2019 IL App (4th) 190341-U

NO. 4-19-0341

FILED
October 8, 2019
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re Lava. W., Lata. W., Larr. W., Lari. W., and Lani. W., Minors	)	Appeal from Circuit Court of McLean County
(The People of the State of Illinois, Petitioner-Appellee, v. Wendy W., Respondent-Appellant).	)	No. 17JA12 Honorable J. Brian Goldrick, Judge Presiding.

JUSTICE TURNER delivered the judgment of the court.
Justices Steigmann and Knecht concurred in the judgment.

ORDER

¶ 1 *Held*: The circuit court's findings respondent was unfit under section 1(D)(m)(ii) of the Adoption Act and it was in the minor children's best interests to terminate respondent's parental rights were not against the manifest weight of the evidence.

¶ 2 In November 2018, the State filed a motion for the termination of the parental rights of respondent, Wendy W., as to her minor children, Lava. W. (born in March 2016), Lata. W. (born in March 2015), Larr. W. (born in February 2011), Lari. W. (born in March 2009), and Lani. W. (born in November 2017). After a March 2019 hearing, the McLean County circuit court found respondent unfit and commenced the best-interests hearing. In April 2019, the court resumed the best-interests hearing and concluded it was in the minor children's best interests to terminate respondent's parental rights.

¶ 3 Respondent appeals, asserting the circuit court erred by (1) finding her unfit and (2) concluding it was in the minor children's best interests to terminate her parental rights. We

affirm.

¶ 4 I. BACKGROUND

¶ 5 The minor children's father is Larry W., who filed his own appeal which is docketed as case No. 4-19-0342. In March 2017, the State filed a petition for the adjudication of wardship as to the four oldest minor children (Lava. W., Lata. W., Larr. W. and Lari. W.), which first alleged the minor children were neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(b) (West 2016)), in that their environment was injurious to their welfare because (1) respondent had unresolved issues of domestic violence and/or anger management that created a risk of harm to the minor children; (2) Larry W. had unresolved issues of domestic violence and/or anger management that created a risk of harm to the minor children; and (3) respondent allowed Larry W. to have contact with the minor children in violation of a Department of Children and Family Services (DCFS) safety plan that she knew prohibited such contact, creating a risk of harm to the minor children. It further alleged the minor children were neglected under section 2-3(1)(a) of the Juvenile Court Act (705 ILCS 405/2-3(1)(a) (West 2016)) because they were not receiving the proper or necessary support, medical, or other remedial care as respondent did not take the minor children to be examined by a full body scan as directed by the minor children's pediatrician. Last, the petition alleged the minor children were abused pursuant to section 2-3(2)(i) of the Juvenile Court Act (705 ILCS 405/2-3(2)(i) (West 2016)) in that (1) respondent allowed Larry W., on more than one occasion, to inflict physical injury to the minor children by other than accidental means which caused disfigurement, impairment of emotional health, or loss or impairment of any bodily function; and (2) Larry W., on more than one occasion, inflicted physical injury to the minor children by other than accidental means which caused disfigurement, impairment of emotional

health, or loss or impairment of any bodily function.

¶ 6 At a June 2017 hearing, the circuit court found the four older minor children neglected based on the three allegations of injurious environment (705 ILCS 405/2-3(1)(b) (West 2016)). The court found the State had not proved the other allegations of neglect and abuse. On June 26, 2017, the circuit court held the dispositional hearing. After hearing the parties' arguments, the court found both respondent and Larry W. unfit, made the four older minor children wards of the court, and placed their custody and guardianship with DCFS. Both respondent and Larry W. appealed, and this court affirmed the circuit court's judgment. *In re Lava. W.*, 2017 IL App (4th) 170549-U.

¶ 7 In November 2017, the State filed a petition for adjudication of wardship in McLean County case No. 17-JA-100 regarding Lani. W., who was born during the pendency of this case. The petition alleged Lani. W. was neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act (705 ILCS 405/2-3(1)(b) (West 2016)), in that her environment was injurious to her welfare if in the care of respondent (count I) and Larry W. (count II) due to respondent and Larry W. being found unfit in the June 2017 dispositional order in this case. At a December 19, 2017, hearing, respondent admitted Lani. W. was neglected when residing with respondent as alleged in count I of the petition. That same day, the circuit court entered an adjudicatory order finding Lani. W. neglected as alleged in count I of the petition and dismissing count II of the petition. After the March 21, 2018, dispositional hearing, the court found both respondent and Larry W. unfit, made Lani. W. a ward of the court, and placed her custody and guardianship with DCFS. At that time, the court consolidated Lani. W.'s case (No. 17-JA-100) with this case.

