2019 IL App (4th) 180768-U

NO. 4-18-0768

FILED
March 14, 2019
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

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| *In re* B.D., a Minor | ) | Appeal from the |
| | ) | Circuit Court of |
| (The People of the State of Illinois, | ) | Sangamon County |
| Petitioner-Appellee, | ) | No. 17JA2 |
| v. | ) | |
| Bessie D., | ) | Honorable |
| Respondent-Appellant). | ) | Karen S. Tharp, |
| | ) | Judge Presiding. |

JUSTICE DeARMOND delivered the judgment of the court.
Presiding Justice Holder White and Justice Turner concurred in the judgment.

**ORDER**

¶ 1 *Held*: The appellate court affirmed, finding the trial court did not err in terminating respondent's parental rights.

¶ 2 In July 2018, the State filed a filed a motion to terminate the parental rights of respondent, Bessie D, with respect to her minor child, B.D. In an October 2018 fitness hearing, the trial court found respondent unfit. In November 2018, the court conducted a best-interests hearing, finding it was in the best interests of the minor to terminate respondent's parental rights.

¶ 3 On appeal, respondent argues the trial court erred in terminating her parental rights. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In January 2017, respondent gave birth to B.D., whose father is unknown and was not involved in this case. Two days after the minor's birth, the State filed a petition for adjudication of wardship, alleging the minor's environment was injurious to his welfare as

evidenced by the minor's siblings previously being adjudicated neglected and respondent's failure to correct the conditions that caused the children to come into care, resulting in termination of her parental rights as to one child and her decision to surrender her parental rights to two other children. In May 2017, the trial court found the minor was neglected based on an injurious environment due to the minor's siblings being adjudicated neglected and respondent's failure to make reasonable progress toward the return of her children resulting in termination and surrendering of her parental rights. In the July 2017 dispositional hearing, B.D. was made a ward of the court and custody and guardianship was placed with the Illinois Department of Children and Family Services (DCFS). In July 2018, the State filed a motion pursuant to section 2-13 of the Juvenile Court Act of 1987 (705 ILCS 405/2-13 (West 2016)), seeking a finding of unfitness and permanent termination of respondent's parental rights, alleging respondent was unfit because she failed to (1) maintain a reasonable degree of interest, concern, or responsibility as to the minor's welfare (750 ILCS 50/1(D)(b) (West 2016)); (2) make reasonable efforts to correct the conditions that were the basis for the removal of the minor during any nine-month period following the adjudication of neglect (750 ILCS 50/1(D)(m)(i) (West 2016)); and (3) make reasonable progress toward the return of the minor to respondent during the nine-month period of May 30, 2017, through March 1, 2018. (750 ILCS 50/1(D)(m)(ii) (West 2016)).

¶ 6 A. Fitness Hearing

¶ 7 1. *Emily Dorsey*

¶ 8 Emily Dorsey is a child welfare specialist with DCFS and was the caseworker assigned to the minor, B.D. She established a service plan in January 2017, which covered the time from January to July 2017. The tasks contained within the plan included respondent's completion of an updated psychological evaluation, cooperation with parenting services,

domestic-violence-victim counseling, maintaining a job and stable housing, attending visitation, cooperating with DCFS, and participating in mental health services, which included counseling and psychiatry. Respondent's July 2017 administrative case review (ACR) was rated unsatisfactory because, while respondent was making progress in some services, she was "still engaged in an unhealthy and violent" relationship with her paramour, who was an active drug user. Dorsey also cited respondent's lack of steady income and the unsafe condition of the home.

¶ 9 In July 2017, Dorsey created a new service plan covering from July 2017 to January 2018, with the same assigned tasks as the previous one. Respondent attended domestic-violence counseling inconsistently. Dorsey referred her to Addus HomeCare, Inc., to assist her with obtaining Section 8 housing and applying for social security. At the end of the six-month period, her performance under the service plan was still rated unsatisfactory. She continued to reside with the same abusive paramour, and there was evidence of ongoing domestic violence, which respondent reported to the police during that period of time. Although respondent said she would pursue one or more orders of protection, she never did. According to Dorsey, respondent told her the paramour was physically abusive, would steal her money or sell her belongings, and continued to use crack cocaine and alcohol. Despite this behavior, respondent did not recognize having him around was problematic. She said she did not think he would harm B.D. Throughout the life of the case, her paramour refused to cooperate with DCFS, comply with requests for drug screens, or participate in services. During this reporting period, respondent discontinued counseling, although she continued to meet with her psychiatrist once every two to three months. During this service plan, respondent lost her housing, became homeless, and reported she bounced from the homes of friends and family members, as well as homeless shelters and hotels. When respondent resided with relatives, the paramour continued to live with her from time to

