

**NOTICE**

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2019 IL App (4th) 180615-U  
NOS. 4-18-0615, 4-18-0616 cons.

IN THE APPELLATE COURT  
OF ILLINOIS

FOURTH DISTRICT

**FILED**  
January 25, 2019  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

<i>In re</i> B.Z., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Macon County
Petitioner-Appellee,	)	Nos. 16JA92
v. (No. 4-18-0615)	)	16JA93
Jammie Z.,	)	
Respondent-Appellant).	)	
	)	
<i>In re</i> K.Z., a Minor	)	
	)	
(The People of the State of Illinois,	)	
Petitioner-Appellee,	)	
v. (No. 4-18-0616)	)	
Jammie Z.,	)	The Honorable
Respondent-Appellant).	)	Thomas E. Little,
	)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.  
Justices Turner and Harris concurred in the judgment.

**ORDER**

¶ 1 *Held:* The appellate court affirmed the trial court’s termination of parental rights.

¶ 2 Jammie Z. is the father of B.Z. (born August 2007) and K.Z. (born December 2005). The children’s mother is deceased. In April 2018, the State filed petitions to terminate Jammie’s parental rights. In June 2018, the trial court concluded that the State had proved by clear and convincing evidence that Jammie was an unfit parent. In August 2018, the court concluded that the State had proved by a preponderance of the evidence that it was in the best interest of the children to terminate Jammie’s parental rights.

¶ 3 Jammie appeals, arguing that the trial court's (1) fitness determination and (2) best-interest determination were against the manifest weight of the evidence. We disagree and affirm.

¶ 4 I. BACKGROUND

¶ 5 A. The Adjudication of Wardship

¶ 6 Jammie is the father of B.Z. and K.Z. The mother of the children is deceased. In July 2016, the State filed petitions for adjudication of wardship, arguing that the children were neglected and abused. 705 ILCS 405/2-3(1)(b), 2-3(2)(i), 2-3(2)(ii) (West 2016). That same month, the trial court entered an order granting the Department of Children and Family Services (DCFS) temporary custody over the children. In August 2016, the trial court found the children to be neglected minors. In October 2016, the trial court entered a dispositional order adjudicating the children wards of the court and placed their guardianship and custody with the guardianship administrator of DCFS. The court admonished Jammie that he risked the termination of his parental rights unless he (1) cooperated with DCFS, (2) complied with the terms of his service plan, and (3) corrected the conditions that required his children to be placed in the care of DCFS.

¶ 7 B. The Petitions to Terminate Parental Rights

¶ 8 In April 2018, the State filed petitions to terminate Jammie's parental rights. In pertinent part, the State asserted that Jammie had (1) deserted his children for more than three months prior to the unfitness proceeding and (2) failed to make reasonable progress toward the return of his children during any nine-month period following an adjudication of neglect or abuse. 750 ILCS 50/1(D)(c), (m)(ii) (West 2016).

¶ 9 C. The Termination Hearing

¶ 10 In June 2018, the trial court conducted a termination hearing. Tori Canary, a

placement supervisor at Lutheran Child and Family Services (LCFS), testified that she was the caseworker for B.Z. and K.Z. from February 2017 until November 2017. She stated that Jammie's service plan recommended that he (1) cooperate with DCFS and LCFS, (2) complete a substance abuse evaluation, (3) complete substance abuse treatment, (4) complete individualized counseling, and (5) participate in regular visitation with his children.

¶ 11 Canary stated that Jammie did not stay in contact with DCFS or LCFS, would not return their phone calls, and did not provide adequate contact information. She testified that Jammie did not complete a substance abuse evaluation. Because he did not complete the substance abuse evaluation, Canary stated that it was impossible for him to start individualized counseling or complete his substance abuse treatment. She also noted that Jammie had tested positive for methamphetamine and cocaine in September 2017.

¶ 12 Canary also testified that Jammie had not visited his children since June 2017. She noted that visitation was a logistical issue because Jammie had been in jail for violating an order of protection. She stated that in September 2017, she suspended visitation until Jammie began substance abuse treatment.

¶ 13 Jessica Rice, the then-current caseworker for B.Z. and K.Z., testified that she had no contact with Jammie. She stated that she had not received any documentation which would show that Jammie had completed his substance abuse treatment or his individualized counseling. She noted that Jammie had not visited his children since June 2017. Rice testified that Jammie was "unsatisfactory" regarding his service plan. The State rested after Rice's testimony. Jammie did not present any evidence.

