

NOTICE
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2018 IL App (5th) 180299-U

NO. 5-18-0299

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).

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| <i>In re</i> JAYL.S.A., <i>et al.</i> , Minors |) | Appeal from the |
| |) | Circuit Court of |
| (The People of the State of Illinois, |) | Bond County. |
| |) | |
| Petitioner-Appellee, |) | |
| |) | |
| v. |) | No. 17-JA-2 |
| |) | |
| Jennifer M., |) | Honorable |
| |) | Ronald R. Slemer, |
| Respondent-Appellant). |) | Judge, presiding. |

JUSTICE WELCH delivered the judgment of the court.
Justices Moore and Overstreet concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court's order terminating the respondent mother's parental rights to her minor children is affirmed where the court's findings that she failed to make reasonable efforts and progress toward the minor children's return within nine months following the adjudication of neglect and that termination of her parental rights was in the best interests of the minors are not against the manifest weight of the evidence. We modify the termination order by striking the finding that respondent mother has failed to maintain a reasonable degree of interest, concern, or responsibility as to the minor children as the State did not proceed on this unfitness ground, and the finding was likely a scrivener's error.

¶ 2 The respondent mother, Jennifer M., appeals the judgment of the circuit court of Bond County terminating her parental rights to her minor children, Jaylen A., Jacob A.,

Jathan A., Jaycen A., Jaime A., Juliana A., and William G. Jr. On appeal, Jennifer M. argues that the court's findings that she failed to make reasonable efforts to correct the conditions that were the basis for the minor children's removal within nine months 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 the children's return within nine months following the adjudication of neglect under section 2-3 of the Juvenile Court Act, and that she failed to maintain a reasonable degree of interest, concern, or responsibility as to the children's welfare 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 children's best interests is against the manifest weight of the evidence. For the reasons that follow, we affirm as modified.

¶ 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 29, 2018. The case was placed on the October 30, 2018, oral argument setting, and we now issue this Rule 23 order.

¶ 5 Jennifer M. and Joseph A. have six children: Jaylen A., born September 20, 2005; Jacob A., born January 4, 2007; Jathan A., born July 10, 2009; Jaycen A., born July 10, 2009; Jaime A., born July 8, 2010; and Juliana A., born May 22, 2012. Jennifer M. and

William G. have one child: William G. Jr. (William Jr.), born December 11, 2015. This appeal involves the termination of Jennifer M.'s parental rights as to all seven children.

¶ 6 In August, an intact family case was opened by the Illinois Department of Children and Family Services (DCFS) after medical neglect allegations were made against Jennifer M. According to the reporter, Juliana A. had injured her elbow on May 14, 2016, which required a cast. Jennifer M. did not bring her to the May 31 follow-up appointment, and on June 2, Juliana A. had to have surgery to place pins in her elbow because she was not healing properly. She had an appointment on June 9 for X-rays, but Jennifer M. did not take her to that appointment. Jennifer M. took her to the hospital on August 12, 2016, because she was complaining of elbow pain, and Tylenol was no longer effective at managing the pain. Juliana A.'s cast should have been removed in late July, which was three weeks overdue. After an examination, it was discovered that Juliana A.'s "pins were sticking out of her elbow and pus[] was coming out of the sores." It was believed that she had a septic infection in her elbow. The hospital contacted DCFS because Jennifer M. initially refused to give consent for Juliana A. to be transferred to Rankin Jordan Children's Hospital for the insertion of a PICC line because she believed that she could take care of Juliana A.'s medical needs at home, and the hospital staff was concerned that she would not follow through with the discharge instructions for the care of the PICC line. She eventually gave consent for the transfer after it was explained to her that her refusal could result in the removal of all of her children from the home. As a result of the delay in medical treatment, Juliana A. required additional surgery and had to participate in occupational therapy to remedy the decreased mobility in her arm.

¶ 7 On August 26, 2016, DCFS conducted the first home visit on Jennifer M.'s residence. Jennifer M. and William G. were living together at this time. During the home visit, the caseworker discovered the following: that the home was infested with bed bugs, and the family did not have the financial resources to treat the home; the yard was full of items and was not safe for children to run and play; the floor of the living room was only subflooring; there was a mattress lying in the middle of the living room floor; the counters were full of items; and the children were often dirty and did not have appropriate clothing during the school year.

¶ 8 Intact family services were initiated on September 6, 2016. Thereafter, it was reported that Jennifer M. was not compliant with the service plan directives in that she had missed all of the children's scheduled medical appointments and had also missed her scheduled substance abuse assessment.