time, in spite of the fact she had been told on a number of occasions she could never hope to regain custody of B.D. as long as that relationship continued. Respondent completed her third psychological evaluation during this same reporting period. Dorsey explained, even though in previous cases respondent had received two other psychological evaluations that found her incapable of parenting, Dorsey believed respondent should be given an opportunity. Once completed, it was no longer a part of the next service plan, which covered the time between January 2018 and July 2018.

¶ 10 Dorsey was unsure whether she gave the paramour the January 2018 service plan but stated the goals remained the same and his lack of progress or participation remained unchanged in spite of her repeated contacts with him. Although respondent was willing to cooperate with the recommended services, she never believed she needed to end her relationship with her paramour. In fact, she could not understand why he needed to be part of the case. For the reporting period between January and July 2018, respondent was rated unsatisfactory overall, and the permanency goal was changed to reflect substitute care pending termination. Respondent refused to end the abusive relationship, failed to attend mental health counseling, and had begun exhibiting increased frustration with her son during visits, leading to her ending the visits early. Respondent had been referred to Cynthia Wadsworth for mental health counseling at the beginning of the case, but she refused to continue counseling after Wadsworth conducted a bonding assessment between respondent and B.D. When respondent said she was unwilling to continue meeting with Wadsworth, she also said she wanted to find someone at Southern Illinois University School of Medicine where her psychiatrist, Dr. Kathleen Bottum, worked. DCFS approved her doing so; however, respondent never followed through to obtain replacement mental health counseling services. Dorsey explained respondent's meetings with Dr. Bottum did

not satisfy the counseling requirement, since a counselor would have weekly appointments with their clients, as opposed to the monthly or bimonthly appointments she had with her psychiatrist for medication management. In addition, questioning of Dr. Bottum revealed Dr. Bottum had no knowledge of respondent's unhealthy relationship and her "inadequate and unstable housing situation." Although she attended visits regularly with very few missed appointments, respondent was still rated unsatisfactory for visitation because she was "relying heavily on the visitation staff to help her handle [B.D.] during the visits and she was ending several visits early."

¶ 11 During the July 2018 ACR, which respondent did not attend, respondent was rated unsatisfactory in all areas, including income and housing since she had again lost her employment and housing. From that point in time until the termination hearing, she was living in a homeless shelter. Even when she had a residence, it was never considered suitable for an infant because it was "infested with bugs and very dirty."

¶ 12 At the beginning of the case, respondent had supervised visitation with B.D. twice a week for two hours. In December 2017, it was reduced to once a week for three hours due to the fact the case had been open for a year and there was a lack of progress being seen during visits. In June 2018, visitation was changed to once a month for two hours, again, because there was no progress in observable parenting skills and the child had to travel some distance for visitation, so the change was easier for B.D. Due to the condition of respondent's residences, visits had to take place in the community in locations such as parks, libraries, or McDonald's. Once the goal changed to substitute care pending termination, respondent's communication with Dorsey significantly decreased. At no time during the life of the case did Dorsey believe she was close to returning B.D. to respondent. She did not believe respondent had made significant

progress. Respondent continued to surround herself with unsafe people and did not recognize that it was an unsafe situation for her child.

¶ 13 2. *Dr. Kathleen Bottum*

¶ 14 Dr. Kathleen Bottum is a double-board-certified physician in Internal Medicine and Psychiatry at Southern Illinois University School of Medicine and has been respondent's psychiatrist since 2010. She first became familiar with respondent when she was in the process of losing her first child and attempted suicide. It was during her hospitalization that Dr. Bottum began treating her, which continued through the clinic thereafter. Dr. Bottum described her specialty within psychiatry as "consultation liaison psychiatry," and although she had practiced since 2002 and been board-certified since 2004, she acknowledged she had never been presented as an expert witness before this hearing. Dr. Bottum said she sees respondent "every other month or so" for a 30-minute session to treat her for major depression. It was Dr. Bottum's perception from talking with respondent that DCFS had taken four of her children, all stemming from an incident with her first child. According to her, "if you already have had a case with DCFS, then if you have a baby, then that baby is automatically taken away."

