NOTICE
Decision filed 03/21/18. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2018 IL App (5th) 170450-U

NO. 5-17-0450

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

In re J.B., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Bond County.
	)	
Petitioner-Appellee,	)	
	)	
v.	)	No. 16-JA-5
	)	
Tracy A.,	)	Honorable
	)	Ronald R. Slemer,
Respondent-Appellant).	)	Judge, presiding.

JUSTICE CATES delivered the judgment of the court.
Justices Chapman and Moore concurred in the judgment.

ORDER

¶ 1 *Held*: Trial court properly terminated mother's parental rights to minor but erred in ordering her to repay legal fees incurred by counsel appointed to represent her.

¶ 2 Respondent-appellant, Tracy A. (mother), appeals the order entered on November, 1, 2017, by the circuit court of Bond County. She raises two issues on appeal claiming first that the court erred in ordering her to repay legal fees incurred by appointed counsel on her behalf, and second, that the court erred in changing the permanency goal from

return home to substitute care pending termination of parental rights. We affirm in part, and reverse and remand in part.

¶ 3 The State filed a petition for wardship on April 12, 2016, alleging James B. (minor) was neglected based on mother's alcohol abuse and domestic violence towards the minor. On April 25, 2016, the court found immediate and urgent necessity to remove the minor from mother's care. On June 8, 2016, the minor was placed in the care and custody of the Illinois Department of Children and Family Services (DCFS) so that DCFS could provide reasonable and necessary services to mother and the minor.

¶ 4 On September 22, 2016, the State filed, pursuant to section 113-3.1 of the Code of Criminal Procedure of 1963 (725 ILCS 5/113-3.1 (West 2016)), a petition for repayment of fees incurred by counsel appointed to represent mother. Mother appeared *pro se*. On March 8, 2017, an order was entered finding that mother was to pay $1536 to the Bond County Circuit Clerk pursuant to the petition. On June 14, 2017, mother again appeared *pro se*, and was ordered to pay $1068 *instanter*, followed by payments of $25 per month. Mother complied with the order by making a payment of $1068 that day.

¶ 5 On June 26, 2017, at a permanency review hearing, it was revealed that DCFS had been unable to observe mother's living environment because mother had had no documented address since December 2016. Her service plan for substance abuse was also rated unsatisfactory given that her caseworker could not monitor whether mother was actually drinking. Following the hearing, the court issued an order changing the goal from "return home" to "substitute care pending termination of parental rights."

¶ 6 On September 20, 2017, the State filed a motion to terminate mother's parental rights. The hearing on the motion was held October 17, 2017. At this hearing, mother stipulated by clear and convincing evidence that she had not made reasonable progress or reasonable efforts, and therefore was an unfit person as defined by the Juvenile Court Act of 1987. See 705 ILCS 405/2-28 (West 2016); 750 ILCS 50/1(D) (West 2016). The court accordingly found mother to be unfit. At the best interests hearing held October 31, 2017, the court further found that it was in the best interests of the minor to terminate mother's parental rights. The order terminating her rights was subsequently filed November 1, 2017.

¶ 7 Mother first argues on appeal that section 113-3.1 does not apply to attorney fees incurred pursuant to appointment of counsel in juvenile abuse and neglect cases. See 725 ILCS 5/113-3.1 (West 2016). The States confesses error, and we agree. First, termination of parental rights proceedings are governed by the Code of Civil Procedure. *In re S.L.*, 2014 IL 115424, ¶ 17, 4 N.E.3d 50. Accordingly it was improper to require mother to reimburse her appointed counsel under a criminal statute. Secondly, there is no statute within the Code of Civil Procedure or the Juvenile Court Act which allows for the imposition of legal fees incurred by the representation of an indigent respondent in termination cases. We therefore reverse the trial court's order requiring mother to reimburse the county for her appointed counsel. We further remand this cause to the trial court so that mother can be refunded any monies already paid.

¶ 8 For her second issue on appeal, mother contends the court erred in amending the goal of the permanency placement review order from return home to substitute care

pending termination of parental rights. Mother argues that the order changing the goal was against the manifest weight of the evidence. The order of which mother complains was entered on June 26, 2017. Mother did not directly appeal this order after it was entered.

¶ 9 We initially note that the trial court is given broad discretion to select a permanency goal which it determines to be in the best interests of the child. Accordingly, the trial court's decision regarding a permanency goal is entitled to great deference, and will not be disturbed on appeal unless contrary to the manifest weight of the evidence. *In re K.H.*, 313 Ill. App. 3d 675, 682, 730 N.E.2d 131, 137 (2000).

¶ 10 More importantly, permanency orders are interlocutory orders. See *In re Curtis B.*, 203 Ill. 2d 53, 59-60, 784 N.E.2d 219, 223 (2002). Illinois Supreme Court Rule 306(a)(5) provides that a party may petition for leave to appeal to the appellate court from an interlocutory order of the trial court affecting the care and custody of unemancipated minors. Ill. S. Ct. R. 306(a)(5) (eff. Mar. 8, 2016). This rule also requires such appeals to be filed within 14 days of the entry or denial of the order from which review is being sought. Ill. S. Ct. R. 306(b) (eff. Mar. 8, 2016). There is no other way to appeal a permanency order. Because permanency orders are not final judgments, and do not dispose of the entire controversy, they are not appealable under Illinois Supreme Court Rules 301, 303, or 304. See *In re Curtis B.*, 203 Ill. 2d at 60; *In re M.M.*, 337 Ill. App. 3d 764, 773, 786 N.E.2d 654, 661 (2003). Mother did not timely appeal the June 26, 2017, permanency order. Moreover, once the court determined her parental rights should be terminated, as a court of review, we can no longer delve into, and

review, the trial court's preliminary determinations. See *In re Jordan V.*, 347 Ill. App. 3d 1057, 1066, 808 N.E.2d 596, 604 (2004). The only order subject to review at this point was the trial court's finding on the termination petition. Therefore, we cannot consider mother's claims with respect to the order entered June 26, 2017.

¶ 11 Turning to the issue of the termination of mother's parental rights, it should first be noted that mother does not argue this issue in her brief. The notice of appeal states she is seeking review of the "determination that termination of parental rights was in the best interests of the minor." And, the statement of jurisdiction in her brief also states she is appealing the November 1, 2017, order terminating her rights. We therefore briefly address this issue so as to bring finality to the matter. Under the circumstances presented, we find no error in the court's decision to terminate mother's rights to the minor. Mother, herself, stipulated at the unfitness hearing to the finding that she had not made reasonable progress, or reasonable efforts, toward the return of the minor, and was therefore an unfit person as defined by the Juvenile Court Act. We will not reverse a trial court's finding of parental unfitness unless contrary to the manifest weight of the evidence. *In re Jordan V.*, 347 Ill. App. 3d at 1067. Considering mother's stipulation, we cannot conclude that the court's finding was against the manifest weight of the evidence, in this instance. Accordingly, we affirm the termination of mother's parental rights.

¶ 12 Affirmed in part, reversed in part, and remanded in part.