placement was appropriate, that she did not have any concerns about the foster parents' relationship with each other, and that the foster parents wanted to adopt E.R.

¶ 36 Joseph Young, E.R.'s foster father, testified that, when E.R. was first placed in his home, she was scared of the bathroom and would have "screaming fits" when it was bath time, she was extremely overweight, and she had a lot of ear problems. There had been significant improvement in her weight due to diet and increased activity. Joseph testified that they had a lot of fun together and that E.R. helped him with outside chores and with showing cattle. They had two other boys in the home, who were ages one and two and were also foster children, and E.R. considered them as her brothers and was very proud to be a big sister. They lived in a four-bedroom, two-bathroom house on 60 acres. His wife was a stay-at-home mom, and she had a loving relationship with E.R. They had extended family in the area, and E.R. participated in the family gatherings.

¶ 37 Sheena Young, E.R.'s foster mother, testified that E.R. was thriving. She was initially terrified of the bathroom and was not potty trained, but now the only time she had any issues with the bathroom was during visits with Carolyn R. She testified that E.R. had an "awesome bond" with Joseph, and she would rather be outside with him doing chores and playing than inside with her and the boys. Sheena testified that she

loved E.R. and that E.R. was the light of their lives. E.R. was currently attending summer school, which focused on math and reading, and she would retake kindergarten in the fall. She was excused from counseling in March 2017.

¶ 38 Carolyn R. testified that E.R. was in Malinda's care from June 2011 until the end of 2013 or beginning of 2014 when Carolyn R. moved in with them. E.R. was in her care for approximately one or two years before she was placed in a foster home. She currently lived in a two-bedroom apartment with her husband. She testified that, when E.R. lived with her, they played with a plastic bat and ball outside, jumped on the trampoline, went to the park in town, played educational games, and watched cartoons. They also had a dog, and E.R. liked to run around the yard with the dog. During visitations at her apartment, they would make pizza together. She loved E.R. and wanted her to come home.

¶ 39 Following the hearing, the trial court entered an order by docket entry terminating Carolyn R.'s parental rights and changing the permanency goal to adoption. Carolyn R. appeals.

¶ 40 Termination of parental rights proceedings are governed by the Juvenile Court Act (705 ILCS 405/1-1 *et seq.* (West 2016)) and the Adoption Act (750 ILCS 50/0.01 *et seq.* (West 2016)). *In re D.F.*, 201 Ill. 2d 476, 494 (2002). A petition to terminate parental rights is filed under section 2-29 of the Juvenile Court Act, which delineates a two-step process in seeking to terminate parental rights involuntarily. 705 ILCS 405/2-29(2) (West 2016). The State must first establish, by clear and convincing evidence, that the parent is an unfit person under one or more of the grounds of unfitness enumerated in

section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2016)). 705 ILCS 405/2-29(2), (4) (West 2016); *D.F.*, 201 Ill. 2d at 494-95. If the court finds that the parent is unfit, the matter proceeds to a second hearing, at which the State must prove that termination of parental rights is in the best interests of the child. 705 ILCS 405/2-29(2) (West 2016); *D.F.*, 201 Ill. 2d at 495. Because each of the statutory grounds of unfitness is independent, the trial court's finding may be affirmed where the evidence supports a finding of unfitness as to any one of the alleged grounds. *In re C.W.*, 199 Ill. 2d 198, 217 (2002).

¶ 41 Our courts have recognized that parental rights and responsibilities are of deep importance and should not be terminated lightly. *In re C.P.*, 191 Ill. App. 3d 237, 244 (1989). Thus, parental rights may be terminated only after a finding of unfitness that is supported by clear and convincing evidence. *In re Gwynne P.*, 346 Ill. App. 3d 584, 590 (2004). A finding of parental unfitness will not be disturbed unless it is against the manifest weight of the evidence. *In re R.L.*, 352 Ill. App. 3d 985, 998 (2004). A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly apparent or the determination is unreasonable, arbitrary, or not based on the evidence presented. *D.F.*, 201 Ill. 2d at 498. A trial court's finding of unfitness is given great deference because it has the best opportunity to view and evaluate the parties and their testimony. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1064 (2006). A reviewing court, therefore, does not reweigh the evidence or reassess the credibility of the witnesses. *In re M.A.*, 325 Ill. App. 3d 387, 391 (2001).

¶ 42 In this case, the State asserted the following three grounds for unfitness against Carolyn R.: (1) that under section 1(D)(p) of the Adoption Act, she was unable to discharge her parental responsibilities; (2) that under section 1(D)(m)(i) of the Adoption Act, she failed to make reasonable efforts to correct the conditions that were the basis for E.R.'s removal during any nine-month period after the adjudication of neglect; and (3) that under section 1(D)(m)(ii) of the Adoption Act, she failed to make reasonable progress toward E.R.'s return during any nine-month period after the adjudication of neglect. The trial court found her unfit under all three grounds.