¶ 15 Dr. Bottum believed respondent's depression was in remission. The last time Dr. Bottum had observed respondent with her child was a year prior to the hearing, and she believed respondent cared for the child appropriately. She admitted on cross-examination a child's needs vary over time and she had not seen respondent with B.D. at all during 2018. She explained her treatment of respondent was separate from DCFS, although they had communicated at times. She initially did not recall being contacted by DCFS in the last two years but later acknowledged it could have been within the past year. She was aware respondent tends to cycle between being employed and having a residence, then becoming unemployed and homeless. Dr. Bottum did not

consider that significant in her ability to properly care for the child because of "[respondent's] love for [respondent's] son." She did not believe respondent's homelessness should prevent her from having custody of her child.

¶ 16 Dr. Bottum was aware of an instance where respondent's paramour had become violent with respondent, choking her at one point. However, Dr. Bottum did not consider that significant since there was no indication he ever harmed her son. She was also aware of his reported substance abuse issues and his refusal to cooperate with DCFS. Dr. Bottum had read the two previous psychological evaluations of respondent and considered them "very unfair to [respondent]." Since "there had been no evidence that the boyfriend did harm to the son," she thought it was "unfair" for DCFS to make respondent choose between someone she loves and who she thinks loves her or keeping her son.

¶ 17 3. *Michael Scott Trieger*

¶ 18 Michael Scott Trieger is part owner of the Springfield Psychological Center, has a doctorate in psychology, and is a licensed clinical psychologist. He worked at Southern Illinois University School of Medicine in the Developmental Pediatrics Division for seven years prior to going into private practice. He conducted a parenting capacity assessment on respondent pursuant to a request from DCFS. Based on his examination, respondent was not exhibiting the problems reported in her prior psychological evaluations and was appropriately interacting with her child. He noted specifically the previously diagnosed psychosis was not apparent and he "could not identify any reasons why she shouldn't be given a chance to parent her child." When asked what prior psychoses the earlier evaluations found present in respondent, he could not recall and said it had been over a year since he had reviewed the case. Whatever they were, he did not find them present at the time of his evaluation. His opinion respondent was capable of

parenting was also based, in part, on his observation of respondent with B.D. from an appointment in July 2017, before B.D. could walk.

¶ 19 4. *Respondent*

¶ 20 Respondent disagreed with Dorsey's assessment of her case that she had not completed the services required under her service plan. She based her disagreement on the fact that she had been employed, has had a residence, and took her medication as prescribed. Respondent testified she had maintained contact with Dorsey throughout the case. It was her opinion she had successfully completed her mental health services by continuing to see her psychiatrist regularly. Although she did not currently have a residence and was living with family, which DCFS had already determined to be unsuitable for the minor, she has had her own various residences during the life of this case. She maintained employment "off and on" by doing seasonal work for the Department of Revenue as well as the Department of Agriculture. When not so employed, she applied for unemployment compensation.

¶ 21 Respondent had engaged in domestic violence services at Sojourn Shelter and Services, Inc. (Sojourn), as testified to by Dorsey, and respondent stated she had, in fact, signed releases to permit the flow of information between Sojourn and DCFS. As Dorsey had said, respondent did not have to complete parenting classes because she had already done so several times before for other cases. Respondent disagreed with the number of visits missed and believed she had missed only two. According to her, no one from DCFS ever informed her she was failing to interact appropriately with B.D. Respondent acknowledged having three previous children removed from her care, surrendering her parental rights to two children, and having her rights terminated to one child.