¶ 14 Following closing argument, the trial court found that Jammie was an unfit parent because he (1) deserted his children for more than three months prior to the unfitness hearing and

(2) failed to make reasonable progress toward the return of his children during any nine-month period following an adjudication of neglect or abuse. 750 ILCS 50/1(D)(c), (m)(ii) (West 2016).

¶ 15 D. The Best-Interest Hearing

¶ 16 In August 2018, the trial court conducted the best-interest portion of the termination hearing. Rice testified that the children were doing well and currently living with their grandparents. She stated that the goal was to find the children an adoptive home. She noted that both children expressed a desire to be adopted and that K.Z. did not want to live with Jammie. Rice believed it was in the best interest of the children for Jammie’s parental rights to be terminated so that the children could be freed for adoption.

¶ 17 Jammie testified that he lived in a four-bedroom home in Decatur, Illinois. He stated that he owned his own remodeling and maintenance company and that he also worked part-time doing maintenance work. Jammie stated that he could provide for his children and that he had a parental bond with them.

¶ 18 Following closing argument, the trial court found that it was in the best interest of the children to terminate Jammie’s parental rights. The court found Rice’s testimony to be “credible” and that the children needed permanence through adoption.

¶ 19 This appeal followed.

¶ 20 II. ANALYSIS

¶ 21 Jammie appeals, arguing that the trial court’s (1) fitness determination and (2) best-interest determination were against the manifest weight of the evidence. We address these issues in turn.

¶ 22 A. The Fitness Determination

¶ 23 Jammie first argues that the trial court’s fitness determination was against the

manifest weight of the evidence. We disagree.

¶ 24                    1. *The Applicable Law and the Standard of Review*

¶ 25                    The State must prove unfitness as defined in section 1(D) of the Adoption Act by clear and convincing evidence. 750 ILCS 50/1(D) (West 2016); *In re D.D.*, 196 Ill. 2d 405, 417, 752 N.E.2d 1112, 1119 (2001). Section 1(D) of the Adoption Act defines an unfit person as “any person whom the court shall find to be unfit to have a child, without regard to the likelihood that the child will be placed for adoption.” 750 ILCS 50/1(D) (West 2016). The Adoption Act lists multiple grounds that will support a finding of unfitness. *Id.* “As the grounds for unfitness are independent, the trial court’s judgment may be affirmed if the evidence supports the finding of unfitness on any one of the alleged statutory grounds.” *In re H.D.*, 343 Ill. App. 3d 483, 493, 797 N.E.2d 1112, 1120 (2003).

¶ 26                    Section 1(D)(m)(ii) of the Adoption Act defines an unfit person as a parent who fails to make “reasonable progress toward the return of the child” during any nine-month period following an adjudication of neglect or abuse. 750 ILCS 50/1(D)(m)(ii) (West 2016). The Illinois Supreme Court has held that “the benchmark for measuring a parent’s ‘progress toward the return of the child’ under section 1(D)(m) of the Adoption Act encompasses the parent’s compliance with the service plans and the court’s directives, in light of the condition which gave rise to the removal of the child[.]” *In re C.N.*, 196 Ill. 2d 181, 216-17, 752 N.E.2d 1030, 1050 (2001). Likewise, this court has defined “reasonable progress” as follows:

“ ‘Reasonable progress’ is an objective standard which exists when the court, based on the evidence before it, can conclude that the progress being made by a parent to comply with directives given for the return of the child is sufficiently demonstrable and of such a quality that the court, in the *near future*, will be able

to order the child returned to parental custody. The court will be able to order the child returned to parental custody in the near future because, at that point, the parent *will have fully complied* with the directives previously given to the parent in order to regain custody of the child.” (Emphases in original.) *In re L.L.S.*, 218 Ill. App. 3d 444, 461, 577 N.E.2d 1375, 1387 (1991).

¶ 27 A determination of parental unfitness involves factual findings and credibility determinations that the trial court is in the best position to make. *In re Richard H.*, 376 Ill. App. 3d 162, 165, 875 N.E.2d 1198, 1201 (2007). A trial court’s finding of parental unfitness will not be reversed unless it is against the manifest weight of the evidence. *In re D.D.*, 196 Ill. 2d at 417. A decision is against the manifest weight of the evidence when the opposite conclusion is clearly the proper result. *In re Nylani M.*, 2016 IL App (1st) 152262, ¶ 48, 51 N.E.3d 1067.