¶ 8 In November 2018, the State filed two motions to terminate respondent's and Larry W.'s parental rights to all of the minor children (one addressed the oldest four and one

addressed Lani. W.). The motion concerning the oldest four minor children asserted respondent was unfit because she failed to (1) maintain a reasonable degree of interest, concern, or responsibility as to the minor children's welfare (750 ILCS 50/1(D)(b) (West 2018)); (2) make reasonable progress toward the minor children's return during any nine-month period after the neglect adjudication, specifically June 21, 2017, to March 21, 2018 (750 ILCS 50/1(D)(m)(ii) (West 2018)); (3) make reasonable progress toward the minor children's return during any nine-month period after the neglect adjudication, specifically December 10, 2017, to September 10, 2018 (750 ILCS 50/1(D)(m)(ii) (West 2018)); and (4) protect the minor children from conditions within their environment injurious to the minor children's welfare (750 ILCS 50/1(D)(g) (West 2018)). The termination motion regarding Lani. W. alleged respondent was unfit because she failed to (1) maintain a reasonable degree of interest, concern, or responsibility as to Lani. W.'s welfare (750 ILCS 50/1(D)(b) (West 2018)); and (2) make reasonable progress toward the minor children's return during any nine-month period after the neglect adjudication, specifically December 19, 2017, to September 19, 2018 (750 ILCS 50/1(D)(m)(ii) (West 2018)). Before the fitness hearing, the State dismissed the last three allegations in the petition regarding the four oldest minor children and the last allegation in the petition pertaining to Lani. W. In January 2019, the State filed two supplemental petitions to terminate respondent's and Larry W.'s parental rights. The two supplements raised the additional allegation respondent was unfit for failing to make reasonable progress toward all of the minor children's return during any nine-month period after the neglect adjudication, specifically April 3, 2018, to January 3, 2019 (750 ILCS 50/1(D)(m)(ii) (West 2018)).

¶ 9 On March 6, 2019, the circuit court held the fitness hearing. The State presented the testimony of (1) Kimberly Martin-Corcoran, a marriage and family therapist; (2) Jessica

Wolf, a marriage and family therapist; (3) Stephanie Barisch, assistant clinical director at the Center for Family and Youth Services; (4) Sheandra McCray-Sneed, a family support worker; and (5) Kaylee Wilson, a caseworker. The State also presented Stephanie's January 11, 2019, letter discharging respondent from individual counseling. Additionally, the State asked the circuit court to take judicial notice of 22 different documents, which came from either this case or McLean County case Nos. 17-OP-118, 17-JA-100, and 19-JA-8. Respondent testified on her own behalf. Larry W. also testified on his own behalf. The evidence relevant to this appeal is set forth below.

¶ 10 Kimberly testified she was Lari. W.'s therapist and was considering starting family therapy after Lani. W. was born. Kimberly did not pursue family therapy at that time because concerns were raised about supervision in respondent's home. Around November 2018, Kimberly started talking with respondent about family therapy. Kimberly and respondent had one meeting in February 2019. They talked about the concerns regarding Lari. W.'s behaviors. Kimberly decided family therapy would not be good for Lari. W. given the pending termination petition. Kimberly also noted respondent had missed two appointments with her.

¶ 11 Jessica testified she was Larr. W.'s therapist and met with him weekly. Jessica met with respondent in August 2017, which was at the beginning of the case. Respondent provided helpful information. Jessica arranged for a counseling session in August 2018 with respondent because Larr. W. had voiced some worries and he thought it would help to discuss them with respondent. During the August 2018 session, Larr. W. raised the issues of respondent and Larry W. fighting and Larry W. hitting him. Respondent was reassuring and discussed what she and Larry W. were doing to resolve arguments in a better way and some appropriate consequences for bad behavior. Respondent interacted with Larr. W. appropriately during the

session and showed she loved and cared for Larr. W. However, in November 2018, Larr. W. reported to his foster parent respondent and Larry W. were telling him not to talk and threatening him. Thus, Jessica had concern about how respondent interacted with Larr. W. when professionals were not present.

