2019 IL App (2d) 180571-B
No. 2-18-0571
Order filed March 22, 2019

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re Jasmine B., a Minor	)	Appeal from the Circuit Court
	)	of Jo Daviess County.
	)	
	)	No. 14-JA-11
	)	
	)	
(People of the State Of Illinois,	)	Honorable
Petitioner-Appellee, v. Ashley B.,	)	William A. Kelly,
Respondent-Appellant).	)	Judge, Presiding.

JUSTICE HUTCHINSON delivered the judgment of the court.
Justices Zenoff and Birkett concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's finding of respondent's parental unfitness was against the manifest weight of the evidence.

¶ 2 On April 19, 2018, the trial court found respondent, Ashley B., to be an unfit parent with respect to her daughter, Jasmine B. The court later concluded that the termination of respondent's parental rights was in Jasmine's best interests. On appeal, respondent challenges the trial court's finding with respect to unfitness. For the reasons set forth below, we reverse the trial court's determination of respondent's parental unfitness.

¶ 3 I. BACKGROUND

¶ 4 On October 7, 2014, the Jo Daviess State's Attorney (the State) filed a petition for adjudication of wardship alleging Jasmine B. a neglected minor in accordance with section 2-3(1)(b) of the Juvenile Court Act of 1987. 705 ILCS 405/2-3(1)(b). The state's petition alleged two counts of neglect. Count I alleged Jasmine to be neglected in that respondent's boyfriend, Jonathan B, inflicted excessive corporal punishment to Jasmine's brother by slapping him on the buttocks and causing bruising. Jasmine resided in the same house as her brother at the time of the alleged occurrence. Count II alleged Jasmine to be neglected because her environment was injurious to her welfare as respondent's boyfriend was delusional and indicated that he handcuffs himself at night for fear of harming the family.

¶ 5 A shelter care hearing was held on October 8, 2014, and the trial court found probable cause to believe that Jasmine was a neglected minor as alleged in Counts I and II of the State's petition. The trial court ordered that Jasmine be removed from the custody of respondent and the Department of Children and Family Services (DCFS) was given temporary custody. Respondent was admonished that she must cooperate with DCFS, comply with the terms of the service plan and correct the conditions that required the children to be placed in DCFS's care.

¶ 6 On February 17, 2015, the trial court held an adjudication hearing on the State's petition for adjudication of wardship. At the hearing, respondent admitted the allegations contained in the State's petition: (1) that Jasmine's environment is injurious to her welfare; and (2) that respondent's then-boyfriend inflicted excessive corporal punishment on Jasmine's minor brother while she resided in the same residence. The trial court entered an order of adjudication finding that Jasmine was abused or neglected as defined in section 2-3 of the Juvenile Court Act. On March 6, 2015, a dispositional hearing was held in which an agreed disposition order was

entered adjudging Jasmine a ward of the court and placing guardianship with DCFS. The agreed order reflects a goal of Jasmine's return home within twelve months.

¶ 7 The trial court held a permanency review hearing on September 1, 2015. Jasmine's case worker, Amanda Koltz-Slabaugh of Camelot Care Centers, testified on direct examination that respondent had completed parenting training classes, actively participated in counseling, and underwent individual psychotherapy. Respondent had visitation with Jasmine and her two siblings once per week for three hours. Koltz-Slabaugh testified that respondent was not implementing what she learned in parenting training to the weekly visits with the children. Thus, she said that respondent had made reasonable efforts in adhering to the DCFS service plan, but not reasonable and substantial progress in correcting the underlying conditions of Jasmine's removal. The DCFS service plan noted that respondent had ended her relationship with Jonathan B.

¶ 8 On cross-examination, Koltz-Slabaugh admitted that she was unaware of the lessons taught in respondent's parenting classes, but reiterated that she saw no progress. Her given reason for that opinion revolved exclusively around meals. Specifically, Koltz-Slabaugh was concerned over respondent allowing Jasmine and her siblings the choice of eating versus playing. Further, she expressed concern over respondent providing a meal of merely applesauce to the children during one of their visits. She did admit that some of the reports she had seen stated that lasagna, hot dogs, and sandwiches had been provided at other visits. She had personally witnessed the serving of hot dogs and applesauce on at least one occasion.