¶ 9 On January 24, 2017, the State filed a petition for adjudication of wardship, asserting, in pertinent part, that the children were neglected minors and requesting that they be adjudicated wards of the court. The petition alleged that the children were neglected in that they were not receiving the proper medical care in violation of section 2-3(1)(a) of the Juvenile Court Act (705 ILCS 405/2-3(1)(a) (West 2016)) where Jennifer M. failed to follow through with necessary medical treatment for Juliana A., which resulted in a severe infection, additional surgery, and placement in a pediatric rehabilitative hospital; she failed to follow through with occupational therapy for Juliana A., which resulted in decreased mobility of Juliana A.'s right arm; and the children were not receiving the proper or necessary medical care for their well-being. The petition also

alleged that the children were neglected in that their environment was injurious to their welfare in violation of section 2-3(1)(b) of the Juvenile Court Act (*id.* § 2-3(1)(b) (West 2016)) where Jennifer M. suffered from mental health issues, which affected her ability to care for the children; and she failed to follow through with required service plan directives, including substance abuse treatment and meeting minimum parenting standards.

¶ 10 On January 26, 2017, the State filed a first amended petition for adjudication of wardship, making the same neglect allegations as contained in the initial petition.

¶ 11 On February 3, 2017, the intact family case was unsuccessfully closed because Jennifer M. and William G. failed to comply with service plan directives and failed to ensure that the children attended their medical appointments. That same day, the trial court entered a temporary custody order, placing temporary custody of the children with DCFS.

¶ 12 Thereafter, on February 22, 2017, the State filed a second amended petition for adjudication of wardship (the petition at issue here), asserting the same allegations of neglect against Jennifer M. as those raised in the original petition and also adding the following allegations, in pertinent parts, against the minor children's fathers: that William Jr. was neglected in that his environment was injurious to his welfare in violation of section 2-3(1)(b) of the Juvenile Court Act (705 ILCS 405/2-3(1)(b) (West 2016)) in that William G. failed to follow through with recommended services, including completing a substance abuse assessment and meeting minimum parenting standards, and there was ongoing concern about his ability to care for his minor child; and that Joseph

A.'s children were neglected in that their environment was injurious to their welfare as there were ongoing concerns about his substance abuse issues and his ability to care for his children.

¶ 13 On March 29, 2017, the trial court entered an adjudicatory order, finding that the children were neglected minors in that they suffered from a lack of support, education, and remedial care; that they were in an environment that was injurious to their welfare; and that they were in substantial risk of physical abuse. This finding was based on the following: there was an open intact family case against Jennifer M. and William G. in which they failed to comply with service plan directives; Jennifer M., William G., and Joseph A. tested positive for illicit substances (amphetamines and methamphetamines) at the shelter care hearing; and Jennifer M. failed to follow through with medical care for Juliana A.

¶ 14 On April 12, 2017, a status hearing court report was filed by Caritas Family Solutions (Caritas), which recommended that Jennifer M. obtain and maintain stable housing, complete a parenting skills assessment and parenting education, complete individual mental health, complete a substance abuse assessment, complete domestic violence victim counseling, and have supervised visitation with the children. The report indicated that Jennifer M. completed a mental health assessment on March 30, 2017, in which it was recommended that she attend weekly individual counseling sessions; that she had attended all three individual counseling sessions since her assessment; and that she had attended four out of seven parenting classes. She also attended all visits with her children, but the caseworker expressed concern because Jennifer M. and William G.

fought in front of the children during visitation, told them that they should not attend visitation with their biological father, spent the majority of the visit "trying to find abuse" on the children, and instilled false hope in the children, causing them to become upset. She had not completed a substance abuse assessment or domestic victim counseling.

¶ 15 On April 24, 2017, DCFS filed an integrated assessment, which indicated that Jennifer M. was receptive to services, agreed to all the service recommendations, and started the process to return the children home.

¶ 16 On May 4, 2017, DCFS filed a service plan, requiring Jennifer M. to complete the following tasks: complete a substance abuse treatment assessment and any recommended services; cooperate with required urine, blood, or hair follicle tests; provide release consents between service providers and Caritas; complete a mental health assessment and any recommended services, including group counseling, individual counseling, a psychological evaluation, and use of psychotropic medications; agree to demonstrate progress on mental health by developing an understanding of its effects on parenting; cooperate and comply with scheduled parenting classes and complete those classes; demonstrate what is learned in parenting classes on an ongoing basis; agree to not use physical punishment in the discipline of the children; agree to demonstrate progress on the domestic violence issue by developing an understanding of what is needed to prevent further abuse; agree to fully participate in a domestic violence victim assessment and complete recommended services; agree to not allow any episode of domestic violence to occur within the home and in the presence of the children; agree to keep caseworker informed of all address, phone number, employment, or household composition changes