¶ 12 Additionally, Jessica testified respondent called her in December 2018 wanting to make an appointment with her. Respondent cancelled the first appointment and failed to show up at the second appointment. Jessica did not hear from respondent again until January 26, 2019. She met with respondent on February 1, 2019. Respondent voiced some concerns about Larr. W. and wanted to start family therapy with Larr. W.

¶ 13 Stephanie testified she had been respondent's therapist since June 2017. Respondent's attendance had been fairly consistent. However, respondent's attendance dropped off dramatically in October 2018. Stephanie did not see respondent for most of October and November 2018 until the team meeting on November 30, 2018. Prior to the meeting, Stephanie had discharged respondent from counseling due to her poor attendance. After the meeting, respondent asked to reengage in counseling services. Stephanie discussed with respondent her prior lack of attendance and then scheduled a session for respondent on December 6, 2018. Stephanie told respondent she needed to contact her ahead of time if respondent needed to cancel or reschedule the appointment. Respondent missed the December 6, 2018, appointment, and Stephanie again discharged respondent from counseling. Respondent did reengage in counseling in February 2019.

¶ 14 Moreover, Stephanie had observed respondent make progress in some areas. Stephanie acknowledged respondent had been a victim of domestic abuse for around 10 years and it was not uncommon for victims to regress on occasion. Stephanie did not believe

respondent herself would hurt the children. Stephanie did have concerns Larry W. would hurt the children and respondent would cover for him. She also had concerns about respondent's ability to acknowledge safety risks and make decisions to keep her children safe from harm from someone else. Stephanie also testified about respondent's continued desire to coparent with Larry W. and her concerns about respondent's continued contact with him. Respondent was still struggling with terminating her relationship with Larry W. and did not completely understand the harm their relationship caused the children. In her opinion, the children would never be safe with respondent if she was involved with Larry W. and he had not addressed his domestic-violence issues.

¶ 15 Kaylee testified she had been the caseworker for this case since July 1, 2017. In this case, the client service plan goals for both respondent and Larry W. were the following: (1) domestic violence, (2) parenting, (3) visitation, (4) individual counseling, and (5) cooperation. Kaylee explained the domestic-violence goal included completing a domestic-violence assessment, obtaining any recommended treatment after that assessment, and not allowing any further instances of domestic violence. As to the parenting goal, Kaylee noted the parents needed to complete a parenting class and show knowledge of appropriate discipline. With the visitation goal, the parents needed to participate in visits and demonstrate appropriate parenting learned in the parenting classes. The goal of individual counseling required the parent to participate in individual counseling and complete any treatment goals. The final goal of cooperation required them to cooperate with the agency and keep the assigned caseworker up-to-date with any changes to living arrangements or anything related to the management of the case. Kaylee had evaluated the service plan in this case three times. Those evaluations were done in September 2017, March 2018, and September 2018. Both parents received mostly satisfactory

ratings on their goals. The next evaluation was due at the end of March 2019.

¶ 16 In the September 2018 evaluation, Kaylee gave respondent an unsatisfactory rating for the domestic-violence goal. She explained respondent had a relationship with Cameron Biles and respondent disclosed Cameron had shown aggressive and out-of-control behavior by destroying personal belongings in respondent's home. Kaylee also learned Cameron had multiple orders of protection against him in the past. Kaylee advised respondent not to have any sort of relationship with Cameron because his out-of-control behaviors could have a negative impact on the minor children if he was around them. After their discussion, respondent continued to have a relationship with Cameron.

¶ 17 Kaylee was asked to evaluate respondent on the service plan goals at the time of the fitness hearing. As to domestic violence, she would give respondent an unsatisfactory rating because respondent was still in an intimate relationship with Larry W. and he had not engaged in the appropriate individual counseling. On parenting, she would give respondent a satisfactory rating because she completed the parenting class. Regarding visitation, Kaylee would give respondent an unsatisfactory rating because the minor children have reported they have been hit in the bathroom by a parent and were being told inappropriate case information during the visits. Kaylee would also give respondent an unsatisfactory rating as to individual counseling. While respondent had started individual counseling with two different providers in late January 2019, she had missed appointments and had been unsuccessfully discharged. Last, as to cooperation, Kaylee would give respondent an unsatisfactory rating because respondent had not been honest about her interactions with Larry W. and had been completely dishonest about the birth of her youngest child, who was born in January 2019.