¶ 28 *2. This Case*

¶ 29 Jammie’s service plan recommended that he (1) cooperate with DCFS and LCFS, (2) complete a substance abuse evaluation, (3) complete substance abuse treatment, (4) complete individualized counseling, and (5) participate in regular visitation with the children. However, Canary stated that Jammie did not stay in contact with DCFS or LCFS, would not return their phone calls, and did not provide adequate contact information. She testified that Jammie did not complete a substance abuse evaluation. Canary stated that it was impossible for Jammie to start individualized counseling or complete his substance abuse treatment because he did not complete his substance abuse evaluation. She noted that Jammie had tested positive for methamphetamine and cocaine in September 2017. She also stated that Jammie had not visited his children since June 2017. Rice testified that Jammie was “unsatisfactory” regarding his service plan.

¶ 30 Jammie did not present any evidence. Ultimately, the trial court found that the

State had proven by clear and convincing evidence that Jammie failed to make reasonable progress toward the return of his children during any nine-month period following the adjudication of neglect.

¶ 31 The record clearly demonstrates that Jammie was not making reasonable progress towards the return of his children. See *In re L.L.S.*, 218 Ill. App. 3d at 461. Accordingly, the trial court’s fitness determination pursuant to section 1(D)(m)(ii) of the Adoption Act was not against the manifest weight of the evidence. 750 ILCS 50/1(D)(m)(ii) (West 2016).

¶ 32 B. The Best-Interest Determination

¶ 33 Last, Jammie argues that the trial court’s best-interest determination was against the manifest weight of the evidence. We disagree.

¶ 34 1. *The Applicable Law and the Standard of Review*

¶ 35 At the best-interest stage of a termination proceeding, the State bears the burden of proving by a preponderance of the evidence that termination of parental rights is in the child’s best interest. *In re Jay. H.*, 395 Ill. App. 3d 1063, 1071, 918 N.E.2d 284, 290-91 (2009). In reaching a best-interest determination, the trial court must consider, within the context of the child’s age and developmental needs, the following factors:

“(1) the child’s physical safety and welfare; (2) the development of the child’s identity; (3) the child’s familial, cultural[,] and religious background and ties; (4) the child’s sense of attachments, including love, security, familiarity, continuity of affection, and the least disruptive placement alternative; (5) the child’s wishes and long-term goals; (6) the child’s community ties; (7) the child’s need for permanence, including the need for stability and continuity of relationships with parent figures and siblings; (8) the uniqueness of every family and child; (9) the risks re-

lated to substitute care; and (10) the preferences of the person available to care for the child.” *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1072, 859 N.E.2d 123, 141 (2006); see also 705 ILCS 405/1-3(4.05) (West 2016).

¶ 36 A reviewing court affords great deference to a trial court’s best-interest finding because the trial court is in the superior position to view the witnesses and judge their credibility. *In re Jay. H.*, 395 Ill. App. 3d at 1070. An appellate court “will not reverse the trial court’s best-interest determination unless it was against the manifest weight of the evidence.” *Id.* at 1071. A best-interest determination is against the manifest weight of the evidence only if the facts clearly demonstrate that the trial court should have reached the opposite result. *Id.*

¶ 37 *2. This Case*

¶ 38 In this case, Rice testified that the children lived with their grandparents and that the goal was to find the children an adoptive home. She noted that both children expressed a desire to be adopted and that K.Z. did not want to live with Jammie. Rice testified that it was in the best interest of the children for them to be adopted and for Jammie’s parental rights to be terminated. Jammie testified that he lived in a four-bedroom home, that he could provide for his children, and that he had a parental bond with his children.

¶ 39 The trial court concluded that the State had proven by a preponderance of the evidence that it was in the best interest of the children to terminate Jammie’s parental rights. The court found Rice’s testimony to be “credible” and that the children needed permanence through adoption. Based on the record in this case, we conclude that the trial court’s best-interest determination was not against the manifest weight of the evidence.

¶ 40 III. CONCLUSION

¶ 41 For the reasons stated, we affirm the trial court’s judgment.



¶ 42

Affirmed.