¶ 22 Respondent denied an ongoing relationship with the paramour who had refused to participate or cooperate with DCFS's efforts at family reunification, saying, "We talk but we are friends. That's it." During the life of the case, respondent said she had informed him of the need to complete services in order to permit her son to be returned to her "probably 75, 80 times." She said he did not because he did not have "proper transportation." It was respondent's testimony she ended her romantic relationship with her paramour in August 2018, a month before the termination hearing, after a 1½-year relationship. She acknowledged appearing with him in traffic court as late as September 12, 2018, the day of the first part of the fitness proceedings, "as a supportive friend and nothing more." She admitted during their relationship he had committed multiple acts of domestic violence and regularly used cocaine, marijuana, and alcohol. She said he pleaded guilty to domestic battery against her in October 2017 and that although she had filed orders of protection against him, she did not follow through with any of them and had no such order pending now. When asked what assurances she could give that the relationship was over for good, she said her "son comes first." However, despite knowing throughout the entirety of the case that her issues with a domestically violent paramour with ongoing substance abuse issues negatively affected the ability to have her child returned, she maintained the relationship until August 2018. She acknowledged an incident with her paramour in December 2017 when she called the police after he stabbed an air mattress with a knife. She denied he had intended to "hit" her with it but said she had a "small scrape on [her] foot." She did not pursue an order of protection after that incident.

¶ 23 Respondent's explanation for terminating visits early was because of the time visits were scheduled. According to her, the times corresponded with B.D.'s bedtime or naptimes and since there was no suitable place for him to lie down where the visits were conducted, she

felt it best to allow him to return to his foster placement. She discontinued mental health counseling with Wadsworth because she said after the bonding assessment, Wadsworth told her she did not need to see her anymore because she did not believe she could help respondent any further. Respondent acknowledged Dorsey had told her to arrange for another counselor and that seeing Dr. Bottum every couple of months was not sufficient. She admitted she saw one other person one time and then made no further effort to do so.

¶ 24 After hearing the testimony and arguments of counsel, the trial court found respondent unfit. Although there were ongoing issues with both suitable housing and maintaining employment, the court did not consider either to be "a deciding factor." The court did take into consideration her failure to complete services, such as the mental health counseling. However, the ongoing nature of her relationship with a domestic-violence abuser throughout the pendency of the case and during the relevant time frame alleged in the termination petition was significant to the court. Although respondent suffered serious and repeated acts of abuse, her failure to pursue or follow through with protective efforts was concerning.

¶ 25 The trial court noted its concern with the testimony of Dr. Bottum, the psychiatrist upon whom respondent relied, when Dr. Bottum said, "[T]here had been no evidence that the boyfriend did harm to the son." Noting there was never the opportunity since the child did not leave the hospital with respondent, the court pointed out how such an opinion completely ignored the potential trauma done to children who may witness domestic violence like the various incidents between respondent and her paramour. The court further noted, throughout the relevant time period, not only was respondent in an abusive relationship, but she maintained that relationship while the paramour abused marijuana, alcohol, and cocaine. The court highlighted,

although the paramour refused and failed to participate or cooperate with DCFS and the recommended services, he did complete one task, a drug test, that tested positive for cocaine.

¶ 26 It was also significant to the trial court that, in spite of repeated conversations with respondent about how the paramour was a significant impediment to ever obtaining custody of B.D., she chose to remain in the relationship. The court pointed out, although respondent professed her love for her child, her actions did not reflect it. This included her observed behavior during visits. She continued to show an inability to care for the child and had to rely on the case aide for assistance.

¶ 27 The trial court found by clear and convincing evidence respondent both failed to maintain a reasonable degree of responsibility as to the minor's welfare and failed to make reasonable efforts to correct the conditions that caused the child to come into care during the relevant nine-month period. Noting "reasonable efforts" is a subjective determination, the court further found there was no evidence to suggest respondent was unable to understand what was expected of her and what she needed to do. The court also found by clear and convincing evidence respondent failed to make reasonable progress toward the return of the child during the relevant nine-month period and the court would not have been in the position to return the child to her care in a reasonable period of time.

¶ 28 B. Best-Interests Hearing

¶ 29 1. *Emily Dorsey*

¶ 30 Dorsey was the only witness to testify for the State at the hearing. She testified B.D. is in a traditional foster home and he is well bonded to his foster parents and siblings. The parents meet his medical and social needs and are willing to adopt him. B.D. responds to his foster parents "like any child would with their biological parent. He goes to them for comfort.

He's shy around strangers and clings to them." However, the attachment between B.D. and respondent was described as "poor." Dorsey did not believe there would be any harm in terminating respondent's parental rights because respondent had not taken steps for B.D. to be returned home and he has lived in a foster home his entire life and deserves permanency. Additionally, respondent's three other children reside with the foster parents, and the foster father is respondent's stepfather's brother.

