

2019 IL App (2d) 190336-U  
No. 2-19-0336  
Order filed September 17, 2019

**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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IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

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In <i>re</i> Isamara T., Matthew T Jr., Aria T., Arabella T., and Eliana T., Minors.	)	Appeal from the Circuit Court of Winnebago County.
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	)	Nos. 17-JA-119
	)	17-JA-120
	)	17-JA-121
	)	17-JA-122
	)	17-JA-123
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	)	
(The People of the State of Illinois, Petitioner- Appellee v. Jennica T., Respondent-Appellant).	)	Honorable Francis Martinez, Judge, Presiding.

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PRESIDING JUSTICE BIRKETT delivered the judgment of the court.  
Justices Zenoff and Hudson concurred in the judgment.

**ORDER**

¶ 1 *Held:* The trial court did not err in finding that respondent-mother was an unfit parent for her failure to make reasonable progress during two different nine-month periods where she was unsuccessfully discharged from domestic abuse education classes twice, told a caseworker that she used marijuana and heroin, and attended less than 50 percent of her court ordered individual counseling. The trial court also did not err in terminating respondent-mother's parental rights to her five children when the children made significant progress while in their foster parents' homes, the foster parents arranged for the children to see each other at least monthly, the foster parents kept in contact with each other and the caseworkers

testified that all the children were in safe, loving homes with people who wanted to adopt the children.

¶ 2 Respondent-Appellant Jennica T. (Jennica) appeals the trial court's order finding her to be an unfit parent and subsequently terminating her parental rights to her five children. For the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 The record reflects that on January 12, 2017, Jennica's youngest child, one-year-old Eliana, was seen in the emergency room for a "horrific" diaper rash. The rash was covered with open sores that were peeling and flaking. The baby was in pain and also had an unknown rash on her face. The oldest sibling, 13-year-old Isamara, and a family friend brought Eliana to the emergency room. Isamara and the family friend both said that Eliana had suffered with the diaper rash for a long time. Matthew T. (Matthew), the father to all of the children except Isamara, was incarcerated for violating an order of protection at the time of the incident. Along with Isamara and Eliana, Jennica also had Matthew Jr., who was seven years old at the time, Aria, who was five years old at the time, and Arabella, who was two years old at the time of the incident. Child Protective Services was contacted, and a worker in that department, Sherry Burke, signed an out-of-home safety plan with Jennica and the children were removed from Jennica's care.<sup>1</sup>

¶ 5 According to a report from the Youth Services Bureau, there was an alleged ten-year history of domestic violence and substance abuse in the home between Jennica and Matthew.

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<sup>1</sup> The out-of-home safety plan is not contained in the record, but these facts were taken from a report filed on April 24, 2017, by a Youth Services Bureau Intact Family Caseworker, Linda Redd.

There was also a history of orders of protection being entered against Matthew in other states and dismissed over short periods of time.

¶ 6 Prior to the implementation of the safety plan Isamara, Matthew and Aria had missed over 22 days of school each, and Matthew was unable to recognize all of the letters in his first name.

¶ 7 On April 13, 2017, the State filed a four count petition and alleged that the children were neglected in that their environment was injurious to their welfare in the following ways: (1) Eliana had a diaper rash with open sores, leaving her at risk of harm, and therefore her siblings were also at risk of harm (705 ILCS 405/2-3(1)(b) (West 2016)); (2) Jennica had a substance abuse problem that prevented her from properly parenting, thereby placing the children at risk of harm (*id.*); (3) Matthew had a history of domestic violence, thereby placing them at risk of harm (*id.*); and (4) Jennica had a history of domestic violence, thereby placing them at risk of harm (*id.*).

¶ 8 On April 24, 2017, Jennica waived her right to a shelter care hearing and by agreement, temporary guardianship and custody was placed with the Department of Children and Family Services (DCFS).

¶ 9 On June 27, 2017, Emily Bailey, a licensed child welfare specialist, filed a report with the trial court. In the report Bailey indicated that she worked for Lutheran Social Services of Illinois (LSSI) and it was providing case management services for the minors through a contract with DCFS. Bailey reported that on May 31, 2017, a report was made about the children sharing stories of physical abuse by both parents throughout the last seven years. In 2016, allegedly when the family lived in the State of Washington, Matthew left Eliana unsupervised in a bathtub. The baby was found submerged in water and not breathing. An ambulance was called and

Eliana was brought to the hospital. The children also reported that once while they were living in Washington, Matthew waived a gun around and pointed it at them. Matthew also strangled and beat animals in front of them. The children said that both parents abused prescription medications, marijuana and alcohol. They also reported that Arabella (two years old at the time of court intervention) was present at a drug deal “that went wrong” and was almost run over by a car. They reported ongoing emotional abuse by both Jennica and Matthew, especially toward Aria and Isamara. Since coming to Rockford in September 2016, the children reported that both parents had hit them in their faces with their hands. They also said they were hit with a belt on their backs and in the face on one occasion. Isamara reported that she was left alone at times to care for all the children.

¶ 10 Bailey said that since becoming a foster care case Jennica had kept in contact with her. Jennica completed an integrated assessment with a previous caseworker and Bailey completed an additional interview to gather more background information regarding the family on May 24, 2017. Bailey recommended domestic violence services, substance abuse treatment, AA/NA meetings, parenting education, counseling, maintaining suitable housing, and being cooperative with LSSI service providers and the juvenile court system.