within 24 hours; agree to cooperate with any court order regarding services; agree to keep all appointments and meet with caseworker on a scheduled and unscheduled basis; agree to provide and maintain adequate furniture and room space for family, particularly bedding and sleeping arrangements to meet the children's basic needs; agree to keep walls, floors, and furniture adequately clean, including keeping the household free of clutter, animal feces, and rodent/insect infestation; agree to maintain roof, walls, doors, and windows in adequate repair and ensure that exterior doors and windows can be locked; agree to provide and maintain safe electrical outlets, wiring, etc.; agree to keep outside area and yard free from debris, clutter, and hazardous material; agree to maintain an acceptable level of cleanliness in the home at all times; agree to keep all medication, cleaning supplies, and other potentially harmful products out of reach of the children; agree to provide and maintain adequate and sanitary plumbing, water, and toilet facilities; agree to provide suitable housing for the family and a stabilized residence for at least six months; agree to provide and maintain safe heating; agree to maintain a legal means of support for an adequate living arrangement and to pay bills on time; agree to demonstrate appropriate parenting skills, including supervision, discipline, and nurturance during visitation; agree to participate in weekly visits with the children as outlined in the visitation plan; and agree to engage in age-appropriate play during visitations.

¶ 17 On May 15, 2017, the trial court entered a dispositional order, finding Jennifer M. unfit, unable, and unwilling to care for, protect, train, educate, supervise, or discipline the minor children and that placement with her was contrary to their health, safety, and best interests as a result of her ongoing substance abuse issues, inadequately treated mental

health issues, and instability in her housing. The court found that reasonable efforts had been made to keep the minor children in the home, but the necessity for removal had not been eliminated. However, permanency goals were reserved based on DCFS's failure to have a current completed integrated assessment and a service plan on file.

¶ 18 On July 5, 2017, the trial court entered an order to show cause against Caritas for its failure to provide the court with a current integrated assessment, updated service plan, or progress report following the closure of the intact case.

¶ 19 On July 15, 2017, Jennifer M. tested positive for amphetamine and methamphetamine. On July 21, 2017, DCFS filed a family service plan, which indicated that Jennifer M. had not completed services to get her children back into her care. The report indicated that she attended all but two visits with the children. However, the counselors recommended that Jaime A. and Juliana A. not attend visitation due to them having behavioral issues following the visits. The report also indicated that Jennifer M. focused her attention on William Jr. during the visits and that she had a difficult time providing the children with snacks and drinks. Although she successfully completed parenting classes on May 11, she did not display what she had learned in her visits.

¶ 20 The report indicated that Jennifer M. completed a substance abuse assessment but was rated unsatisfactory for substance abuse because she denied needing substance abuse counseling even with multiple positive drug screenings. She had four positive drug screenings and had refused two of them. Her counselor was going to refer her to substance abuse counseling, but she stopped attending the sessions, and her file was closed on June 23. She had not completed her domestic violence assessment. As for her

individual counseling sessions, she attended 16 out of 24 of the sessions. Since her last appointment, she missed two appointments, did not schedule a follow-up appointment, and her case was unsuccessfully closed due to lack of attendance. She was diagnosed with anxiety and bipolar disorder and was currently taking medications.

¶ 21 The report indicated that Jennifer M. currently resided in a five-bedroom trailer in Sorento, Illinois, but the home remained unsafe and not a return option for the minor children. The caseworker observed that the home was heated appropriately and had appropriate plumbing and bathroom facilities. However, the caseworker reported that there was no carpeting on the floor due to bugs in the home and that the home was unkept and cluttered, which could be hazardous to the children. The report also indicated that Jennifer M. was cooperative with keeping the caseworker informed of changes to her employment and phone number and was cooperative with meeting with the caseworker.

¶ 22 On July 21, 2017, DCFS filed a parent child visitation and contact plan, which indicated that William G. was attending the visitations with all seven children but that the plan was changed because he was acting inappropriately with the oldest children during visitation. According to the report, he would tell them that their youngest brother was "raped" because he had a diaper rash, and he would tell Juliana A. and Jaime A. that their biological father had molested them. Thus, Caritas decided to have his visits with William Jr. separate from the rest of the children. The visitation plan was also updated because Juliana A.'s and Jaime A.'s counselor reported that it was in their safety and best interests to not attend any visitation until they had a sexualized assessment and a sexual

abuse victim assessment because they were exhibiting behaviors that were consistent with sexual abuse.

¶ 23 That same day, DCFS filed an integrated assessment, indicating that Jennifer M. tested positive for methamphetamine five times since the case was opened. Jennifer M. reported that one of the positive drug tests was the result of taking what she thought was a caffeine pill, but the pill was "laced," and that she believed that some of the other positive test results were due to the assistant State's Attorney "planting it to make it look like [she was] using." She also reported that she does not use methamphetamine and that the positive test on March 29, 2017, was the result of her allergy medicine and inhaler. She was unwilling to submit to drug testing on the date of the interview even after being informed that her refusal would indicate that a positive result would be returned. The report indicated that she suffered with posttraumatic stress disorder and depression, which interfered with her ability to function in most aspects of her life.