¶ 18 Last, Kaylee testified she did not recommend the parents be found fit because she

did not feel either parent had been honest enough with her for her to fully trust the children would remain safe if returned home. Moreover, she did not believe she could recommend the children be returned home in the near future. Kaylee also agreed with Stephanie's testimony respondent currently lacked the protective factors needed to keep her children safe. Kaylee explained respondent had continually maintained a relationship with Larry W. throughout the life of the case and she had concerns respondent would never truly end her relationship with Larry W. Kaylee further noted respondent still had an issue with minimizing the domestic violence between her and Larry W. and continued to engage in deception with her.

¶ 19 Respondent testified she had been a victim of domestic violence throughout her 10-year relationship with Larry W. She recognized the domestic violence had impacted her children both emotionally and behaviorally. Respondent also admitted she was told not to have contact with Larry W. and an order of protection was in place. She believed she minimized the domestic violence and lied at times because she was stuck in a cycle of domestic violence and did not have the tools she needed to deal with it. Respondent admitted she had attended domestic-violence classes and individual counseling but explained she had a lot to process. Additionally, respondent testified her lack of attendance at individual counseling was due to the stress of not having her children home. Respondent also admitted to going to great lengths to hide her sixth child from her caseworker. The child was found with one of Larry W.'s relatives.

¶ 20 Moreover, respondent testified she now realized what type of situation she was in and what it did to her and the children. Respondent did not recognize that until January 2019. Respondent testified she now recognized she needed to make better choices for her children. She no longer wanted negative people around her children.

¶ 21 Larry W. testified his relationship with respondent ended in January 2019. They

both came to realize they were not helping each other get the minor children back. When the new baby arrived, they realized they needed to buckle down and do what they needed to do.

¶ 22 After hearing the parties' arguments, the circuit court found respondent unfit based only on her failure to make reasonable progress toward all five of the minor children's return during the nine-month period of April 3, 2018, to January 3, 2019. The court also found Larry W. unfit on the same basis.

¶ 23 After finding respondent and Larry W. unfit, the circuit court began the best-interests hearing. Several reports were prepared for the best-interests hearing. One of the reports was prepared by the court-appointed special advocate (CASA). The CASA's report described how the five minor children were doing very well in their placements. It also noted both parents were attentive to all of the children's needs during visits and had improved in their ability to oversee all five children. In conclusion, the CASA report stated it "strongly believe[d]" respondent's and Larry W.'s parental rights should not be terminated. Lari. W.'s therapist, Kimberly, also filed a report and noted the uncertainty of being in foster care had been weighing greatly on Lari. W. Kimberly felt Lari. W. deserved to have permanency and some sense of security about her future. Kimberly had concerns respondent and Larry W. would continue to not make progress if the family case continued, resulting in more uncertainty for Lari. W. She recognized Lari. W. would struggle if her parents' parental rights were terminated but believed having a definitive answer as to what her future held would be more helpful to Lari. W. in the end than continuing to keep her waiting and wondering. Last, in her report, Larr. W.'s therapist, Jessica, also noted he too really struggled to cope with the uncertainty of being in foster care and experienced disturbances in his behavior when court dates appraoched. Jessica noted permanency would provide Larr. W. with the stability he needed to make progress.

¶ 24 The State asked the court to take judicial notice of the entire court file and presented the testimony of Kaylee. Kaylee testified Larr. W. and Lata. W. had been in their foster home for the majority of the case. Since living there, they had both "come full circle in their academics." Kaylee testified the foster home was a very loving one and very in tune with both of the children's needs. In Kaylee's opinion, Larr. W. and Lata. W. both felt safe and loved in that home. As to Lari. W. and Lava. W., they had been in their foster home since June 2018. Since being placed in that home, Lari. W. had progressed in her schoolwork, and Lava. W.'s "speech has just skyrocketed." Kaylee also testified Lani. W. had been in her foster home since she was five days old. Lani. W. had a "great bond" with her foster siblings, and her needs were "very well met" in her foster home.