¶ 11 Bailey reported that Jennica had started many of the recommended treatments. She visited with her children weekly as ordered by the court. Jennica had been reminded about not discussing case matters or the substitute caregivers in a negative manner in the children’s presence. At that time Jennica was residing at her listed address with her new boyfriend, Joshua Carlson-Beilfuss. Jennica had yet to acknowledge her role in the abuse and neglect of her children. On June 5, 2017, Jennica called the police with a report regarding the foster parent

hitting Eliana on the bottom. The officer found no evidence of abuse or harm and that the children were safe in the foster parent's care.

¶ 12 On July 18, 2017, Sherri Shollenberger, a CASA (Court Appointed Special Advocate) caseworker filed a report with the court. She said that Jennica told her she felt that her children were being turned against her. As for the children, at the initial meeting Shollenberger said that the oldest child, Isamara, seemed relaxed and was playing with her siblings. She had started counseling and was put on anti-depressants. Eliana and Isamara were placed in the same home. Eliana seemed happy and was very playful. Arabella was talkative and playful, and asked LSSI caseworker Bailey to take her to her mommy when the visit was completed. As to Matthew and Aria, they had been moved into a new home and Shollenberger had not visited with them yet at that time. Overall, the children seemed to be adjusting to their current environments. Some counseling had been started and Jennica had weekly supervised visits. Matthew's whereabouts were unknown.

¶ 13 LSSI caseworker Bailey also filed a report with the court on the same date. Bailey said that Isamara had been refusing to attend visits with her mother, but at the urging of LSSI Isamara started attending visits again on June 30, 2017. Matthew was in a new foster placement and his foster parent indicated that he was adjusting well. Matthew had an IEP for speech and reading. He was referred for individual therapy to gain coping skills and learn self-regulation skills. Aria was living at the same foster placement as Matthew, and it was reported that she also was adjusting well. She had an IEP for speech and had been referred for individual therapy for the same reasons as Matthew. Arabella continued to reside at her original foster placement. Prior to DCFS involvement Arabella was not up to date on her immunization and had no medical card to receive medical services. Bailey assured the court that Arabella would receive the proper

immunizations. Like Arabella, Eliana also was not up to date on her immunizations, and Bailey said that situation would be rectified as well. Eliana's severe diaper rash had healed. Bailey recommended that the court continue with the adjudication process and that the children remain under DCFS' care.

¶ 14 On August 7, 2017, an adjudicatory hearing was held. At the hearing Jennica factually stipulated to the allegations in count III of the neglect petition (injurious environment based upon the father's domestic violence) and the State dropped the other three charges, provided that services would be provided based upon all the counts in the State's neglect petition. The trial court accepted the agreement and entered the order.

¶ 15 Sometime in August 2017 Jennica told Bailey that she was no longer seeing her boyfriend and that she wanted to focus on her children. However, on August 24, 2017, Bailey visited the foster home and found Jennica there with an unknown male that Bailey had not met before. Bailey told Jennica that she would need the man's birth date and social security number to run a background check on him if he was going to be around the children. Jennica later told Bailey that her request for the man's birth date and social security number made her very upset and embarrassed.

¶ 16 On August 30, 2017, Jennica called Bailey and told her that she was very frustrated. Jennica felt that the services that she and the children received were completely unnecessary and that the service providers were just making money off of the children. Jennica said she was cancelling Arabella and Eliana's play therapy for that week. Bailey explained that Arabella and Eliana, Jennica's two youngest children, were assessed by developmental therapists who determined that the children needed those services. As for Isamara, Matthew and Aria, Bailey had set up services for them, but Jennica and her mother, now the foster parent, were resistant to

the services and the services were not able to begin as planned. Jennica said that services for the children were not currently possible. Bailey explained to Jennica that the State had custody of her children and it was Bailey's job to ensure that they received all the necessary support and services. Jennica said she was going to speak to an attorney.

¶ 17 The September 2017 service plan, which covered the prior 6 months, revealed that Jennica denied the need for services because she felt that the allegations of abuse and neglect were false.

¶ 18 On September 9, 2017, Jennica's counselor told Bailey that Jennica had not attended her last two counseling sessions. At that time Jennica was residing with her friends at times or at her uncle's house at other times. Jennica's mother, Debra Powers, had been approved as a foster parent and she was living with all the children in their previous residence.

¶ 19 On October 2, 2017, Bailey filed another report with the court. She reported that Jennica had been having unsupervised overnight visits with the children. However, Bailey did not have immediate safety concerns for the children. The case opening reasons had been mitigated, Jennica had started domestic violence services and was not currently living with the children's father or anyone else. Bailey believed that it was in the best interest of the children for Jennica to move back into her home with the continued support of her mother and heavy monitoring by LSSI.

¶ 20 On October 27, 2017, CASA worker Sherri Shollenberger filed a report with the court. In the report Shollenberger said that on October 19, 2017, she spoke with Powers, the children's foster mother/biological grandmother. Powers told her that she allowed an unsupervised visit between Jennica and the children and Jennica's new boyfriend. Powers thought that Jennica was pregnant, but Powers said that Jennica had terminated the pregnancy. Shollenberger explained to

Powers the seriousness of not following court orders and that the children could very well be moved and separated. She recommended that guardianship and custody of the children remain with DCFS.