¶ 31 2. *Respondent*

¶ 32 Respondent testified the foster parents were not always willing to take care of B.D. because they did not want to go through the hassle of DCFS. The foster parents said they would only take B.D. if respondent surrendered her parental rights at birth. After DCFS took protective custody, the foster parents agreed to the placement in their home because they did not want him to go somewhere else.

¶ 33 Respondent disagreed with the characterization of her attachment with her son as poor. She said they play with Lego toys, she reads books to him, and they walk around the library together. She also changes his diaper and brings him snacks.

¶ 34 The trial court found it was in B.D.'s best interests to terminate respondent's parental rights because the minor needs permanence and the foster parents were the ones to whom he had always turned to meet his needs.

¶ 35 This appeal followed.

¶ 36 II. ANALYSIS

¶ 37 A. Unfitness Findings

¶ 38 Respondent argues the trial court's findings of unfitness were against the manifest weight of the evidence. We disagree.

¶ 39 In a fitness hearing, the State must prove unfitness by clear and convincing evidence. *In re Donald A.G.*, 221 Ill. 2d 234, 244, 850 N.E.2d 172, 177 (2006). " 'A determination of parental unfitness involves factual findings and credibility assessments 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) (quoting *In re Tiffany M.*, 353 Ill. App. 3d 883, 889-90, 819 N.E.2d 813, 819 (2004)). A reviewing court accords great deference to a trial court's finding of parental unfitness, and such a finding will not be disturbed on appeal unless it is against the manifest weight of the evidence. *In re N.T.*, 2015 IL App (1st) 142391, ¶ 27, 31 N.E.3d 254. " 'A court's decision regarding a parent's fitness is against the manifest weight of the evidence only where the opposite conclusion is clearly apparent.' " *In re M.I.*, 2016 IL 120232, ¶ 21, 77 N.E.3d 69 (quoting *In re Gwynne P.*, 215 Ill. 2d 340, 354, 830 N.E.2d 508, 517 (2005)).

¶ 40 In this case, the trial court determined respondent was unfit based on her failure to make reasonable progress and show a reasonable degree of responsibility. The applicable period was between May 30, 2017 and March 1, 2018.

¶ 41 "Reasonable progress" is an objective standard that "may be found when the trial court can conclude the parent's progress is sufficiently demonstrable and of such quality that the child can be returned to the parent in the near future." *In re Janine M.A.*, 342 Ill. App. 3d 1041, 1051, 796 N.E.2d 1175, 1183 (2003).

> "[T]he 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, and in light of other conditions which

later become known and which would prevent the court from returning custody of the child to the parent." *In re C.N.*, 196 Ill. 2d 181, 216-17, 752 N.E.2d 1030, 1050 (2001).

¶ 42 "The law does not afford a parent an unlimited period of time to make reasonable progress toward regaining custody of the children." *In re Davonte L.*, 298 Ill. App. 3d 905, 921, 699 N.E.2d 1062, 1072 (1998). "At a minimum, reasonable progress requires measurable or demonstrable movement toward the goal of reunification." *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1067, 859 N.E.2d 123, 137 (2006). "Reasonable progress" may be found "if the trial court can objectively conclude that the parent's progress is sufficiently demonstrable and is of such quality that the child can be returned to the parent within the near future." *In re E.M.*, 295 Ill. App. 3d 220, 226, 692 N.E.2d 431, 435 (1998).

¶ 43 Here, respondent was well aware of the conditions keeping her child from being returned to her, namely mental health counseling, adequate housing, and her ongoing relationship with her drug-using, abusive paramour. After the bonding assessment, she canceled her meetings with her counselor, Wadsworth. DCFS allowed her to schedule appointments with another psychologist, but she chose not to do so. Her housing was tenuous at best. After respondent lost her job, she moved from place to place, whether living with friends and family or in homeless shelters. She currently resides with her biological mother, but by her own admission, DCFS does not approve of that location as a residence for her son. Even when living with others, her paramour lived with her off and on as well.