¶ 25 Moreover, Kaylee testified she agreed with the CASA report except for the last two sentences finding both respondent and Larry W. were able to provide for the minor children's basic needs, shelter, food, medical, and education, and the respondent's and Larry W.'s parental rights should not be terminated. Kaylee agreed with the letters of the therapists for Lari. W. and Larr. W. finding it was in the respective child's best interests to terminate respondent's parental rights. Kaylee also opined it was in the children's best interests to terminate both respondent's and Larry W.'s parental rights based on the huge decline in services and honesty over the last nine months. She emphasized respondent and Larry W. have maintained a relationship the entire life of the case, which had been strongly discouraged. In Kaylee's opinion, even if respondent and Larry W. were given another year, she did not know if she would be in a position where she would feel comfortable enough to send all the children back into their care.

¶ 26 According to Kaylee, all of the children are bonded to both parents. The older

two children were conflicted on where they would like to permanently reside. The other children were too young to have an opinion. All of the foster parents had signed permanency commitment forms. Kaylee also testified the foster parents had get-togethers with all of the minor children on four or five occasions.

¶ 27 Respondent testified she had her own home with six bedrooms. The children each had their own bedroom and had everything they wanted or needed in that bedroom. Respondent later admitted the home was going to be torn down in April 2019 but asserted she could find housing. Two weeks before the hearing, respondent got relicensed as an emergency medical technician. She planned to get her associates degree to become a paramedic. Respondent also had a job. If the minor children were returned to her, she would work around the children's schedule and the younger ones would go to daycare.

¶ 28 Additionally, respondent testified about her bond with each of the five children. She described a close relationship with each child. Respondent also described her visits with all of the minor children. Since the visits usually occurred in the late afternoon, respondent provided the children dinner and brought things for them to do. She also brought a diaper bag with extra clothes for the younger children. Respondent made sure each child was cared for and loved during her two-hour visits.

¶ 29 Respondent further testified it was not in her children's best interests to terminate her parental rights. She acknowledged she had made some bad decisions but her children should not have to suffer as a result. Respondent testified her children would be devastated if her parental rights were terminated. She did not believe her children wanted to be adopted by their respective foster parents. Respondent also testified she could parent her children safely if they were returned to her. Respondent was willing to do the work necessary to become a fit parent

and have the minor children returned home.

¶ 30 In his testimony, Larry W. emphasized the mixed racial background of the children. He felt he was better able to handle styling the children's hair and teaching them how to deal with racism. He believed it was in the minor children's best interests for them to be returned home to respondent. Larry W. would do whatever respondent needed him to do for the children. Larry W. also noted he had changed his ways and had not engaged in a domestic incident for over two years. He further testified the children were having a hard time being away from each other.

¶ 31 After the close of evidence, the circuit court continued the best-interests hearing because it needed more information due to the divergent opinions on the minor children's best interests. The court gave respondent and Larry W. 90 days to show they were engaged in services and making progress. The court set the continued hearing for June 11, 2019. On March 22, 2019, the State and the guardian *ad litem* requested the continued hearing be set for an earlier date, and the court granted their request over the objection of respondent's and Larry W.'s attorneys and set the hearing for April 30, 2019.

¶ 32 On April 30, 2019, the circuit court resumed the best-interests hearing and reopened the evidence. Both respondent and Larry W. were late to the hearing. The State presented the arrest records for respondent and Larry W. on March 15, 2019, and corresponding videos. Respondent was arrested for possession of a stolen motor vehicle. Larry W. was a passenger in the stolen vehicle at the time it was stopped. Larry W. was arrested for violation of an order of protection and possession of a stolen vehicle. Based on the new criminal charges, the CASA submitted a new report recommending termination of respondent's and Larry W.'s parental rights. Kaylee, the caseworker, also submitted a new best-interests report, which again

recommended the termination of respondent's and Larry W.'s parental rights. Updated therapy reports were also submitted. Stephanie, respondent's therapist, noted respondent had reengaged in therapy and was slowly making progress. However, respondent's decision-making had been an issue since the last hearing given another violation of the order of protection. Kimberly, Lari. W.'s therapist, also presented a new report emphasizing Lari. W.'s need for permanence. Jessica, Larr. W.'s therapist, also noted Larr. W.'s need for permanence and concerns about respondent's ability to keep Larr. W. and the other children safe from Larry W. Jessica believed adoption was in Larr. W.'s best interests.