¶ 9 Jaclyn Rogers next testified on direct for the State. She had been Jasmine's DCFS caseworker from October 2014 to May 2015. Rogers had observed three visitations and thought respondent had some trouble keeping all three children together in the same room. She also said

that respondent had difficulty in getting the children to sit down for meal time. She mentioned concern about nutrition but did not elaborate on the problems with respondent's choice of cuisine. Rogers believed that respondent had done all that DCFS had asked of her and made reasonable efforts towards correcting the underlying conditions of the children's removal, but not reasonable and substantial progress towards the goal of reunification. Rogers did not believe that respondent could provide an environment that is not injurious to the children if she were to have unsupervised visits, although she did not give further explanation as to how she arrived at this belief.

¶ 10 On cross-examination Rogers could not testify as to the insufficiency of the meals discussed above. Further, she admitted that keeping three kids in the same room at the same time is often difficult for many parents.

¶ 11 Respondent then testified that she had attended all required counseling and parenting classes. She discussed implementing the "what/then" approach to discipline taught in the parenting class with Jasmine during her visits. She provided a list of foods during the visits that went beyond apple sauce, including hot dogs, peanut butter and jelly sandwiches, lasagna, apples, bananas, as well as macaroni and cheese.

¶ 12 Following respondent's testimony, the trial court found "that reasonable efforts have been made by [respondent] *** but the Court finds that there has not been substantial progress ***." The trial court's written order reflected that finding and a goal of Jasmine's return home in twelve months remained in place.

¶ 13 The trial court held another permanency review hearing on March 1, 2016. Rogers testified at that hearing regarding her observations of respondent's visits with the children. She expressed concern that respondent had a new boyfriend, Steven P., at the home for one of the

visits which was not permitted. Rogers admitted that there was nothing about Steven P. to suggest he was in any way a danger to respondent or her children, but thought respondent should consider family therapy as an appropriate forum to address the issue of her new boyfriend with the children. DCFS had not ordered any such therapy at time of Rogers' testimony. She also testified that respondent had moved to a new residence that existed on the second floor of a building. After expressing concern about the children's safety with the staircase, DCFS provided respondent with a gate to prevent the children from falling. That gate was not wide enough for the staircase opening, and a suitable replacement had not yet been offered.

¶ 14 Koltz-Slabaugh next testified on direct examination at the hearing. She reported that respondent had made sufficient meals since the last permanency hearing. Further, Koltz-Slabaugh testified that respondent was always available for visits, had attended all family meetings, and participated in all of her counseling sessions. Respondent had moved twice in the reporting period and Koltz-Slabaugh expressed concern that she was not notified of these moves in the proper manner. Respondent's first move, from Galena to Stockton, was relayed to Koltz-Slabaugh by an employee of the company hired to provide transportation of the children to respondent's home. The second move, between two Stockton addresses, was relayed to her by respondent a day or two before the move.

¶ 15 Koltz-Slabaugh continued to believe that respondent was not implementing her lessons from the parenting classes to real-life discipline of the children. She felt that respondent had difficulty keeping the children supervised at the same time, necessitating the introduction of the gate. Koltz-Slabaugh also had concerns with respondent's new boyfriend, Steven P. She testified that she had spoke with respondent about getting Steven P. to participate in the parenting classes.

¶ 16 On cross-examination Koltz-Slabaugh said that she had been present for five or six visits in the last reporting period. Her main concern, respondent's difficulty keeping track of all three children at once, was illustrated through the following exchange:

"Q: And have you observed then that [respondent] has had difficulty managing the children?

A: Yes.

Q: Okay and is that because they're not always in the same room together or is that just one factor of that?

A: That's one factor, yes.