¶ 43 Carolyn R. argues that the trial court's finding that she was unfit is against the manifest weight of the evidence. A parent may be found unfit if she is unable to discharge her parental responsibilities, which is supported by competent evidence from a psychiatrist, licensed clinical social worker, or clinical psychologist of mental impairment, mental illness, or an intellectual disability as defined in section 1-116 of the Mental Health and Developmental Disabilities Code (Code) (405 ILCS 5/1-116 (West 2016)) or developmental disability as defined in section 1-106 of the Code (405 ILCS 5/1-106 (West 2016)), and there is sufficient justification to believe that the inability to discharge parental responsibilities shall extend beyond a reasonable time. 750 ILCS 50/1(D)(p) (West 2016). Thus, in order to find a parent unfit due to a mental illness, the State must satisfy the following two-part test: (1) there must be competent evidence from the designated categories of experts that the parent suffers from a mental disability sufficient to prevent her from discharging a parent's normal responsibilities; and (2) there

must be sufficient evidence to conclude that the inability will extend beyond a reasonable time. *In re J.A.S.*, 255 Ill. App. 3d 822, 824 (1994).

¶ 44 Regarding the first prong of the test, Dr. Kosmicki, a licensed clinical psychologist, evaluated Carolyn R. and concluded that she has borderline intellectual ability. He also concluded that she has boundary issues and lacks an understanding of what constitutes consent when an adult and a minor are having sexual relations. He questioned her ability to provide a stable environment, make good judgment calls, specifically with regard to decisions about E.R., and her insight. He noted that she has never cared for herself and believed that she does not have enough adult daily living skills ability to parent a child. His conclusions were supported by the fact that Carolyn R. had past problems living in unhygienic conditions.

¶ 45 As for the second prong, Kosmicki recommended that Carolyn R. participate in counseling to address her past trauma and boundary issues, and that she attend parenting training to gain concrete skills to care for E.R. and assistance in developing daily living skills. However, even if she participated in counseling and parenting training, he doubted there would be an appreciable change in her ability to confront new situations and make good judgment calls, and he believed that her ability to parent would still be poor because her intellectual ability would remain stable. Based on these facts, we find that the trial court's finding of unfitness on this ground is not against the manifest weight of the evidence.

¶ 46 We now turn to the reasonable effort and reasonable progress grounds of unfitness. Reasonable efforts and reasonable progress are two distinct grounds of

unfitness under section 1(D)(m). *Daphnie E.*, 368 Ill. App. 3d at 1066. Reasonable efforts relate to the goal of correcting the conditions that caused the removal of the child and are judged by a subjective standard based upon the amount of effort that is reasonable for a particular person. *Id.* at 1066-67. In contrast, reasonable progress is judged using an objective standard that focuses on the steps the parent has taken toward the goal of reunification. *In re Jacorey S.*, 2012 IL App (1st) 113427, ¶ 21. The standard by which progress is measured is the parent's compliance with the court's directives and the service plans in light of the conditions that gave rise to removal and other conditions that later become known and would prevent the court from returning custody of the child to the parent. *Daphnie E.*, 368 Ill. App. 3d at 1067. "Reasonable progress exists when the trial court can conclude that it will be able to order the child returned to parental custody in the near future." *Id.*

¶ 47 The State identified the relevant nine-month periods for reasonable efforts and progress as July 23, 2015, to April 22, 2016, and April 23, 2016, to January 22, 2017, which cover all but two months following adjudication.

¶ 48 In May 2015, E.R. was placed into care after a DCFS investigator reported the following: that Carolyn R.'s home "smelled strongly of cat urine"; that there was cat feces and cat food on the floor; that E.R. was sleeping in a bed with cat feces on it; and that E.R. was overweight and had labored breathing.

¶ 49 The requirements of Carolyn R.'s service plans, which are set forth as follows, in pertinent parts, were the same during both time periods: (1) obtain and maintain a residence free of debris, clutter, and any safety hazards; (2) allow the caseworker access

to the residence; (3) attend and successfully complete parenting classes; (4) demonstrate an ability to appropriately care for, properly interact with, and provide proper supervision and home safety for E.R.; (5) obtain and maintain employment; (6) keep all scheduled and unscheduled visits with the caseworker; (7) complete a mental health evaluation and participate in all recommendations from the evaluation; (8) participate in mental health counseling; and (9) complete a psychiatric evaluation and follow all recommendations from the evaluation.

¶ 50 During the initial nine-month period, from July 23, 2015, to April 22, 2016, the evidence indicated that Carolyn R. had not made any progress in correcting the conditions that were the basis for removal; she was still living with her mother and had made little progress in cleaning the residence. Visitation had to occur outside the home because it was unsafe. Although she was aware that she was living in an unsafe environment, she did not move from that residence until approximately one year after DCFS involvement because she wanted to live with her boyfriend in public housing. In June 2015, she had a mental health assessment but did not complete the assessment until October 2015. She was also still unemployed.

¶ 51 As for the later nine-month period, April 23, 2016, to January 22, 2017, she was again rated unsatisfactory on the objectives that were necessary to correct the conditions that led to DCFS involvement, *i.e.*, successfully completing mental health counseling and successfully completing parenting classes. The November 2016 service plan evaluation revealed that she was rated unsatisfactory for parenting because she had not completed the classes and the caseworker questioned her bond with E.R., she was rated

unsatisfactory for mental health because she was not consistent with her counseling, and she was rated unsatisfactory for employment because she was still unemployed.