¶ 24 The report further indicated that Jennifer M.'s primary issues were substance abuse, mental illness, domestic violence, and parenting and that those concerns affected her ability to cope, make healthy decisions, act in the children's best interests, and ensure her children's safety. The report also indicated that she did not accept responsibility for her children's placement in substitute care and appeared to minimize the concerns that impacted her, her family, and her ability to parent. She denied that domestic violence occurred in her relationship with William G. even though there was information to the contrary, and she failed to engage in domestic violence services. The caseworker opined that William G.'s history of violence and mental health issues posed a significant concern

as it related to the safety of reunification. The report stated that she had a good relationship with her children and that there were signs of mutual attachment between her and the children. The caseworker believed that she possessed the knowledge to parent the children but expressed concern about her ability to apply that parenting knowledge.

¶ 25 On July 28, 2017, Jennifer M. again tested positive for amphetamine and methamphetamine. On August 11, 2017, Caritas filed a status report, indicating that the caseworker has had no contact with Jennifer M. since July 28, 2017, even though the caseworker made multiple calls and left several voicemails. Jennifer M. was still attending visitations with her children, but no known progress had been made toward engaging in services.

¶ 26 On December 21, 2017, a permanency report was filed by Caritas, which indicated that Jennifer M. had completed the psychological evaluation on November 15 and that she was loving and nurturing toward the children during visits, but she had not successfully completed substance abuse counseling, had not attended domestic violence classes, and had not secured appropriate housing for the children. The report recommended that the custody of the children remain with DCFS and that a permanency hearing be scheduled in six months.

¶ 27 On December 27, 2017, Jennifer M. tested negative for illicit substances. That same day, the trial court entered a permanency order, finding that Jennifer M. had not made reasonable efforts toward returning the minor children to the home and setting the permanency goal for a return home within 12 months where progress is substantial. The court found that Joseph A. had made reasonable efforts toward returning the minor

children home and that he needed to maintain his sobriety and reintegrate the children into his household. The court further found that William G. had not made reasonable efforts toward returning William Jr. home and that William G. needed to start services.

¶ 28 On January 22, 2018, the State filed a motion for termination of Jennifer M.'s parental rights and for appointment of a guardian with power to consent to adoption, asserting that she was unfit to have the minor children 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 the children's removal within nine months after an adjudication of neglect; under section 1(D)(m)(ii) of the Adoption Act (*id.* § 1(D)(m)(ii) (West 2016)) in that she failed to make reasonable progress toward the children's return within nine months after the adjudication of neglect; and under section 1(D)(b) of the Adoption Act (*id.* § 1(D)(b) (West 2016)) in that she failed to maintain a reasonable degree of interest, concern, or responsibility as to the minor children's welfare.

¶ 29 On February 13, 2018, Caritas filed another permanency report, which indicated that Jennifer M. had recently obtained employment and housing, that she completed her substance abuse assessment on December 15, 2017, and that she was enrolled in mental health/substance abuse/domestic abuse violence counseling but had contacted her caseworker in late January to change service providers because it was difficult to get an appointment at her current provider due to their high caseloads. The report stated that she had successfully completed parenting classes and was steadily engaged in services.

¶ 30 On February 22, 2018, DCFS filed a family service plan, which indicated that Jennifer M. was engaged in services but had not successfully completed all of her recommended services. Although she was currently engaged in mental health/substance abuse/domestic violence counseling and appeared to remain sober, she was rated unsatisfactory for mental health and substance abuse for lack of engagement over the past six months. She tested negative for drugs on December 27, 2017, and tested positive for barbiturates on February 6, 2018, but that may have been the result of a testing error as everyone drug tested that evening tested positive for barbiturates. She was rated unsatisfactory for housing because she has had unstable housing since the last assessment and had been living with William G.'s family. Although she recently obtained new housing, a home visit was not performed because she was in the process of remodeling the home so it would be safe for the children. The plan was to conduct a home visit once the remodeling was completed. She was rated satisfactory for parenting because she completed parenting classes on May 11, 2017, and she displayed appropriate parenting techniques during visitations. She was also rated satisfactory for visitation because she attended almost all of her visits within the last six months; she cancelled one visitation because she was sick. She provided snacks/meals and activities for the children during the visits, and she acted appropriately with the children during visits and attended to their needs accordingly.

¶ 31 Jennifer M. was rated unsatisfactory for domestic violence victim counseling because, although she was currently engaged in services, her rating was a reflection of her engagement over the last six months. She was rated satisfactory for completing a

psychiatric evaluation and for taking her prescribed medication for depression and anxiety. She was also rated satisfactory for cooperating with court orders concerning visitation; keeping her caseworker informed of all changes of address, phone number, employment, or household composition; and cooperating with meeting with her caseworker.