Q: What are the other factors?

A: The other factors are the discipline, she doesn't follow through with that. *** I think she tries to keep them all in one room to make it easier which is my concern that I've addressed, that if the children were to return home, they do need to kind of have access to other rooms.

Q: So I thought you said one of the factors here was that the children weren't all in the same room; that you thought that was a negative?

A: No, I'm saying she tends to keep them in one room and one room only rather than letting them explore the rest of the house so I'm just saying for future if they were to return home I would, you know, I would expect them to have access to the house or at least to the safe portions of the house.

Q: Okay, so it is okay during a visitation then if she has two of the children in the room with her, the other child appropriately doing something in another room alone?

A: I think it depends. I believe Jasmine's old enough to be able to do things on her own. It is a little concern because she does have some delays that she may be doing something that could put her in harm. I think [Jasmine's two siblings] do need to be supervised at all times though.

Q: Okay, so [respondent] would need to be in the same room as [Jasmine's two siblings]?

A: [Yes].

Q: But that possibly Jasmine could be in a separate room doing something appropriate?

A: Yeah I'd just like her to be checked on.

Q: Checked on?

A: Yeah, monitored every now and then."

¶ 17 Koltz-Slabaugh testified that she was in the process of providing respondent with a parenting coach. At the time of her testimony, the person needed to secure a parenting coach for respondent was "on vacation" but Koltz-Slabaugh said she would "try to contact" the parenting coach the next day. She said that she planned to have the parenting coach present for each weekly two-hour visit between respondent and the children. She expressed no objection to respondent's new boyfriend and testified that family services were not available to address the issue of integrating Steven P. into the children's lives.

¶ 18 The trial court found that respondent was making "reasonable efforts" but wanted her to "work on making better progress." The trial court went on to describe respondent's efforts as "very good" and encouraged her to continue with those efforts. The trial court's written order reflected that respondent had made reasonable efforts but not reasonable and substantial progress toward Jasmine's return home. A twelve-month reunification goal remained in place with the order.

¶ 19 On June 1, 2016, the trial court entered a *nunc pro tunc* permanency order finding that Jasmine's father had made reasonable progress towards a return to his home. Custody and guardianship of Jasmine was given to her father and DCFS was discharged from the case. On July 11, 2016, a petition for a temporary custody hearing was filed by the State alleging that Jasmine's father had improperly permitted respondent to have unsupervised visitation with Jasmine. On July 12, 2016, an order for temporary detention or shelter care was entered placing Jasmine back into shelter care. On August 8, 2016, an agreed modified order of disposition was entered adjudging Jasmine to be a ward of the court and finding respondent unable to care for Jasmine. The trial court's order reflected a goal of Jasmine's return home within twelve months.

¶ 20 The trial court conducted another permanency review hearing on February 8, 2017. Respondent testified at that hearing that she had a full-time job, obtained a driver's license, and was working towards her GED. Respondent testified that her mother, with whom she has a contentious relationship, telephoned during one of Jasmine's visits. Respondent made a negative comment in front of Jasmine about not wanting to talk to her mother. She testified that Amanda Koltz-Slabaugh advised her to either ignore the call or leave her phone off in the future. She also reported having ended her relationship with Steven P.

¶ 21 Koltz-Slabaugh then testified on direct examination in which she said that respondent was still making reasonable efforts but not reasonable and substantial progress. When asked what she would need to see from respondent to label her progress as substantial, Koltz-Slabaugh said:

> "Just the visits overall being better. I just want if there is any changes in visits such as them being shortened, I just want to make sure that [respondent] is aware because it's shortened, Jasmine should still get *** an after-school snack. It's an hour long drive both

> ways so it's pretty hard on Jasmine between after school, the visit, and then going back to the foster home. And just making sure that the conversations are and activities are appropriate. Jasmine did have nightmares because they had watched a Scooby-Doo movie *** which I had talked to [respondent] about and since then it hasn't been an issue but I just want to make sure all activities are appropriate as well."