¶ 52 Though she was active in individual therapy and group parenting classes until July 2016, she did not complete these programs because, in September 2016, she was unsuccessfully discharged from all services for lack of attendance. She also received an unsatisfactory rating for not being forthcoming with her caseworker about her failure to attend services. Thereafter, she began the process to restart services but never returned to complete her mental health assessment. Thus, she was again unsuccessfully discharged from parenting and mental health services in October 2016. In the last few months before the unfitness hearing, she was participating in in-home parenting classes but had not completed the program by the end of the second nine-month period.

¶ 53 Although Carolyn R. completed several individual tasks on each of her service plans, she has failed to make reasonable efforts and reasonable progress toward the goal of reunification. She had to start the assessment process four times because either she did not complete the mental health assessment and, thus, could not start treatment or she was unsuccessfully discharged from treatment for lack of attendance. Based on the record evidence, we conclude that the trial court's findings that Carolyn R. was unfit for lack of reasonable efforts and reasonable progress toward the goal of reunification were not against the manifest weight of the evidence.

¶ 54 Carolyn R. also challenges the trial court's best-interests finding. Once the parent has been found unfit, her rights must yield to the best interests of the child. *In re Brandon A.*, 395 Ill. App. 3d 224, 239 (2009). The State has the burden of proving, by a

preponderance of the evidence, that termination of parental rights is in the best interests of the child. *Id.* at 240. The trial court's best-interests finding will not be disturbed unless it is against the manifest weight of the evidence. *Id.*

¶ 55 In determining the best interests of the child, the court must consider the following statutory factors in the context of the child's age and developmental needs: (1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's background and ties; (4) the child's sense of attachments; (5) the child's wishes and long-term goals; (6) the child's community ties; (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 2016).

¶ 56 Here, Carolyn R. initially argues that, in making the best-interests determination, the trial court did not expressly consider each of the above enumerated statutory factors, focused exclusively on E.R.'s need for permanency, and failed to consider E.R.'s ties to her biological family. Thus, Carolyn R. argues that the trial court's best-interests determination was against the manifest weight of the evidence.

¶ 57 The trial court is not required to make specific findings of fact concerning the best-interests factors under section 1-3 (4.05) of the Juvenile Court Act where there is some indication in the record that it considered the enumerated factors when making the best-interests determination. *In re Jaron Z.*, 348 Ill. App. 3d 239, 262-63 (2004). Here, the trial court stated as follows with regard to its best-interests determination:

"Before I talk about the factors and the evidence that's relevant to her best interest, I note that it is clear to me that Carolyn loves [E.R.], that she cares about her. But, as I said during the fitness phase of this proceeding, Carolyn has been unable to care for her which is why we're here today.

But, regarding the best interest of [E.R.], she is without a doubt in a very loving foster home. What great foster parents. We hear testimony from foster parents quite a bit during these types of cases and it is bittersweet. But it certainly sounds to this Court that the foster parents in this case are second to none. They have provided [E.R.] with love and care, they have addressed all the issues that she had when she came into care. They clearly love her and they want to adopt her.

So, without question, I find that it is in her best interest that the rights of the parents and any and all unknown fathers be terminated, that she become available for adoption and that the goal be changed to adoption."

Based on the trial court's comments at the hearing, we conclude that the court considered the factors set forth in section 1-3 (4.05) when it made the best-interests determination.

¶ 58 We now consider whether the trial court's decision was against the manifest weight of the evidence. With regard to the first factor, there were concerns about E.R.'s physical safety and welfare if she was returned to Carolyn R. E.R. was not potty trained when she was removed from Carolyn R.'s home because she was terrified of the bathroom. Although she was successfully potty trained at age four by her foster parents, she still would not use the bathroom in Carolyn R.'s home. She was extremely

overweight when she went into her foster home but has since slimmed down with good diet and physical activity. Moreover, the evidence indicated that Carolyn R. did not understand what constituted consent in minor/adult sexual relations and did not understand that her stepfather might be dangerous to E.R. In contrast, the testimony indicated that E.R. was currently living in an environment that provided stability and permanency.

¶ 59 As for the development of E.R.'s identity and the sense of her attachments, the evidence revealed that E.R. was closely bonded with her foster parents, who she called mommy and daddy, and foster siblings, who she considered her brothers. She has lived with them for two years in their four bedroom home on 60 acres. Her foster father is a cattle rancher, and she loves helping him with ranch chores and showing cattle. Her foster mother is a stay-at-home mother, and she has a loving relationship with E.R. They also have extended family that lives in the area. E.R. was attending summer school to address her issues with math and reading. Her foster parents expressed a desire to adopt her. The evidence indicated that Carolyn R.'s caseworkers had questioned the bond between Carolyn R. and E.R. Thus, after considering all of the statutory factors, we conclude that the trial court's best-interests finding was not against the manifest weight of the evidence.

¶ 60 CONCLUSION

¶ 61 For the foregoing reasons, we affirm the judgment of the circuit court of Marion County.

¶ 62 Affirmed.