¶ 21 On October 27, 2017, Bailey filed another report with the court. Bailey reported that LSSI no longer supported its earlier decision to return the children to Jennica. After the last court date, Bailey learned of events that happened previously of which it was not aware. On October 4, 2017, Jennica said she was “seeing someone,” a Mr. Witt, and that she was always “seeing someone.” Bailey told Jennica that she had to tell LSSI when she was dating someone if he was with the children because a background check needed to be done on that person. Jennica told Bailey that Witt was currently in a drug treatment program. On October 10, 2017, Jennica told Bailey that she was pregnant with Witt’s child and that Witt had recently been released from prison and was on parole.

¶ 22 At the dispositional hearing on October 27, 2017, the court noted that there was an agreement between the parties that Jennica was willing and able to parent her children, but she was not fit at that time. Guardianship was placed with DCFS. The trial court continued placement with Powers, but the court warned her that she must obey the court’s rules about not letting any unsupervised contact with anyone, including any parent, that the court did not authorize to visit the children. It said that a violation of that rule would lead to removal of the children. Powers agreed to follow the conditions in all of the court’s orders. A permanency hearing was set for March 14, 2018.

¶ 23 On January 3, 2018, Jennica’s attorney filed a motion to withdraw as counsel, citing irretrievable breakdown in the attorney-client relationship. The trial court granted the motion.



¶ 24 On March 14, 2018, Megan Phoenix of LSSI reported that Jennica was currently being asked to cooperate with LSSI, engage in individual counseling, engage in and complete domestic violence services, maintain housing and maintain visitation with her children. She was currently working with her individual counselor, Bridget Whittington. From November 2017 through February 2018 Jennica only attended four of the sixteen scheduled visits. She had been unable to make any real progress due to these absences. On June 16, 2017, it was recommended that Jennica attend domestic violence education classes. Jennica had repeatedly told the caseworker that she was starting to take classes at Clarity, but Jennica had not taken one class. Powers was removed as the children's foster parent after she continued to allow unsupervised contact with Jennica and the children. A notice of decision to remove the children from Powers' care was made and Powers appealed that decision. The final decision to remove Powers as foster mother was made on December 7, 2017, and LSSI was instructed to remove the children from Powers' care. The children were moved to their former placements except Isamara, who was sent to live with a close family friend.

¶ 25 Phoenix said that there was a pending investigation that Witt and Jennica were involved in a domestic dispute during which Witt pulled a knife on Jennica while the children were present during an unsupervised and unauthorized visit. Jennica denied that Witt was living with her, but there was a police report from December 28, 2017, indicating that Witt overdosed on heroin while at the home of Jennica and her uncle. In the police report Jennica admitted that she was aware that Witt was actively using heroin and that he usually snorted it. This was Witt's second overdose since being released from prison in July 2017. Phoenix opined that Jennica's decision making skills and judgment continued to be impaired. After the children were removed from her care Jennica moved back into her house with her uncle. She had attended the majority

of her supervised visits with her children but did not always take advantage of the time offered and ended the visits early.

¶ 26 Phoenix reported that all of the foster parents had exchanged contact information with each other and that visitations among the siblings occurred at supervised visits with Jennica and also when extra time allowed. Finally, Phoenix reported that DCFS recommended that the court find that Jennica had made unreasonable efforts and recommended a permanency goal of return home within 12 months.

¶ 27 Phoenix filed a permanency hearing report to the court on March 14, 2018. She said that from November 17, 2017 through February 13, 2018, Jennica had 16 individual counseling appointments she had only shown up for four. She had not started a domestic violence education class even though she had been repeatedly told to do so.

¶ 28 Jennica did not appear in court for the permanency hearing on March 14, 2018, and the trial court found that she had waived her right to attend. The court entered an order that Jennica had not made reasonable efforts or progress toward the reunification with her children.

¶ 29 On June 27, 2018, Phoenix filed another permanency hearing report to the court. Jennica had missed the last four child-and-family team meetings. She had also cancelled four of nine sessions of counseling. She had finally started domestic violence education classes in March 2018, but she then missed five of eleven classes and was unsuccessfully discharged from the program.

¶ 30 Phoenix reported that Jennica was continuing to have supervised visits with the children because she had not completed the required services. Jennica displayed erratic behavior at some visitations. She did not demonstrate any emotional control during the visit on June 2, 2018, she continued to argue and say inappropriate things during the visit, and discussed specific topics in

front of the children that she has specifically been told not to do. Phoenix said that since the case had not been legally screened yet, LSSI could not recommend an alternative goal than the current one of return home within 12 months. However, had the case been legally screened LSSI would have recommended a goal other than return home because it did not believe that it was in the children's best interests to return home to Jennica.

¶ 31 At the permanency hearing on June 27, 2018, the State opted to rest on the reports and Jennica testified. She said that she had missed "a couple" counseling sessions, one because she was sick and one because her mother got into a car accident. Then her counselor went on vacation for a couple of weeks, and then LSSI decided for her not to see that counselor anymore. Jennica said that she understood that a child-and-family-team meeting was a meeting with her caseworker and the caseworker's supervisor. She attended one of these meetings during this time period. There were two other meetings but she could not remember why she could not attend those meetings. She said she only missed a couple of domestic violence education classes. If someone said she had missed five classes that would be inaccurate. She did not feel that the counseling sessions helped her, they seemed like a "gossip session."