When asked if respondent's progress was improving, Koltz-Slabaugh said "slightly".

¶ 22 On cross-examination, Koltz-Slabaugh admitted that the visits, overall, were going fine. She further testified that her concerns about respondent's ability to watch three children at once were no longer viable as only Jasmine would be present at the visits going forward.[1]

¶ 23 The trial court entered a written order finding respondent to have made reasonable efforts but not reasonable and substantial progress towards Jasmine's return home. A twelve-month reunification goal remained in place with the order.

¶ 24 On August 22, 2017, the parties appeared for another permanency review hearing and recommended the trial court enter an agreed order that respondent continues to make reasonable efforts but not reasonable and substantial progress towards a return home. The trial court agreed and the order was entered.

¶ 25 The final permanency review hearing took place on March 21, 2018. At that hearing, the state asked the trial court to change Jasmine's placement goal to substitute care pending determination of termination of respondent's parental rights. Koltz-Slabaugh then testified on direct examination. She agreed with the State's new stated goal because Jasmine, she felt, had

[1] Respondent's parental rights as to Jasmine's two siblings were terminated in a separate proceeding.

been going though the process for too long and needed permanency. She believed that she had not seen enough progress from respondent.

¶ 26 On cross-examination Koltz-Slabaugh admitted that respondent has never had any issues with drugs or alcohol to her knowledge. She agreed that respondent had lived in a clean, suitable home for the last eight months. Respondent had held down a steady job and was still participating in the requisite counseling and parenting classes. Koltz-Slabaugh never assigned respondent a parenting coach, despite her earlier testimony that she would, because a two-year old psychological report on respondent led Koltz-Slabaugh to the assumption that a parenting coach would be ineffective.

¶ 27 Respondent's psychological report was conducted by Dr. Nicolas O'Riordan in June 2016. The report made three recommendations: "(1) Given that [respondent's] personality and parenting limitations are well entrenched and not at all open to change, it is recommended that alternative long term placement arrangements be found for her three children; (2) [Respondent] should only have continued supervised visitations if she is able to handle the visits appropriately and abide by directives regarding her paramour; and (3) [Respondent] would benefit from therapy focusing on life and vocational skills to help her become more independent and self-reliant." It should be noted that Dr. O'Riordan's 2016 report also mentions that "[p]arent coaching is starting with Parents with Promise, recommendations for this service is essential."

¶ 28 Koltz-Slabaugh admitted in her testimony that respondent has made some progress since the issuance of the June 2016 psychological report. She further acknowledged that respondent and Jasmine have a good relationship and their visits go very well.

¶ 29 The trial court agreed with the State's recommendation that substitute care pending determination of termination of respondent's parental rights was to be the new goal. The trial court said that:

> "So what I've seen in the last three and a half years, I've seen biological parents who have the best intentions, love their daughter but have shown an inability to parent because of a variety of things, whether it's physical, cognitive difficulties or whatever but we've hit the wall here and *** it's really unfair for Jasmine to not be moved forward in her life here. *** Now after three and a half years *** it is definitely in her best interests at this point in time that substitute care be the new goal."

The trial court's written order reflected that respondent had made reasonable efforts but not reasonable and substantial progress towards Jasmine's return home. The order also noted the trial court's new permanency goal of substitute care pending determination of termination of parental rights.

¶ 30 On April 18, 2018, the State filed a petition for termination of respondent's parental rights and power to consent to adoption. The petition alleged that respondent had failed to make reasonable progress toward the return home of Jasmine during the following time periods: (1) February 18, 2015, to November 18, 2015; (2) November 19, 2015, to August 19, 2016; (3) August 20, 2016, to May 20, 2017; and (4) May 21, 2017, to February 21, 2018.