¶ 32 At the March 16, 2018, fitness hearing, Morgahn Zedalis, the Caritas family caseworker since July 20, 2017, testified that an intact services case, which provides services to the family while the children remain at home, was initially opened in August 2016 after medical neglect allegations were made against Jennifer M. Similar to a case where the children are removed from the home, a service plan is established in intact cases. The service plan required Jennifer M. to ensure that the children made their medical appointments and required her to complete a substance abuse assessment. At the time of the intact case, William G. and Jennifer M. resided together in the home with the seven children. Because Jennifer M. and William G. did not complete the service plan directives, the intact case was deemed unsuccessful, and the children were removed from the home.

¶ 33 The second service plan, which was virtually identical to the first plan, was filed on July 21, 2017, after the adjudication of wardship and covered a time period of February 2017 through August 2017. According to this service plan, Jennifer M. was rated unsatisfactory as to visitation because she had a difficult time providing snacks and drinks to the children. The plan indicated that William G. was told that he was no longer allowed to attend visits with Jennifer M.'s children because Juliana A. and Jaime A. had

behavioral issues following visitation, and the girls had reported allegations of sexual abuse against William G., which were being investigated. Jennifer M. was also referred to domestic violence victim services because she had reported a past history of being a victim of domestic violence, and William G. had a lengthy history of being violent with his partners. At the time that the service plan was filed, Jennifer M. had not completed a domestic violence screening, and thus she was rated unsatisfactory for this service.

¶ 34 Jennifer M. was also rated unsatisfactory for failing to cooperate with court orders because she had not completed her services. She was rated satisfactory with agreeing to keep the caseworker informed of changes to employment, address, and phone number and was rated satisfactory on cooperating with her caseworker regarding scheduled meetings. She was rated unsatisfactory for maintaining appropriate, stable housing during this time period, which remained an issue throughout the case. She was rated satisfactory for parenting because she successfully completed the parenting program by attending 8 out of the 12 classes.

¶ 35 In February 2017, Jennifer M. missed two mental health and substance abuse appointments and was assessed a \$50 fine for those missed appointments. She was unable to attend any future appointments with that provider until the fine was paid, and the fine was not paid until January 2018; one-half of the fine was paid by Morgahn out of her pocket so that Jennifer M. could reengage in services there. She was unsuccessfully discharged from mental health services on May 18, 2017, for missed appointments and was thus rated unsatisfactory for that service. She was also rated unsatisfactory for substance abuse because there was a positive drug screening, and she had not completed

substance abuse classes. Morgahn acknowledged that Jennifer M.'s mental health and substance abuse counselor had a huge caseload and could not schedule appointments in a timely manner.

¶ 36 Jennifer M. was also rated unsatisfactory for psychiatric evaluation because the referral was not approved in enough time to complete this task during this time period. Morgahn explained that the parent must be free of all substances before completing a psychological assessment, which was a concern in this case up until late 2017. Jennifer M. also did not get her required medical examination.

¶ 37 The third service plan was filed on February 22, 2018, which also contained the same services as addressed on the previous plans. Jennifer M.'s overall rating on this service plan was unsatisfactory. Her housing was unsatisfactory as she and William G. had been living in a house owned by her parents but were asked to leave that residence. Then, for a short period of time, they squatted in a home that they planned to purchase. Although she started substance abuse treatment on February 13, 2017, she was unsuccessfully discharged on June 23, 2017. She started treatment again on October 16, 2017, was a "no call, no show" on November 14, attended an appointment on November 28 to begin the assessment, cancelled her appointment on December 13, and attended an appointment on December 15 to complete her substance abuse and mental health assessment, which was required before she could start treatment. She then cancelled an appointment on January 23, 2018, and her next appointment was March 6 to set up her treatment plan for substance abuse and mental health. Every drug screen that she had up

until December 2017 was positive for illicit substances. As of December 31, 2017, she had not completed substance abuse treatment.

¶ 38 Morgahn testified that the main issues that Jennifer M. needed to address to regain custody of her children were substance abuse, mental health, parenting, and appropriate housing. Although Morgahn believed that Jennifer M. knew what she was supposed to do in regard to the service plan, she noticed a lack of engagement on Jennifer M.'s part.

¶ 39 Morgahn acknowledged that there had been a delay between the children being placed in DCFS care (February 2017) and the filing of the July 2017 integrated assessment after the case was changed from an intact case to a placement case. Although she acknowledged that the delay could affect a parent's ability to complete services in a timely manner, she noted that there was an integrated assessment completed before adjudication (while the intact case was pending) and that services were already being offered to Jennifer M., so she did not believe that the delay was detrimental to the case. She further acknowledged that she never personally inspected Jennifer M.'s residence in Sorento when she became the caseworker but explained that she felt there were bigger issues that needed to be addressed first and that she was told not to visit the home because it was unsafe.