¶ 33 The State also presented an agreed statement by Andrea Ogborn, a family advocate. Andrea had no disagreements with the new reports from the CASA, caseworker, and therapists. Andrea believed the minor children deserve permanency now. The State presented the testimony of the children's foster parents. Larry W. again testified as well.

¶ 34 Lani. W.'s foster father, Caleb G., testified Lani. W. lived with her younger biological sister and the foster parents' two biological children. Lani. W. got along well with her foster sisters. Caleb G. also noted Lani. W. has had multiple illnesses, multiple allergies, and some developmental delays. Lani. W. was eighteen months old and had the verbal skills of a nine month old. Multiple professionals were assessing Lani. W.'s needs. Caleb G. had concerns Lani. W.'s needs would not be met if she was returned home to her parents. Caleb G. and his wife desired to adopt Lani. W.

¶ 35 Lari. W. and Lava. W.'s foster mother, Sara T., also testified. Lari. W. and Lava. W. are the only children in the home. Sara T. noted both children had behavioral issues after visits. After a visit in April 2019, Lari. W. started trying to coparent her sister. Lari. W. had also recently shared memories about being choked by Larry W. and being hit with a belt by

him. Lava. W. had nightmares after visits and voiced concerns about respondent and Larry W. coming to get her. Sara T. and her husband loved the two children and desired to adopt them.

¶ 36 Last, Larr. W. and Lata. W.'s foster mother, Carol G., testified. Carol G. explained she and her husband had four biological sons, two of whom were grown and out of the home and two who still lived at home. Her biological sons loved Larr. W. and Lata. W. and played sports in the yard with them. Larr. W. wet his pants every day during the initial hearing on the termination petition and misbehaved a lot at school. He had been having a really tough time since then. Larr. W. cried when he learned the hearing had been continued. Following his next visit with respondent after the hearing, Larr. W. told Carol G. respondent stated the children were coming home in June. Larr. W. voiced concerns about having to help take care of Lata. W. and Lava. W. Both children have had flashbacks about things that took place when they were living with respondent and Larry W. Both children have stated they want to be adopted, and Carol G. and her husband desired to adopt the children.

¶ 37 Larry W. testified the children tell him they want to come home and thus he does not understand why the foster parents are testifying the children want to be adopted. He loved his kids and wanted them home. Larry W. admitted respondent picked him up and drove him to the hearing.

¶ 38 At the conclusion of the hearing, the circuit court found it was in all five of the minor children's best interests to terminate respondent's and Larry W.'s parental rights. On April 30, 2019, the court entered a written order terminating respondent's and Larry W.'s parental rights to all five of the minor children.

¶ 39 On May 24, 2019, respondent filed a notice of appeal in sufficient compliance with Illinois Supreme Court Rule 303 (eff. July 1, 2017). See Ill. S. Ct. R. 660(b) (eff. Oct. 1,

2001) (providing the rules governing civil cases govern appeals from final judgments in all proceedings under the Juvenile Court Act, except for delinquency cases). Thus, this court has jurisdiction of this appeal pursuant to Illinois Supreme Court Rule 307(a)(6) (eff. Nov. 1, 2017).

¶ 40 II. ANALYSIS

¶ 41 Under section 2-29(2) of the Juvenile Court Act (705 ILCS 405/2-29(2) (West 2018)), the involuntary termination of parental rights involves a two-step process. First, the State must prove by clear and convincing evidence the parent is "unfit," as that term is defined in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2018)). *In re Donald A.G.*, 221 Ill. 2d 234, 244, 850 N.E.2d 172, 177 (2006). If the circuit court makes a finding of unfitness, then the State must prove by a preponderance of the evidence it is in the minor children's best interests that parental rights be terminated. *In re D.T.*, 212 Ill. 2d 347, 366, 818 N.E.2d 1214, 1228 (2004).

¶ 42 Since the circuit court has the best opportunity to observe the demeanor and conduct of the parties and witnesses, it is in the best position to determine the credibility and weight of the witnesses' testimony. *In re E.S.*, 324 Ill. App. 3d 661, 667, 756 N.E.2d 422, 427 (2001). Further, in matters involving minors, the circuit court receives broad discretion and great deference. *E.S.*, 324 Ill. App. 3d at 667, 756 N.E.2d at 427. Thus, a reviewing court will not disturb a circuit court's unfitness finding and best-interests determination unless they are contrary to the manifest weight of the evidence. See *In re Gwynne P.*, 215 Ill. 2d 340, 354, 830 N.E.2d 508, 516-17 (2005) (fitness finding); *In re J.L.*, 236 Ill. 2d 329, 344, 924 N.E.2d 961, 970 (2010) (best-interests determination). A circuit court's decision is against the manifest weight of the evidence only where the opposite conclusion is clearly apparent. *Gwynne P.*, 215 Ill. 2d at 354, 830 N.E.2d at 517.