¶ 31 On April 19, 2018, the trial court held a hearing on the State's petition regarding respondent's parental fitness. Koltz-Slabaugh testified that she did not believe that respondent had made reasonable progress towards the return of Jasmine from the date of adjudication until February 21, 2018, for the following reasons:

> "There's been inconsistencies with counseling, inconsistencies with the discipline used when Jasmine's had a rough day at school. It doesn't necessarily have to be within the visits but when Jasmine does get letters home from school stating she's had a bad day, the discipline there has been inconsistent. Um…She has negative support systems in her life…um…and over-all just progress has not been made with the discipline and like the concrete thinking. Um…She's able to make meals but when addressed to do just snacks so Jasmine's not hungry at eight o'clock at night, she wasn't able to accommodate that."

Koltz-Slabaugh then testified to the findings of Dr. O'Riordan's 2016 psychological assessment as follows:

> "Um…It found that…um…[respondent] has concrete thinking…um…and is not able to have protective factors to protect Jasmine if Jasmine were to return home in her case…um…and it was recommended a different option for permanency."

Koltz-Slabaugh concluded her testimony regarding her opinion on respondent's unfitness by relaying her concerns about her past and future relationships:

> "Um…Among the two relationships within this case, they've all been abusive. [Respondent] has also talked about past abusive relationships…um…so we have concerns that those will continue and that was also a concern within the psychological [assessment]."

Koltz-Slabaugh also said that respondent's paramours did not cooperate with services during the pendency of the case.

¶ 32 The trial court made its findings regarding respondent's parental fitness:

> "All right, the Court finds that from the evidence that's been introduced here that *** [respondent] *** [is] found to be unfit pursuant to the statute and you can prepare the necessary order and we'll set it out to a best interest hearing."

The trial court's written order read that "[t]his Court finds the mother is an unfit person to have a child under 750 ILCS 50/1D(m)(ii) for failure to make reasonable progress toward the return of the child from 2/18/15 to 11/18/15, 11/19/15 to 8/19/16, 8/20/16 to 5/20/17, and 5/21/17 to 2/21/18."

¶ 33 On June 18, 2018, the trial court held a hearing in which it was found to be in the best interests of Jasmine that respondent's parental rights be terminated.

¶ 34 On appeal before this court, respondent raised two arguments. First, she contended that this case should be remanded because the trial court failed to make sufficient findings of fact in connection with its determination of parental unfitness. Second, respondent contended that the trial court's finding respondent an unfit parent was against the manifest weight of the evidence. See *In re Jasmine B.*, 2018 IL App (2d) 180571-U, ¶ 35. We concluded in an earlier disposition that the trial court's failure to set forth a factual basis prevented this court from conducting a meaningful review of the unfitness finding. *In re Jasmine B.*, 2018 IL App (2d) 180571-U, ¶¶ 39-42. Thus, we retained jurisdiction over the appeal and ordered a limited remand, strictly for the entry of the express factual basis supporting the trial court's finding of unfitness. *In re Jasmine B.*, 2018 IL App (2d) 180571-U, ¶ 43. In an order dated December 27, 2018, and filed with this court on January 8, 2019, the trial court detailed the factual basis in support of its finding. We now review the trial court's finding in light of the evidence presented at trial.[2]

[2] With respect to cases affecting the best interests of children, Illinois Supreme Court Rule 311(a)(5) (eff. July 1, 2018) provides in relevant part that, "[e]xcept for good cause

¶ 35 II. ANALYSIS

¶ 36 With the trial court now having entered its factual findings, we will address respondent's remaining contention. Respondent contends that the trial court's finding her to be an unfit parent was against the manifest weight of the evidence.

¶ 37 A parent's right to raise his or her biological child is a fundamental liberty interest, and the involuntary termination of such right is a drastic measure. *In re B'Yata I.*, 2013 IL App 2d 130588 ¶ 28. Accordingly, the Juvenile Court Act of 1987 provides a two-stage process for involuntary termination of parental rights. 705 ILCS 405/2–29(2) (West 2016). Initially, the State must prove that the parent is unfit. 705 ILCS 405/2–29(2), (4) (West 2016); 750 ILCS 50/1(D) (West 2016); *In re B'Yata I.*, ¶ 28. If the court finds the parent unfit, the State must then show that termination of parental rights would serve the child's best interests. 705 ILCS 405/2–29(2) (West 2016); *In re B'Yata I.*, ¶ 28.