¶ 40 Morgahn testified that the children appeared to enjoy visitation with Jennifer M. and appeared bonded with her. She further testified that she believed that Jennifer M. and William G. were still in a relationship, but Morgahn did not tell Jennifer M. that she had to end the relationship to regain custody of the children.

¶ 41 Caitlin Joy, the Caritas foster care and adoption supervisor in this case, testified about the delay between the first integrated assessment and the assessment completed after the intact case was closed. She explained that DCFS assigns an independent screener to complete the integrated assessments. The first integrated assessment was completed when the intact case was opened, but it is unusual for DCFS to assign a second independent screener to complete another integrated assessment, which typically recommends the same services, when the intact case is deemed unsuccessful. Thus, after this turned into a placement case, it was necessary to obtain a court order to force DCFS to assign a new screener and complete a new assessment. Jennifer M.'s service plans in the placement case were virtually identical to the services set forth in the open intact case.

¶ 42 Jennifer M. testified that she has consistently attended visitation with the children, which was one hour per week, she completed the parenting classes during the second service plan, and she attended two different substance abuse classes. She explained that it was difficult to complete the domestic violence classes because she did not know where to go for that service. She was currently employed. She has addressed her mental health needs by seeing her family physician and a counselor as much as possible and by taking her prescribed medications for posttraumatic stress disorder, anxiety, and depression. She indicated that she moved from Sorento at the end of December 2017 or beginning of January 2018 and that she has made positive changes since that move, such as finding employment, having a home, no longer associating with people who are bad influences, and being closer to her church family. She further testified that she has remained sober.

¶ 43 Jennifer M. acknowledged that she was unsuccessfully discharged from substance abuse and mental health services for missed appointments but explained that she was assessed a \$50 penalty that had to be paid before she could resume those services at that location. She completed her mental health and substance abuse assessment in March 2018.

¶ 44 As for housing, Jennifer M. explained that she and William G. lived in the Sorento house, which was owned by her parents, until March 2017. Then, they lived in a camper on property that they were planning to purchase. The owner had given them permission to live on the property while they remodeled the house located on the property. However, because the purchase fell through, they moved back to the Sorento house and lived there until the beginning of May 2017. They were remodeling the house but were evicted by her parents before they had a chance to finish it. Then, they lived with William G.'s aunt from August 2017 until December 2017, and Jennifer M. acknowledged that the residence was not appropriate for children. In December 2017, William G. went to prison, and she moved out of that house. She explained that her issue with obtaining appropriate housing was financial but noted that she had put a down payment on a house and was currently remodeling it so that it would be appropriate for the children.

¶ 45 On April 4, 2018, the trial court entered a written order, finding, by clear and convincing evidence, that Jennifer M. was unfit in that (1) she failed to make reasonable efforts toward the return of the minor children within nine months after the adjudication

of neglect, and (2) she failed to make reasonable progress toward the return of the minor children within nine months after the adjudication of neglect.

¶ 46 At the May 4, 2018, best-interests hearing, Morgahn testified as follows regarding each child. Jennifer M. and William G. have one child, William Jr. William Jr. has been in two placements since coming into care; he was placed with a relative for no longer than one month and, on March 6, 2017, he was moved to his current placement in a foster home. The family is able to provide for William Jr., and they have a sufficient home. There are three other children in the home, and his foster father is a stay at home father. Morgahn has observed William Jr. interact with his foster parents and testified that he loves his foster parents, that they show him affection and love, and that they are bonded with him. She explained that the other children and William Jr. get along well, and they appear bonded with each other. William Jr. shares a room with the youngest child, and they have a close bond. William Jr. has been fully integrated into the family in that they have extended family that they see frequently, attend church with, and that live in the same neighborhood. William Jr. receives services for a speech delay, and his foster family fully cooperates with those services and engages him to help with his speech. William Jr. calls his foster parents mom and dad. The family is excited about adopting him if parental rights are terminated.

¶ 47 As for the remaining six children, Morgahn testified that they are all in traditional foster placement, but the permanency goal is for them to return home to their father, Joseph A., within one year. She explained that Joseph A. has completed all of his services, has a home that is sufficient for the children, and is able to provide for them.

He has consistently attended visitations with the children, and they had begun transitioning the older boys into his home by allowing them to have their first overnight visit the previous weekend. Morgahn testified that the children all love their father, are excited to go on visits, and would like to live with him if they cannot live with their mother. She further testified that Joseph A. has a bond with the children, is excited for them to live with him, and loves his children. The plan for returning them home is to start with the older boys to make sure there are no concerns, then transition the twins, and last transition the girls into the home. Morgahn has observed significant improvements in the children's behavior while in foster care and believes that they are all thriving while in care. She testified that the children also love their mother, are bonded to her, and would like to maintain a relationship with her.