¶ 32 On cross-examination Jennica said that she did not ask her counselor if they could take a different approach in counseling other than a "gossip session." She mentioned this problem to her caseworker a few weeks ago, and the caseworker said she could go to a new counselor, but Jennica did not want to do that. Sometimes she forgot to sign the signup sheet when she was in domestic violence education class because it had already been passed around when she got there. Also, if she could not attend a class she would call, but no one would answer the phone. She admitted that when she had no car to get to a class she could have taken bus, but she did not know anything about the bus system.

¶ 33 Megan Denk, a LSSI caseworker currently assigned to this case, testified that Jennica was informed via telephone at least one week in advance of the four child-and-family team meetings that she missed. Denk said that she had an in-person conversation with Jennica after the last permanency review hearing. At that time, Jennica told her that she did not take her previous drug drop because she had smoked marijuana and she knew that she would test positive for it. Denk then asked Jennica that if she testified positive today what would be in her system. Jennica responded that she had used heroin a couple weeks prior with Witt.

¶ 34 After hearing all the testimony the trial court found that Jennica had failed to make reasonable efforts or reasonable progress and changed the goal to substitute care pending termination of parental rights.

¶ 35 On July 2, 2018, the State filed petitions for termination of parental rights and the power to consent to the adoption of all five children. In the petitions the State alleged that Jennica had failed to make reasonable efforts to correct the conditions that caused the removal of the children during any nine month period following the minors being adjudicated neglected or abused. The time periods given were August 8, 2017 to May 8, 2018 and/or September 26, 2017 to June 26, 2018. 750 ILCS 50/1(D)(m)(i) (West 2018). The State also alleged that Jennica had failed to make reasonable progress toward the return of the children within nine months after an adjudication of neglected or abused minors. 750 ILCS 50/1(D)(m)(ii) (West 2018). The time periods were the same as in the previous count.

¶ 36 On July 25, 2018, Denk wrote a report to the court on behalf of LSSI. Denk reported that since the last court date Jennica had called to set up two meetings with her but Jennica had not called back to confirm a time. She cancelled her first visit after court and said that her uncle was in the hospital. LSSI then made the critical decision to reduce Jennica's visits to one time per

month. Jennica had not made any progress with her court-ordered services and had behaved erratically during the visits at times. She was also unable to censor what she said in front of the children. Therefore, LSSI believed that it was in the children's best interests to reduce visitation. The children were all doing well with their foster placements. LSSI recommended that guardianship and custody of the children should remain with DCFS and that the termination of parental rights case should continue.

¶ 37 At the fitness hearing on October 18, 2018, Denk testified that from August 2017 until the goal change to substitute care pending a determination of termination of parental rights Jennica's rate of attendance at individual counseling sessions was below 50 percent. She was also unsuccessfully discharged from domestic violence education courses for lack of attendance. In October 2017 the children reported that Jennica was allowing Witt to have unauthorized visits with the children. The children also reported that in December 2017 they were at a visit with Jennica and Witt at the house where Jennica lived with her uncle. Jennica and Witt got into an argument. Witt pushed Jennica and pulled a knife on her. At one point Jennica was locked in the bathroom. The children had their uncle call their grandmother to come back and pick them up. Jennica remained in a relationship with Witt after that incident.

¶ 38 Jennica had completed substance abuse treatment, but in December 2017 she refused to take a drug drop. She also missed a drug drop in April 2018. In April 2018 Jennica had used marijuana and heroin. Denk told Jennica to take a drug screen that day and also complete an updated substance abuse assessment. Jennica did neither. With regard to Witt's drug problem, Denk referred to the police report from April 2018 where Witt overdosed at Jennica's house. Witt was currently incarcerated, but prior to that time he was living with Jennica. The children were moved from Powers' care on December 28, 2017, for allowing unauthorized visits between

Jennica and the children. After April 2018 Denk had several meetings set up with Jennica but she did not attend and she did not call to cancel. She finally met with Jennica in June 2018.

¶ 39 On cross-examination Denk testified that Jennica was referred for individual counseling from June 2017 through February 2018. She did not refer Jennica to a different therapist because she did not know that Jennica disliked her counselor until the last counseling session that she attended. Jennica had been given an option to switch counselors and she declined that offer. With regard to visits, Denk said that Jennica consistently discussed the case in front of the children and made phone calls during the visits, something that she was not supposed to do. She admitted that she personally did not supervise or see Jennica with her children from September 2017 to June 2018. Instead, other case aides supervised the visitations and reported back to her. With regard to which child reported that they were having unsupervised visits with Jennica and Witt, Denk said that she always talked to the children separately away from their foster parents at home visits. During those home visits Matthew, Aria and Isamara reported the unsupervised and unauthorized visitation. Matthew and Aria reported the knife incident between Jennica and Witt to Denk.

¶ 40 The State requested that the court take judicial notice of the neglect petition, the adjudication order, the order of disposition, and the orders following permanency reviews from October 27, 2017, March 14, 2018, and June 27, 2018. Also requested were the indicated packet and a bill of indictment, guilty plea and criminal convictions on several cases involving Witt. The court admitted those documents without objection.