¶ 38 With respect to the first stage of the termination process, section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2016)) lists various grounds under which a parent may be found unfit. *In re Antwan L.*, 368 Ill. App. 3d 1119, 1123 (2006).. The State has the burden of proving a parent's unfitness by clear and convincing evidence. 705 ILCS 405/2–29(2), (4) (West 2016); *In re Antwan L.*, 368 Ill. App. 3d at 1123. A determination of parental unfitness involves factual findings and credibility assessments that the trial court is in the best position to make. *In re Tiffany M.*, 353 Ill. App. 3d 883, 889–90 (2004). The decision of a trial court with respect to a determination of parental unfitness will not be disturbed on appeal unless it is against the

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shown, the appellate court shall issue its decision within 150 days after the filing of the notice of appeal." We have good cause for issuing our opinion more than 150 days after the filing of the notice of appeal as the case was not ready for final disposition because of the need to remand this cause to the trial court for additional factual findings.

manifest weight of the evidence. *In re Gwynne P.*, 215 Ill. 2d 340, 349 (2005). A finding is against the manifest weight of the evidence only where the opposite conclusion is clearly apparent or the determination is unreasonable, arbitrary, or not based on the evidence presented. *In re Addison R.*, 2013 IL App (2d) 121318, ¶ 22.

¶ 39 In its order expressing the factual basis supporting the finding of respondent's parental unfitness, the trial court stated the following reasons for that finding:

> "1. A psychological evaluation of [respondent] was conducted by clinical psychologist Nicholas F. O'Riordan and, a) she scored in the low average range of intelligence regarding I.Q. and had a fourth-fifth grade academic level, b) she was diagnosed with borderline personality which implied emotional instability, c) she had an extremely poor prognosis for making significant progress from meeting minimal parenting ability and for being able to be a safe parent.
>
> 2. Nicholas F. O'Riordan testified his opinion as to [respondent's] minimal parenting ability was not changed despite the fact [respondent] has been able to hold some employment since the date of her evaluation, as he testified her employment did not relate strongly to parenting[,] more toward her chances of survival.
>
> 3. I find evidence provided by Nicholas F. O'Riordan to be credible and persuasive.
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> 4. Amanda Koltz-Slabaugh, counselor employed by Camelot Care Centers, testified a) [respondent] has consistently failed to implement consequences or discipline during visits with Jasmine for issues ranging from school to interactions at home for the duration of this case and has been inconsistent with counseling, b) [respondent] entered into a new relationship during this case with an individual who presented as aggressive and unwilling to participate in anger management counseling; this relationship was entered

> into despite the fact that Jasmine originally came into custody and care because of an abusive paramour of [respondent's] and [respondent] remained in the relationship for close to one year despite having knowledge her choice could be a factor which would support an effort to terminate her parental rights; this choice by [respondent] is also compelling because there is a history of [respondent] exposing other children of hers [to those] who were unsafe for them.
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> 5. I find evidence provided by Amanda Koltz-Slabaugh to be credible and persuasive."

¶ 40 The second reason given by the trial court above is wholly improper for the purposes of finding respondent to be an unfit parent. At the April 19, 2018, hearing on the State's petition for termination of respondent's parental rights, the only testimony given was by Amanda Koltz-Slabaugh and respondent. Dr. O'Riordan did not testify until the June 18, 2018, hearing on best interests. Dr. O'Riodan's June 2016 psychological evaluation of respondent was entered into evidence at the April 19, 2018, hearing. Therefore, this court will not consider the trial court's reliance on Dr. O'Riordan's nonexistent testimony as grounds for affirming the finding of respondent as an unfit parent.