¶ 48 Michelle Miller, the mental health director at the Bond County Health Department, testified that she is in charge of a weekly substance abuse group and a nutrition group. Jennifer M. has been attending both groups since January 30, 2018, when she completed her assessment. She also attends domestic violence group counseling and individual counseling with another counselor. She completed her required 30 hours of counseling between January 30, 2018, and April 26, 2018. During counseling, Michelle has observed that Jennifer M. has gone above and beyond, provides support to other group members, and is working on her treatment plan and the things that need improvement. Michelle has observed Jennifer M. crying and upset about the situation with her children because she misses them and wants them to come home. Michelle acknowledged that Jennifer M. tested positive for barbiturates on February 6,

2018, but explained that there had been issues with the testing, which led to the agency changing vendors. She also acknowledged that Jennifer M. had two failed assessments in 2017, and that the petition to terminate parental rights was filed before Jennifer M. contacted her agency to reengage in services. She also testified that Jennifer M. was still in a relationship with William G., but Jennifer M. has said that she will pick her children over him if she has to make that choice.

¶ 49 Jennifer M. testified that, even though she has completed the required hours for counseling, she has still been attending counseling and plans on continuing in the future. She has also been working two jobs, has passed a drug test since the fitness hearing, and has purchased a home that is being remodeled so that it is safe for the children. She testified that she has visits with the children one hour per week, that the children are always excited to see her, and that they tell her that they love and miss her. During visits, they play games, play kickball or baseball at the park, and talk about the things that the children have been doing. She acknowledged that she has made mistakes in the past and that she should have stepped up a long time ago but explained that she did not know how to handle it when her children were taken from her. She testified that she understood the severity of the situation, has gotten her life back on track, and is trying to better herself for her children. She testified that her children are her world, and she will do anything to get them back home. She acknowledged that her children's needs are being met in their respective foster homes and that they are being well taken care of. She also acknowledged that she was currently in a relationship with William G., but she will end that relationship if she has to choose between him and her children.

¶ 50 On May 11, 2018, the trial court entered a written order terminating Jennifer M.'s parental rights. Jennifer M. appeals.

¶ 51 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.T.*, 212 Ill. 2d 347, 352 (2004). 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); *In re J.L.*, 236 Ill. 2d 329, 337 (2010). 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.T.*, 212 Ill. 2d at 352. 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).

¶ 52 Our courts have recognized that parental rights and responsibilities are of deep importance and should not be terminated lightly. *D.T.*, 212 Ill. 2d at 364. Thus, parental rights may be terminated only after a finding of unfitness that is supported by clear and convincing evidence. *Id.* A finding of parental unfitness will not be disturbed unless it is against the manifest weight of the evidence. *In re C.N.*, 196 Ill. 2d 181, 208 (2001). A

finding is against the manifest weight of the evidence only if the opposite conclusion is clearly apparent. *Id.* 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). Each case concerning parental fitness is unique and must be decided on the particular facts and circumstances presented. *In re Gwynne P.*, 215 Ill. 2d 340, 354 (2005).

¶ 53 In this case, Jennifer M. argues that the trial court's finding that she was unfit is against the manifest weight of the evidence. The State asserted the following three grounds for unfitness against Jennifer M.: (1) 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 the children's removal during the nine-month period following the adjudication of neglect; (2) that under section 1(D)(m)(ii) of the Adoption Act, she failed to make reasonable progress toward the children's return during the nine-month period following the adjudication of neglect; and (3) that under section 1(D)(b) of the Adoption Act, she failed to maintain a reasonable degree of interest, concern, or responsibility as to the minor children's welfare. During the unfitness hearing, the State requested that the third ground be stricken and asked to proceed on the remaining two unfitness grounds. In the trial court's April 4, 2018, fitness order, it concluded that Jennifer M. was unfit based on reasonable progress and reasonable efforts. However, in its May 11, 2018, order, which terminated Jennifer M.'s parental rights, it found that she was unfit for all three

grounds alleged in the petition for termination of parental rights. As this contradicts the April 2018 order, which was based only on reasonable progress and reasonable efforts, we conclude that this was likely a scrivener's error. Thus, pursuant to Illinois Supreme Court Rule 366(a)(1) (eff. Feb. 1, 1994), we amend the May 11, 2018, order terminating Jennifer M.'s parental rights by striking the finding that Jennifer M. has failed to maintain a reasonable degree of interest, concern, or responsibility as to the minor children's welfare.

¶ 54 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 M.A.*, 325 Ill. App. 3d 387, 391 (2001). 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.*

¶ 55 In the present case, the intact family service case was opened in August 2016, when medical neglect allegations were made against Jennifer M. According to those allegations, Juliana A. had broken her elbow, and Jennifer M. failed to take her to follow-up doctor appointments, which resulted in Juliana A. undergoing additional surgery for the resulting infection and occupational therapy to remedy her limited arm mobility. That intact case was subsequently deemed unsuccessful because Jennifer M. continued to miss the children's medical appointments and failed to complete a substance abuse assessment. The children were then taken into DCFS care in February 2017 and were adjudicated neglected on March 29, 2017. The State identified the relevant nine-month period for reasonable efforts and progress as March 29, 2017, to December 29, 2017.