¶ 41 The defense called Sherri Shollenberger from CASA as a witness. Sherri noted that in her October 2, 2017 report she wrote that the children loved to be around Jennica, stood close with her, wanted time with her and leaned on her. She also noted that Jennica switched homes so

that the children would not have to be disrupted and placed out of their home. It was Sherri's recommendation at that time to increase Jennica's visitation time and explore overnight visits. In her March 14, 2018 report, Sherri reported that the children had no negative behaviors after visiting with Jennica. Sherri said that her final report was not as complimentary toward Jennica because Jennica had cut off all communication with her. Whenever Sherri tried to call her for an appointment she did not allow Sherri to talk to her. Jennica had no voice mail and she had changed her phone number. She got Jennica's new number from Denk. Shollenberger did not recommend that Jennica's parental rights should be terminated on the grounds that she was not religious or that she had an abortion.

¶ 42 On cross-examination Sherri said that Jennica stopped communicating with her in March or April 2018. Once Jennica got her new phone number she did not resume communicating with her.

¶ 43 The defense then called Powers as a witness. She testified that she was Jennica's mother and the children's grandmother. She was a foster parent for the children from August to December 2017. Powers said that Jennica had always been wonderful with the children. She loved them very much and would never harm them. She knew that Jennica and Witt had a romantic relationship, but he never had extensive contact with the children. Powers did not know that Witt had a drug problem from August 2017 through June 2018. She never saw Jennica abuse drugs or alcohol.

¶ 44 On cross-examination Powers said that she was not aware that Jennica admitted to a caseworker that in April 2018 she used marijuana and heroin.

¶ 45 Jennica testified that she had enrolled in domestic violence counseling at Remedies for six months and was doing well when she was told that she had to go to counseling at Clarity,

where she was put in a group of women who were abusers and not victims. Despite telling her caseworker and counselor that she was not comfortable in that class, nothing was done. She had always been a victim of domestic violence, never the perpetrator. She had also engaged in individual counseling, however, Denk did not think that she was benefitting from the counseling because her counselor was not doing a good job, so Denk told her that a new counselor would be found. She successfully completed substance abuse treatment in August 2017. She was also successfully discharged from parenting classes and had regularly attended child-and-family meetings with LSSI. She had never used heroin and had only used marijuana when she lived in Washington because it was legal in that state.

¶ 46 Jennica said that she knew Witt but he never lived with her and she did not know that he used heroin. During the review period from August 2017 to June 2018 the children all wanted to come home and Jennica wanted them to come home as well.

¶ 47 The court heard the parties' closing arguments and the decision was continued to November 15, 2018. On that date the court began by noting that the State needed to prove by clear and convincing evidence that Jennica was an unfit parent in that she either made unreasonable efforts or progress. It noted that Jennica attended less than 50 percent of her counseling sessions, did not sufficiently or adequately address her domestic violence services, remained in a dysfunctional relationship, missed drug drops, and never progressed to unsupervised visits. The court then found Jennica to be an unfit parent for failing to make reasonable efforts or reasonable progress. 750 ILCS 50/1(D)(m)(i),(ii) (West 2018). The best interests hearing was set for January 11, 2019.

¶ 48 At the best interests hearing Denk testified that Isamara was 14 years old and she was living with three of her cousins and their mother, Nicole Zimmerman, who was now Isamara's



foster mother. Isamara had been living there since November 2018. Prior to that time she lived with another foster parent but preferred to live with Zimmerman. Isamara has known Zimmerman her entire life. In the past she would go to Zimmerman's house and spend a week there, even when she was not placed at that house. Denk approved of the house and found it to be safe and appropriate. Isamara used to be in counseling for her past trauma but she no longer needed any services. She was very open with her foster parent and appeared to be very comfortable in her home. Isamara also had a good relationship with her cousins' father, Nick B. (Nick), who is Isamara's father's brother, but Nick does not live with Zimmerman or the children. Isamara was included in Nick's family Christmas celebration last year and is also included in many other family events.

¶ 49 Denk said that Isamara visited with her other siblings at least once a month. The foster parents communicated with each other through a group chat to set up meetings with the siblings. They texted almost daily and sent videos of themselves to each other. Denk said that Isamara chose not to attend the last parent visitation. Zimmerman was willing to allow Isamara to have contact with Jennica if she would like, however. Isamara told Denk two days before the best interests hearing that she would like to stay in her current home and be adopted. Zimmerman is willing to adopt Isamara as well.

¶ 50 Matthew and Aria lived in a traditional foster home with Eric and Tammy Tanner. Matthew was 10 years old and Aria was 7 years old at the time of the hearing. In the home were Eric and Tammy Turner, Matthew, Aria and another unrelated foster child who was five years old. Denk had been to the home and found it safe and appropriate. Neither Matthew nor Aria had any medical needs, but Matthew saw a counselor and also engaged in mentor services. Matthew had several foster placements before living with the Tanners so he was receiving

services to address his coping skills and his past trauma experiences. Matthew was very bonded with the Tanners and he looked to them for attention and comfort and called them mom and dad.