¶ 41 Section 1(D)(m)(ii) of the Act provides that a parent's failure to make reasonable progress toward the return of the child during any nine-month period following the adjudication of neglect is a ground of unfitness. 750 ILCS 50/1(D)(m)(ii) (West 2016). The statute further provides that if DCFS established a service plan to correct the conditions that were the basis for the child's removal from the parent, and if those services were available, then failure to make reasonable progress includes the parent's failure to substantially fulfill his or her obligations under the service plan. 750 ILCS 50/1(D)(m)(ii) (West 2016).

¶ 42 Our supreme court interpreted these provisions in *In re C.N.*, 196 Ill.2d 181 (2001). "Progress" means "movement or advancement toward a goal." *C.N.*, 196 Ill. 2d at 211. The goal is the return of the child. *C.N.*, 196 Ill.2d at 211. Thus, section 1(D)(m)(ii) requires that a parent make demonstrable movement toward the goal of reunification. *C.N.*, 196 Ill. 2d at 211. The benchmark to determine progress encompasses the parent's compliance with the service plans and the court's directives, in light of the conditions that gave rise to the removal of the child and in light of other conditions that later become known that would prevent the court from returning custody of the child to the parent. *C.N.*, 196 Ill.2d at 216-17. Service plans are an "integral" part of the statutory scheme, and compliance with the service plans is "intimately tied" to a parent's progress toward the return of the child. *C.N.*, 196 Ill. 2d at 215-17, 256. The failure to make reasonable progress includes the failure to substantially fulfill the terms of the service plans. *C.N.*, 196 Ill. 2d at 217, 256.

¶ 43 Turning to the facts of the present case, the trial court's written order concluded that "[t]his Court finds the mother is an unfit person to have a child under 750 ILCS 50/1D(m)(ii) for failure to make reasonable progress toward the return of the child from 2/18/15 to 11/18/15, 11/19/15 to 8/19/16, 8/20/16 to 5/20/17, and 5/21/17 to 2/21/18." The trial court's basis for this finding was Dr. O'Riordan's 2016 psychological report and the testimony of Amanda Koltz-Slabaugh, as articulated above. See supra ¶ 38. A review of the record on appeal in this case does not support the trial court's finding of respondent as unfit.

¶ 44 Dr. O'Riordan's 2016 psychological report paints a bleak picture of respondent's prospective parenting ability. However, the report is not relevant to the issues of respondent's unfitness alleged under section 1(D)(m)(ii) of the Act.[3] 750 ILCS 50/1(D)(m)(ii) (West 2016).

[3] "We note that the State chose not to bring the petition under section 1(D)(p) of the Act,

The report states nothing regarding respondent's reasonable progress towards Jasmine's return home during any nine-month period. The trial court should not have considered Dr. O'Riordan's report when determining whether respondent had made reasonable progress during the alleged periods. Dr. O'Riordan's conclusion in 2016 that respondent could not make reasonable progress is not evidence of whether respondent actually did make reasonable progress. Despite his less than optimistic view of respondent's parenting prospects, Dr. O'Riordan did make several recommendations for respondent's services.

¶ 45 The psychological report recommended that a parenting coach for respondent was "essential." Further, the report stated that respondent "would benefit from therapy focusing on life and vocational skills to help her become more independent and self-reliant." Following the issuance of Dr. O'Riordan's report, Koltz-Slabaugh testified that respondent had made reasonable efforts and some progress at each subsequent permanency review hearing. She testified that respondent had found a full-time job, obtained a driver's license, and was working towards a GED. Respondent had been continuing to participate in the requisite counseling and parenting classes and her visits with Jasmine were going well.