¶ 43 A. Respondent's Fitness

¶ 44 Respondent contends the circuit court erred by finding her unfit. The State asserts it proved respondent was an unfit parent.

¶ 45 In this case, the circuit court found respondent unfit under section 1(D)(m)(ii) of the Adoption Act (750 ILCS 50/1(D)(m)(ii) (West 2018)), which provides a parent may be declared unfit if he or she fails "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 under Section 2-3 of the Juvenile Court Act." Illinois courts have defined "reasonable progress" as "demonstrable movement toward the goal of reunification." (Internal quotation marks omitted.) *In re Reiny S.*, 374 Ill. App. 3d 1036, 1046, 871 N.E.2d 835, 844 (2007) (quoting *In re C.N.*, 196 Ill. 2d 181, 211, 752 N.E.2d 1030, 1047 (2001)). Moreover, they have explained reasonable progress as follows:

> " '[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 became known and which would prevent the court from returning custody of the child to the parent.' " *Reiny S.*, 374 Ill. App. 3d at 1046, 871 N.E.2d at 844 (quoting *C.N.*, 196 Ill. 2d at 216-17, 752 N.E.2d at 1050).

Additionally, this court has explained reasonable progress exists when a circuit court "can conclude 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). We have also emphasized " 'reasonable progress' is an 'objective standard.' " *In re F.P.*, 2014 IL App (4th) 140360, ¶ 88, 19 N.E.3d 227 (quoting *L.L.S.*, 218 Ill. App. 3d at 461, 577 N.E.2d at 1387).

¶ 46 In determining a parent's fitness based on reasonable progress, a court may only consider evidence from the relevant time period. *Reiny S.*, 374 Ill. App. 3d at 1046, 871 N.E.2d at 844 (citing *In re D.F.*, 208 Ill. 2d 223, 237-38, 802 N.E.2d 800, 809 (2003)). Courts are limited to that period "because reliance upon evidence of any subsequent time period could improperly allow a parent to circumvent her own unfitness because of a bureaucratic delay in bringing her case to trial." *Reiny S.*, 374 Ill. App. 3d at 1046, 871 N.E.2d at 844. In this case, the petition alleged the relevant nine-month period was April 3, 2018, to January 3, 2019.

¶ 47 Throughout the entire nine-month period, respondent had an unsatisfactory rating on the domestic-violence goal, which was the reason the four oldest children were brought into care. Respondent continued to have a relationship with Larry W. despite her order of protection against him, as well as another man with a history of out-of-control behaviors and orders of protection against him. Additionally, during the nine-month period, respondent stopped attending individual counseling and was discharged from counseling twice. Respondent was also not honest with her caseworker and tried to hide her pregnancy and the birth of her sixth child. Respondent's caseworker did not trust respondent would keep the minor children safe if they were returned home to her. The caseworker also had concerns respondent would always have a relationship with Larry W. Respondent's therapist had concerns about respondent's

ability to make decisions that would keep her children safe from harm caused by someone else. She also worried respondent would cover for Larry W. if he hurt the children. Respondent's therapist felt the children would never be safe with respondent if she was still involved with Larry W. and he had not addressed his domestic-violence issue.

¶ 48 The aforementioned evidence showed respondent was still far from compliant with the domestic-violence goal during the relevant nine-month period. The court could not return the children in the near feature due to safety concerns stemming primarily from respondent's continued relationship with Larry W. The fact respondent met some of her other goals and could parent the children by herself during supervised visits did not make her a safe parent as she continued to not understand how to keep her children safe from others. Accordingly, we conclude the circuit court's finding respondent unfit based on section 1(D)(m)(ii) of the Adoption Act was not against the manifest weight of the evidence.

¶ 49 B. Minor Children's Best Interests

¶ 50 Respondent also challenges the circuit court's finding it was in the minor children's best interests to terminate her parental rights. The State disagrees and contends the court's finding was proper.