¶ 51 Aria attended counseling to also develop coping skills and work through her past traumas. The Tanners transported Matthew and Aria to counseling and made them available for mentor services. Aria was also very bonded to the Tanners. The children were included in many family events with the Tanners such as Christmas and birthday parties. The Tanners are open to the possibility of Matthew and Aria seeing Jennica. At the end of December 2018 Matthew told Denk that he would like to stay with the Tanners but he would still like to talk to Jennica. Aria also would like to stay with the Tanners but be able to talk with Jennica. The Tanners would like to adopt both Matthew and Aria.

¶ 52 Four-year-old Arabella was placed with Mark and Cara Keller. Arabella had resided with the Kellers during this entire case except for when Powers was the children's foster parent. Besides Mark and Cara and Isabella the Keller's three biological children resided in the house. Denk could not remember the children's ages but said that they were "older." Denk has been to the Kellers' house and found it to be safe and acceptable. Arabella currently had no medical concerns but when she was taken into care she was not up to date on her immunizations. Arabella was currently in "play therapy" to help her work through some of her past traumas. She was very bonded with the Kellers. She sat on Cara's lap when Denk visited and looked to Cara for comfort. Isabella showed animals at the county fair with the Kellers and she was included in all holidays and vacations. The Kellers were open to Isabella having a relationship with Jennica if she would like. Isabella told Denk that she would like to stay with the Kellers. The Kellers would like to adopt her.

¶ 53 Eliana was three years old and was placed in a traditional foster home with Amy Burton. She has been with Burton since February 2018. Eliana lives in the home with Burton, her fiancé, John Guevara, and a three month old foster child. Denk has visited the home and found it to be safe and appropriate. Eliana had no medical needs but there were concerns at one time that she was behind developmentally. However, that was no longer the case. Eliana was very bonded with Burton and was frequently seen sitting on her lap and looking to Burton for love and support. She attended Burton's extended family parties and holiday celebrations. Burton was willing to continue a relationship between Eliana and Jennica if it was deemed appropriate. Burton and Guevara were willing to adopt Eliana. Finally, Denk testified that it was in all of the children's best interests that Jennica's parental rights be terminated.

¶ 54 On cross-examination Denk testified that Matthew called Jennica mom as well as Cara Tanner. Also, she did not personally witness the visits between Jennica and the children. Case aides observed the visitations, but she always received the visitation notes and read them.

¶ 55 The State rested and Jennica's counsel called Morgan Bullis, a CASA coordinator, to testify. Bullis testified that she was responsible for receiving reports from assigned CASA caseworkers. She edited the reports and if she had any questions or concerns she would contact the caseworkers. Bullis had been involved with this case for about a year. The previous caseworkers had been the Shollenbergers but they had to step down because Sherri had some health issues. The current caseworker was Mari Mattocks. CASA's role was to advocate for the children in their placement or their well being in these types of cases. It was CASA's opinion that it would be in the children's best interests to terminate Jennica's parental rights.

¶ 56 Mari Mattocks testified that she was the current CASA caseworker. Mattocks said that at her first visit between Isamara and her foster mother, Isamara was very quiet and reserved so the

foster mother interjected with some background information, including that Isamara and the foster mother had known each other a long time. The foster mother said that Jennica was manipulative and a liar. When the foster mother made that comment Isamara “lit up” and began to shake her head yes. With regard to Matthew, he indicated to Maddox that he would like to see his mother more often but he wanted to be adopted by his foster parents. Aria did not express a desire to see her mother more often, and she would like to be adopted by her foster parents. The other two children were too young to have an opinion about adoption, but Mattocks said that they were very well cared for in their foster homes.

¶ 57 Megan Denk was recalled and she testified that after Powers was deemed an unsuitable foster mother other efforts were made to keep the children together but ultimately that did not work out. After that there was never a time that they could place all five children in one foster home. Also, given the amount of time that the children have been in their foster placements it would not be in their best interests to move them anywhere else.

¶ 58 Nicole Zimmerman testified that she was Isamara’s foster parent. She had known Jennica since 2003. Isamara had slept at her home on many occasions over the years. Isamara told her that she would have liked to live with her mother but did not want to live in fear of what could happen next.

¶ 59 Amy Burton testified that she was Eliana’s foster mother. Eliana calls Burton “mom” and she called Jennica “Isy’s (Isamara’s) mom.” Eliana and another foster child, a five-month-old boy, live with her and her fiancé John Guevara. Burton and Guevara would like to adopt Eliana.

¶ 60 Tammy Tanner testified that she and her husband were the foster parents for Matthew and Aria. Matthew was nine years' old and Aria was eight years' old. She and her husband would like to adopt Matthew and Aria.

¶ 61 Cara Keller testified that she and her husband Mark were Arabella's foster parents. Arabella was four years old and she had been living with the Kellers for almost two years. Keller and Mark had three biological sons, ages 13, 11 and 10 years' old living in her house along with Arabella. Arabella calls Cara "mommy" and she called Jennica by her first name. She and her husband would like to adopt Arabella.

¶ 62 Jennifer Uvario testified that she was a case aide with LSSI who supervised visits with the children and Jennica. At the earlier visits the younger children would cry when the visits were over; they had a strong bond with Jennica. By December 2018, however, that bond had changed. Some of the children seemed like they did not want to visit with their mother and no one cried when the visits were over.