¶ 46 Koltz-Slabaugh's observations which led to respondent's unsatisfactory ratings were related to the choice of meals provided to Jasmine and respondent's failure to apply lessons from parenting classes to her life. She testified at the permanency review hearing on March 1, 2016, that she was in the process of providing respondent with a parenting coach but had not as of that date done so due to the "vacation" of the person needed to secure the coach. After Dr. O'Riordan's June 2016 report which described a parenting coach for respondent as "essential"

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which defines unfitness as a person's inability to carry out his or her parental responsibilities. 750 ILCS 50/1(D)(p) (West 2016)."

was issued, Koltz-Slabaugh took no further steps to provide respondent with this essential service. She testified at the March 21, 2018, permanency hearing that Dr. O'Riordan's report led her to the assumption that a parenting coach for respondent would be "ineffective."

¶ 47 Regarding respondent's unfitness, Koltz-Slabaugh related with scant detail that respondent had been inconsistent with counseling and inconsistent with discipline when Jasmine got letters from school stating that she had a bad day. She further testified that respondent is able to make meals but wasn't able to accommodate snacks. Without detail or examples, she summarized her conclusions that "over-all just progress has not been made with the discipline and like the concrete thinking." She expressed concern about respondent's future relationships and noted two abusive past relationships during the pendency of the case, but failed to mention that respondent had ended those relationships. Her conclusions concerning the psychological report were limited to testifying that "[i]t found that…um…[respondent] has concrete thinking…um…and is not able to have protective factors to protect Jasmine if Jasmine were to return home in her case…um…and it recommended a different option for permanency." The trial court's finding that respondent is unfit pursuant to section 1(D)(m)(ii) of the Act based on its improper reliance on Dr. O'Riordan's report and Ms. Koltz-Slabaugh's testimony is both belied by the record and against the manifest weight of the evidence.

¶ 48 It is difficult to ascertain from the record provided to this court what more respondent could have done to substantially fulfill the terms of her service plan. The record is not clear what new directions or goals were set when a misstep by respondent occurred. Respondent does not have any substance abuse issues or criminal history. She has had a stable employment record. The visits with Jasmine show marked improvement through the DCFS reports and Koltz-Slabaugh's own testimony. Her paramour that was responsible for the original neglect petition

has long-since been removed from respondent's and Jasmine's life. She has participated in the requisite parenting classes, individual therapy sessions, psychological and mental health assessments, and has been cooperative with the case workers at her home. At each permanency hearing respondent was lauded by the court for her continued improvement in her efforts to reunite with Jasmine. Respondent's aforementioned successes and improvements seemed to be forgotten once Dr. O'Riordan's report was tendered, and nowhere in the trial court's orders was it explained how a simple psychological evaluation could erase this progress. The reasons articulated by the court in its December 27, 2018, order finding respondent unfit are against the manifest weight of the evidence. The record does not show that the State provided clear and convincing evidence that respondent is unfit.

¶ 49 Proceedings on parental unfitness can result in the permanent and irrevocable termination of a parent's right to raise his or her child. *In re B'Yata I.*, ¶ 42. Therefore, it is paramount that when the State sets a goal to reunify a child with her parent, all parties work diligently to achieve that goal. When a psychologist issues a report that calls for the "essential" service of providing respondent with a parenting coach, the State needs to take steps to provide her with that service. The interest of parents in the care, custody, and control of their children is the oldest of the fundamental liberty interests guaranteed by law. *In re M.H.*, 196 Ill. 2d 356, 362 (2001). All participants must be vigilant not to relax established standards. *In re Keyon R.*, 2017 IL App (2d) 160657, ¶ 34. Just as important here, respondent has been given a second chance to improve her parenting skills and reunite with her daughter; she must use this opportunity to ask questions of her caseworker when she is unsure as well as request and complete services to aid in her accomplishment of the assigned permanency goals.

¶ 50 Accordingly, we reverse the trial court's finding that respondent is an unfit parent and, necessarily, reverse the trial court's subsequent June 18, 2018, order terminating respondent's parental rights to Jasmine. We remand the cause to the trial court for further proceedings.

¶ 51 III. CONCLUSION

¶ 52 For the reasons stated, this cause is reversed and remanded to the circuit court of Jo Daviess County for further proceedings consistent with this disposition.

¶ 53 Reversed and remanded.