¶ 51 During the best-interests hearing, the circuit court focuses on "the child[ren]'s welfare and whether termination would improve the child[ren]'s future financial, social and emotional atmosphere." *In re D.M.*, 336 Ill. App. 3d 766, 772, 784 N.E.2d 304, 309 (2002). In doing so, the court considers the factors set forth in section 1-3(4.05) of the Juvenile Court Act (705 ILCS 405/1-3(4.05) (West Supp. 2017)) in the context of the children's age and developmental needs. See *In re T.A.*, 359 Ill. App. 3d 953, 959-60, 835 N.E.2d 908, 912-13 (2005). Those factors include the following: the children's physical safety and welfare; the

development of the children's identity; the children's family, cultural, and religious background and ties; the children's sense of attachments, including continuity of affection for the children, the children's feelings of love, being valued, security, and familiarity, and taking into account the least disruptive placement for the children; the children's own wishes and long-term goals; the children's community ties, including church, school, and friends; the children's need for permanence, which includes the children's need for stability and continuity of relationships with parent figures, siblings, and other relatives; the uniqueness of every family and each child; the risks attendant to entering and being in substitute care; and the wishes of the persons available to care for the children. 705 ILCS 405/1-3(4.05) (West Supp. 2017).

¶ 52 We note a parent's unfitness to have custody of his or her children does not automatically result in the termination of the parent's legal relationship with the children. *In re M.F.*, 326 Ill. App. 3d 1110, 1115, 762 N.E.2d 701, 706 (2002). As stated, the State must prove by a preponderance of the evidence the termination of parental rights is in the minor children's best interests. See *D.T.*, 212 Ill. 2d at 366, 818 N.E.2d at 1228. "Proof by a preponderance of the evidence means that the fact at issue *** is rendered more likely than not." *People v. Houar*, 365 Ill. App. 3d 682, 686, 850 N.E.2d 327, 331 (2006).

¶ 53 Here, the circuit court gave respondent 90 additional days to show, *inter alia*, she was engaged in counseling and honest with the counselor. Seven days after that, respondent was arrested for possession of a stolen vehicle in which she was driving and Larry W. was a passenger in violation of the order of protection. While respondent definitely loved her children and wanted them home, she continued to fail to realize the threat her relationship with Larry W. posed for the children even with the termination petition pending. Significant safety concerns still existed about respondent's ability to parent.

¶ 54 A review of the best-interests factors favors the termination of respondent's parental rights. All of the minor children had lived in their respective foster homes for more than a year and were thriving in those homes. They were all safe in their foster homes, and their individual needs were provided for. In two of the foster homes, the foster parents had biological children, and the minor children had also bonded with those children. Moreover, Lari. W. and Larr. W. were involved in extracurricular activities. The minor children who could express their wishes desired to be adopted. In this case, everyone agreed the minor children needed permanency, as the uncertainty of their situation caused them a great deal of stress. On the other hand, as noted, respondent continued to show her inability to stay away from Larry W., who was a safety threat to the minor children. It was unclear for how long respondent would need counseling to understand what she needed to do to keep the children safe from others, including Larry W. Thus, it was unclear when, if ever, she would be able to provide permanency for the minor children.

¶ 55 As to the minor children's separation from each other, respondent failed to raise DCFS's alleged noncompliance with its own regulations regarding sibling placement during the best-interest hearing as a reason for not terminating respondent's parental rights. Accordingly, respondent has forfeited this issue. See *In re P.J.*, 2018 IL App (3d) 170539, ¶ 10, 101 N.E.3d 194. The circuit court is the appropriate place to raise an issue regarding DCFS's compliance with its regulations regarding diligent searches so that DCFS may correct any noncompliance. Moreover, in this case, the service plans stated DCFS could not find a home that would take the four oldest children, and when Lani. W. came into care, the foster parents of the other minor children could not have a newborn placed with them. We note each child resided with one of his or her siblings, and the foster parents were willing to allow the minor children to get together. In

this case, the children's safety and individual needs were more important than all of them living together in a single home.

¶ 56 Accordingly, we find the circuit court's conclusion it was in the minor children's best interests to terminate respondent's parental rights was not against the manifest weight of the evidence.

¶ 57 III. CONCLUSION

¶ 58 For the reasons stated, we affirm the McLean County circuit court's judgment.

¶ 59 Affirmed.