¶ 63 Lee Hicks testified that he was a parent educator at the Youth Services Bureau. Hicks said that Jennica actively participated in the parenting classes and did what she needed to do to graduate. He told Jennica that if she followed through with the recommendations that he made in class she would be a more effective parent. Hicks had not had any contact with Jennica since she was discharged from the class in August 2017. He was not aware that Jennica had already been found unfit by the court.

¶ 64 No other witnesses were called and the trial court took judicial notice of all the CASA reports, the LSSI reports, DCFS' permanency reports and the transcripts of the hearings. Arguments were heard, and on April 23, 2019, the trial court found that it was in the children's best interests to terminate Jennica's parental rights. Jennica timely appealed.

¶ 65

## II. ANALYSIS

¶ 66 On appeal, Jennica argues that the State did not prove by clear and convincing evidence that she failed to make reasonable efforts to correct the conditions which formed the basis for the removal of her children from her care or to make reasonable progress toward their return to her care during the nine-month periods listed in the neglect petition. 750 ILCS 50/1(D)(m)(i), (ii) (West 2018). She also claims that the State did not prove by a preponderance of the evidence that it was in the children’s best interests that her parental rights be terminated. We will address each argument separately.

¶ 67

### A. Unfitness

¶ 68 The Juvenile Court Act provides for the termination of parental rights in a two-step process. First, there must be a showing upon clear and convincing evidence that the parent is unfit as defined in section 1(D) of the Adoption Act. *In re N.G.*, 2018 IL 121939, ¶ 28 (750 ILCS 50/1(D) (West 2018)). Proving any one ground for unfitness is sufficient to find a parent unfit. *In re M.I.*, 2016 IL 120232, ¶ 44. We will not reverse a finding of unfitness unless it is against the manifest weight of the evidence; that is, only when the opposite conclusion is clearly apparent. *Id.* ¶ 21.

¶ 69 A parent may be found unfit for his or her failure “(i) to make reasonable efforts to correct the conditions that were the basis for the removal of the child from the parent during any 9-month period following the adjudication of neglected or abused minor \*\*\* or (ii) to make reasonable progress toward the return of the child to the parent during any 9-month period following the adjudication of neglected or abused minor.” 750 ILCS 50/1(D)(m)(i)(ii) (West 2018).

¶ 70 Whether a parent has made reasonable efforts to correct the conditions that were the basis for the child's removal is judged by a subjective standard based upon the amount of effort that is reasonable for a particular person. *In re Jacorey*, 2012 IL App (1st) 113427, ¶ 21. Reasonable progress, on the other hand, is an objective standard, which exists when a parent's progress in complying with directives given for the return of the children is sufficiently demonstrable that the court, in the near future, will be able to order the child returned to parental custody. *In re F.P.*, 2014 IL App (4th) 140360, ¶ 88. It includes compliance with service plans and court directives in light of the conditions that gave rise to the child's removal and other later-known conditions that would prevent the court from returning custody to the parent. *In re C.W.*, 199 Ill. 2d 198, 213-14 (2002).

¶ 71 Jennica's counsel argues that she has made reasonable progress because she successfully completed parenting class, her drug screenings were negative and she had completed her substance abuse treatment at Remedies. Counsel also argues that "the conclusion of the caseworker referred to in her service plan" is objective evidence that Jennica has made reasonable progress.

¶ 72 Here, there was ample evidence introduced at the fitness hearing to prove by clear and convincing evidence that Jennica was unfit for failing to make reasonable progress toward the return of her children during both nine-month periods following the children being adjudicated neglected minors (August 8, 2017 to May 8, 2018 and September 26, 2017 to June 26, 2018). The September 2017 service plan, which covered the prior 6 months, revealed that Jennica denied the need for services because she felt that the allegations of abuse and neglect were false. Although she did visit the children, a caseworker discovered that during a visitation a man whom the caseworker had never met before was present at the visit. It was later determined that that

man was on parole and in drug treatment. In December 2017 the children reported that Jennica and Witt got into an argument in front of the children during an unauthorized and unsupervised visit and Witt pulled a knife on Jennica. It was later discovered that Jennica had been having unsupervised visits with the children from October through December 2017. Over the course of this case Jennica never progressed to unsupervised visitations with the children.

¶ 73 The March 2018 service plan, which covered the prior six months, revealed that out of 16 scheduled appointments with an individual counselor Jennica had only attended four sessions. Jennica also was unsuccessfully discharged from a domestic violence education course after only attending one or two sessions in June 2017. Even after she re-enrolled in that course in April 2018 she was again unsuccessfully discharged. Although Jennica did complete a substance abuse program, she missed requested drug screenings and in April 2018 she told Denk that she had used marijuana and heroin. Denk then asked her to complete another drug abuse assessment but Jennica did not do so.

¶ 74 It is clear from the record that Jennica made no measurable progress at all through either of the nine month periods listed in the State's petition. Jennica's counsel points to the fact that she completed her substance abuse treatment but does not mention the fact that she later admitted to Denk that she used marijuana and heroin, and she did not complete another drug abuse assessment even though Denk told her to do so. Similarly, counsel points to the fact that Jennica's drug drops were negative, but glosses over her admission of drug use to Denk. Finally, since he did not provide any additional details we cannot address counsel's comment that "the conclusion of the caseworker referred to in her service plan is also an objective finding contrary to the conclusion of the court." For all these reasons, the trial court's decision to find Jennica to



be an unfit parent for failing to make reasonable progress was not against the manifest weight of the evidence.