¶ 44 Regarding her relationship with her paramour at the time, the trial court considered it a significant factor in its decision. Respondent admitted during her testimony he committed multiple acts of domestic violence against her, some of which required police

intervention and at least one of which involved the use of a deadly weapon. She also stated he used cocaine, marijuana, and alcohol throughout the case. Despite these admissions, she did not understand why the return of her child was conditioned on either the paramour actively participating in services or her ending the relationship with him. While she claimed she broke up with him a month before the hearing, which is outside the relevant time period, she accompanied him to his unrelated court appearance the month of the hearing, and she had broken up with him in the past and then resumed the relationship. See *In re Reiny S.*, 374 Ill. App. 3d 1036, 1046, 871 N.E.2d 835, 844 (2007) ("[O]nly evidence from the relevant time period may be considered in determining whether a parent is unfit."). It is not unreasonable for the judge to believe their relationship would resume again, creating the same issues that prevented her child's return. Coupled with her apparent increased inability to deal with the child as he aged, returning a child into such a relationship would have been the perfect recipe for disaster. Therefore, we find the court did not err by finding respondent unfit. Since the grounds of unfitness are independent, we need not address the remaining grounds of a reasonable degree of responsibility or reasonable efforts. See *In re H.D.*, 343 Ill. App. 3d 483, 493, 797 N.E.2d 1112, 1120 (2003) ("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."). If we had addressed the other grounds for the finding, we would likewise conclude the court committed no error based on the record.

¶ 45 B. Best-Interests Finding

¶ 46 Respondent argues the trial court's finding that it was in the best interests of the minor to terminate her parental rights was against the manifest weight of the evidence. We disagree.

¶ 47 "Courts will not lightly terminate parental rights because of the fundamental importance inherent in those rights." *In re Veronica J.*, 371 Ill. App. 3d 822, 831, 867 N.E.2d 1134, 1142 (2007) (citing *In re M.H.*, 196 Ill. 2d 356, 362-63, 751 N.E.2d 1134, 1140 (2001)). Once the trial court finds the parent unfit, "all considerations must yield to the best interest of the child." *In re I.B.*, 397 Ill. App. 3d 335, 340, 921 N.E.2d 797, 801 (2009). When considering whether termination of parental rights is in a child's best interests, the trial court must consider a number of factors within "the context of the child's age and developmental needs." 705 ILCS 405/1-3(4.05) (West 2016). These include the following:

> "(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 related to substitute care; and (10) the preferences of the person available to care for the child." *Daphnie E.*, 368 Ill. App. 3d at 1072.

See also 705 ILCS 405/1-3(4.05)(a) to (j) (West 2016).

¶ 48 A trial court's finding termination of parental rights is in a child's best interests will not be reversed on appeal unless it is against the manifest weight of the evidence. *In re Dal. D.*, 2017 IL App (4th) 160893, ¶ 53, 74 N.E.3d 1185. The court's decision will be found to be

"against the manifest weight of the evidence only if the opposite conclusion is clearly apparent or the decision is unreasonable, arbitrary, or not based on the evidence." *In re Keyon R.*, 2017 IL App (2d) 160657, ¶ 16, 73 N.E.3d 616.

¶ 49 Here, the trial court analyzed the applicable statutory factors, recognizing the reality that, as is true in many of these cases, a need for permanency was of great importance. Dorsey explained B.D. was attached to his foster parents as if they were his biological parents. They also met his needs and were willing to adopt him. While respondent's testimony at the hearing focused on her parenting skills, that was not the primary reason why she was found unfit. Her unfitness was a product of her choices. Respondent had nearly two years to make different choices, but it was not until late in the process she decided to remedy some of the conditions which kept her son from her care. Even at the time of the hearing, she had not made efforts to change her housing situation, though she said she was considering it. The court was in the best position to listen to the State's witnesses as well as respondent and her witnesses and make credibility determinations regarding their testimony. See *In re Jay. H.*, 395 Ill. App. 3d 1063, 1070, 918 N.E.2d 284, 290 (2009). The State's burden was to establish termination was in the best interests of the child by a preponderance of the evidence, and it did so. See *In re M.R.*, 393 Ill. App. 3d 609, 617, 912 N.E.2d 337, 345 (2009) ("The State must prove that termination is in the child's best interests by a preponderance of the evidence."). Respondent failed to present any evidence sufficient to mitigate against the court's best-interests finding. It would be unfair to require B.D. to wait around in the foster care system to see if his mother would ever choose to take the necessary actions, and thus, the court's finding was not against the manifest weight of the evidence.

¶ 50 III. CONCLUSION

¶ 51 For the reasons stated, we affirm the trial court's judgment.

¶ 52 Affirmed.