¶ 56 The record evidences a failure by Jennifer M., during this nine-month time period, to comply with service plan directives. The May 2017 service plan was rated unsatisfactory because she made no progress in services. She was also rated as unsatisfactory on the July 2017 service plan. Although she successfully completed parenting classes, she failed to display what she had learned during visitations. She also had difficulty providing the children with snacks and drinks during the visitations. She attended a substance abuse assessment but had multiple positive drug screenings and denied needing substance abuse counseling. Throughout the nine-month period, she only had one negative drug screen; the rest were either positive for methamphetamines and amphetamines or a refusal to provide a urine sample. She began substance abuse treatment in February 2017 but was unsuccessfully discharged in June 2017 for lack of attendance. She did not reengage in substance abuse treatment until October 2017 and

had not finished this treatment at the time of the third service plan review. Even though she completed the mental health assessment, she was discharged from mental health services for lack of attendance (the substance abuse and mental health services were through the same service provider). She also failed to engage in domestic violence victim services during this time period. She could not provide adequate housing for the children to return home to and has acknowledged that her current home is not yet appropriate for children as it is being remodeled.

¶ 57 Although she argued that her delay in completing services was partly caused by DCFS's delay in completing the second integrated assessment after the intact case was closed, Morgahn testified that the service plan for the intact case was virtually identical to the service plan for the placement case so there was no surprise as to the required services and those services were already being provided to Jennifer M. Moreover, she also argued that she was unable to restart mental health and substance abuse services because she owed a \$50 fee to the service provider. However, this fee was owed because she had two unexcused absences. Morgahn paid one-half of the fee out of her own pocket so that she could reengage in those services. Although we commend Jennifer M. for engaging in services following the filing of the petition to terminate her parental rights, we conclude that she failed to make both reasonable efforts and reasonable progress during the relevant nine-month time period, the first nine months following adjudication. As shown above, Jennifer M. failed to complete the service plan directives related to her mental health, her substance abuse issues, and housing during this time period. Accordingly, based on the record evidence, we conclude that the trial court's findings that Jennifer M.

was unfit for lack of reasonable efforts and reasonable progress toward the goal of reunification were not against the manifest weight of the evidence.

¶ 58 Jennifer M. 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 J.L.*, 236 Ill. 2d 329, 337 (2010). 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. *In re R.L.*, 352 Ill. App. 3d 985, 1001 (2004). The trial court's best-interests finding will not be disturbed unless it is against the manifest weight of the evidence. *Id.*

¶ 59 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).

¶ 60 Here, Jennifer M. has seven children that were taken into care on February 3, 2017; six of the children share the same father, Joseph A., and the youngest child's father is William G. At the time of the best-interests hearing, Joseph A. had successfully completed his service plan directives and was ready to reintegrate with the children. There was a plan in place for transitioning the children from their current placements to his house. The two oldest children had an overnight visit with him, which went well, and

all of the children were excited about the prospect of returning to him. They had all expressed their willingness to live with him if they were unable to live with their mother, and his home was sufficient to house six children. He has a bond with the children, loves them, and is ready to reintegrate with them.

¶ 61 As for the youngest child, William Jr., he has been in placement since March 6, 2017; he moved to his current home about two months after he was taken into care. There are three other children in the home, and William Jr. has bonded with them as well as with his foster parents. He has fully integrated into the family, and they have the support of extended family and a church family. They have a sufficient home and are able to financially support William Jr. The caseworker has observed William Jr.'s bond with his foster parents and noted that they love him and show him affection. He receives services for his speech delay and these needs are being met by the foster family. The foster family is interested in adopting him if his parents' parental rights are terminated.

¶ 62 Although evidence was presented about Jennifer M.'s bond with the children, her reengagement with services, and her progress toward completion of those directives, the court found that it was in the children's best interests for her parental rights to be terminated. Based on the above, we find that this decision was not against the manifest weight of the evidence. It is in the children's best interest that permanency and stability be established at the earliest available opportunity as these children have been in care since February 2017. Jennifer M. has only had supervised visitation one day a week with the children since they were removed from her care, and she will not have appropriate housing for the children to return to until the remodeling of her house is completed. The

children cannot move forward if parental rights are not terminated, and Jennifer M.'s needs and wants must yield to the best interests of the minor children. Accordingly, we find that the court's decision to terminate her parental rights is not against the manifest weight of the evidence.

¶ 63

CONCLUSION

¶ 64 For the foregoing reasons, we affirm the judgment of the circuit court of Bond County as modified.

¶ 65 Affirmed as modified.