¶ 75

B. Best Interests

¶ 76 Next, Jennica argues that the State did not prove by a preponderance of the evidence that it was in the children's best interests that her parental rights should be terminated. She refers to three subsections of the Juvenile Court Act of 1987 (Act) and contends: (1) Isamara said that she missed Jennica and wished she could speak to her more often; (2) Matthew said that he missed Jennica and he enjoyed her company; and (3) Eliana was bonded with her and would lean on her during visitations. Finally, she claims that she had continued to show affection to the children and maintained a bond with them through these proceedings. 705 ILCS 405/1-3(4.05)(d)(iii),(iv), (e) (West 2018).

¶ 77 At the best-interest stage, a "parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life." *In re D.T.*, 212 Ill. 2d 347, 364 (2004). The State must prove by a preponderance of the evidence that termination is in the child's best interests. *Id.* at 367. When considering whether termination of parental rights would be in a child's best interest, the trial court must consider several statutory factors within the context of the child's age and developmental needs. 705 ILCS 405/1-3(4.05) (West 2018).

¶ 78 This court will not reverse a trial court's finding that a termination of parental rights is in a child's best interests unless it is against the manifest weight of the evidence. *In re Anaya J.G.*, 403 Ill. App. 3d 875, 883 (2010). Again, a finding is against the manifest weight of the evidence only if the facts clearly demonstrate that the court should have reached the opposite conclusion. *In re M.I.*, 2016 IL 120232, ¶ 21.

¶ 79 Since a best interests determination is often a difficult one, our legislature has identified various factors that help inform that decision. Section 1-3(4.05) of the Act provides:

“Whenever a ‘best interest’ determination is required, the following factors shall be considered in the context of the child's age and developmental needs:

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

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

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

(d) the child's sense of attachments, including:

(i) where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);

(ii) the child's sense of security;

(iii) the child's sense of familiarity;

(iv) continuity of affection for the child;

(v) the least disruptive placement alternative for the child;

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

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

(g) the child's need for permanence which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives;

(h) the uniqueness of every family and child;

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

(j) the preferences of the persons available to care for the child.” 705 ILCS 405/1-3(4.05) (West 2018).

¶ 80 We must initially note that Jennica’s counsel does not provide any statement of facts for the best interest hearing except to say that testimony was taken on three separate days and that ultimately the trial court found that it was in the children’s best interests that Jennica’s parental rights be terminated. The lack of statement of facts for this portion of the appeal is a clear violation of Illinois Supreme Court Rule 341(h)(6) (eff. May 25, 2018) (the appellant’s brief shall contain the facts necessary to an understanding of the case, stated accurately and fairly without argument or comment, and with appropriate reference to the pages of the record on appeal). The Illinois Supreme Court Rules are not suggestions; they have the force of law and must be followed. *People v. Campbell*, 224 Ill. 2d 80, 87 (2006). When a brief violates the rules, we may strike portions of the brief or dismiss the appeal should the circumstances warrant. *Hall v. Naper Gold Hospitality LLC*, 2012 IL App (2d) 111151, ¶ 9.

¶ 81 Although we are within our power to strike Jennica’s brief or dismiss this appeal outright for this violation, we choose not to do so based upon the fundamental right at stake here. Counsel is on notice, however, that such disregard of our Supreme Court’s rules will not be tolerated in the future.

¶ 82 Turning to the merits of this issue, we note that Jennica’s counsel has cherry picked a few of the statutory factors that a trial court reviews in order to support his contention that the trial court erred in terminating Jennica’s parental rights. Also, some of counsel’s statements are not completely accurate. For example, counsel states that Isamara reported that she missed Jennica. However, in the CASA report that counsel cited to, the caseworker said that Isamara missed Jennica *but that she was no longer fearful now that she was not living with Jennica.*

¶ 83 After a careful review of the record we find that there was overwhelming evidence that it was in the minors' best interests to terminate Jennica's parental rights. The CASA and LSSI reports indicated dramatic improvement among the children as this case progressed and they lived with their foster parents. The children all integrated into their foster families very well and seemed happy and content at those houses. With regard to the children's background and ties, Matthew and Aria were placed together, and all the siblings saw each other at least once a month, sometimes more. All of the foster parents were supportive of continuing a relationship among the children. The foster parents even had a group chat among them that they used to set up meetings and share videos of the children. Isamara, the oldest child and arguably the one who had suffered the most trauma, was living with a woman whom she had known for many years. That foster mother's children were Isamara's biological cousins and Isamara had slept over at that house for many years, even prior to DCFS involvement. Isamara agreed with her foster mother when she called Jennica manipulative and a liar. All of the children were attached to their foster parents. CASA had opined that all the children were well cared for, loved and supported by their respective foster parents. Finally, all of the foster parents expressed an interest in adopting the child or children for which they cared. For all these reasons, the trial court's order terminating Jennica's parental rights to Isamara, Matthew Arabella, Aria and Eliana was not against the manifest weight of the evidence.

¶ 84

### III. CONCLUSION

¶ 85 For the reasons stated, we affirm the judgment of the circuit court of Winnebago County.

¶ 86 Affirmed.