2019 IL App (5th) 180486-U

NO. 5-18-0486

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

In re G.M., C.M. Jr., and S.M., Minors	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Madison County.
	)	
Petitioner-Appellee,	)	
	)	
v.	)	Nos. 15-JA-74; 15-JA-75;
	)	16-JA-48
	)	
C.M.,	)	Honorable
	)	Martin J. Mengarelli,
Respondent-Appellant).	)	Judge, presiding.

PRESIDING JUSTICE OVERSTREET delivered the judgment of the court.
Justices Welch and Chapman concurred in the judgment.

ORDER

¶ 1 *Held*: The circuit court's findings that a father was an unfit parent and that it was in the best interests of his minor children to terminate his parental rights are not against the manifest weight of the evidence; the circuit court did not abuse its discretion in denying the respondent's request for a continuance of the fitness and best interests hearings.

¶ 2 The respondent, C.M., appeals from the judgment of the circuit court that terminated his parental rights to his three minor children, G.M., C.M. Jr. (C.M.), and S.M. For the following reasons, we affirm.

¶ 3 BACKGROUND

¶ 4 In March 2015, the respondent was the father of one minor child, G.M., who was four years old. At that time, the respondent was married to G.M.'s mother, Christina, who was pregnant with their second child, C.M. Both the respondent and Christina were regular heroin abusers. On March 20, 2015, Christina gave birth to C.M., and both C.M. and Christina tested positive for opiates.

¶ 5 After the birth, a child protection investigator with the Department of Children and Family Services (DCFS) questioned Christina at the hospital. Christina told the investigator that she had been using heroin up until two weeks of C.M.'s birth, snorting four to five "buttons" each day. The respondent was also present at the hospital for C.M.'s birth, and hospital staff observed him stumbling and acting strangely. The DCFS investigator questioned the respondent, and he admitted that he had used heroin for approximately two years and had last used three weeks prior to C.M.'s birth. He told the investigator that he had voluntarily entered into a methadone treatment program.

¶ 6 Ten days after C.M.'s birth, on March 30, 2015, the State filed petitions alleging that G.M. and C.M. were neglected minors and requesting that the court make them wards of the court. On that same day, the circuit court conducted a shelter care hearing.

¶ 7 At the hearing, the State presented evidence from the DCFS investigator about the respondent's and Christina's admitted heroin use while they were the primary caretakers for G.M. The DCFS investigator also testified that there had been a couple of unfounded DCFS reports in the previous year, and the reports indicated that the respondent did not reveal his drug use during the previous investigations. The respondent testified at the

hearing about his voluntary methadone treatment that began on March 10, 2015, stating that he was, at that time, being weaned off methadone. He admitted that he had used, off and on, for two years, that he and Christina had last used on March 5, 2015, and that he was aware that Christina was using heroin while she was pregnant with C.M.

¶ 8 At the conclusion of the hearing, the circuit court found that there was probable cause for the filing of the petitions and that it was "a matter of immediate and urgent necessity that the minor children be placed in the temporary custody" of DCFS.

¶ 9 The court told the respondent that it was admirable that he sought treatment on his own but that he had "a real problem that [would] probably require more treatment than what [he had] gone through at [that] point." The court told the respondent that the goal was to return the children home but that it was important for him to cooperate with DCFS and accept the treatments and services that they would offer and arrange. The court ordered supervised visitation with the children, authorizing the children's maternal aunt or other appropriate family member to supervise the visits.

¶ 10 After the shelter care hearing, the respondent underwent further efforts to recover from his addiction. On June 9, 2015, a caseworker filed a report in which she reported that the respondent was "getting treatment from the Metro treatment Center in St. Louis Missouri" and had a "recovery coach from TASC." The caseworker reported that the respondent had negative drug tests since beginning his programs, had started parenting classes, and had visited the children "often." At that time, DCFS had placed the children with their paternal grandparents. The caseworker stated in her report that the respondent had "taken the initiative to start services and [had] been actively participating." The

permanency goal for the children was "return home at the [court's] discretion to allow the parents to correct the conditions that brought their children into care."

¶ 11 On July 28, 2015, the circuit court conducted an adjudication hearing. At the time of the hearing, G.M. was five years old and C.M. was almost five months old. The caseworker testified that the respondent's mental health assessment confirmed that he needed drug treatment. She reported that the respondent was in drug treatment and that all of his drug tests were negative since starting the treatment. The caseworker stated that the respondent had "been doing all of his services that were required," and had two or three parenting classes left to complete.

¶ 12 The respondent and Christina lived together, and the caseworker testified that their home met DCFS's minimum requirements. The respondent visited the children at his mother's home, where the children lived. He had unlimited visitation time with the children, and he utilized that visitation opportunity. The caseworker observed him with the children and believed that he was "very affectionate" and performed all of the required parenting tasks during the visits, including changing diapers, reading stories, and discipline. The caseworker recommended that the court allow him to have unsupervised visits.

¶ 13 Based on the caseworker's testimony and reports, the court entered adjudicatory and dispositional orders, finding that the children were neglected and making them wards of the court. The court awarded the respondent (and Christina) unsupervised visitation, stating, "You guys are making quick progress so keep it up and I'm sure the kids will be home soon."

¶ 14 Less than one month after the court granted the respondent and Christina unsupervised visitation, they were caught stealing merchandise from a Kohl's store while they had the children with them. DCFS immediately revoked their unsupervised visits. On August 23, 2015, the respondent was charged with felony theft as a result of the incident at the Kohl's store. In addition, in September 2015, the respondent was arrested and charged with residential burglary and theft for entering into a home on September 13, 2015, and stealing firearms, ammunition, knives, 360 Klonopin pills, cash, and a diamond tester.

¶ 15 The caseworker filed a report on March 1, 2016, in which she reported to the court that the respondent had been incarcerated since his latest arrest and that he "was accused of stealing weapons from a family member's home." Because of his incarceration, he had not had an opportunity to work on any services. Prior to his arrest, he had completed parenting classes and had been in drug treatment. The caseworker noted in her report that the respondent's parents had brought the children to visit the respondent in jail. The caseworker did not know whether the respondent would receive a sentence that involved any period of incarceration as a result of his recent arrests.

¶ 16 The caseworker also noted in her report that Christina was pregnant with their third child, that Christina was due in March 2016, that she was not following her treatment plan, and that the caseworker did not know where she was living. Based on the caseworker's report, on March 1, 2016, the circuit court entered a permanency order finding that the appropriate permanency goal was return home within 12 months. The court also found that, at that point, the respondent had not made reasonable and

substantial progress toward returning the children home and had not made reasonable efforts toward returning the children home.

¶ 17 On March 17, 2016, Christina gave birth to S.M. At her birth, S.M. had benzodiazepines in her system. Five days later, on March 22, 2016, the State filed a petition alleging that S.M. was neglected due to the respondent's and Christina's drug addictions as well as the respondent's incarceration and criminal history. The court granted DCFS temporary custody of S.M.

¶ 18 Also in March 2016, the respondent was convicted of felony theft stemming from the September 13, 2015, residential burglary incident and was sentenced to five years in prison. In April 2016, he pled guilty to felony theft for stealing merchandise at the Kohl's store and was sentenced to two years in prison to run concurrently with his sentence for the other theft conviction. The respondent was initially incarcerated in the Taylorville Correctional Center and was later transferred to a prison in Jacksonville. The respondent's mother took G.M. and C.M. to the prisons for visits with the respondent.

¶ 19 On September 20, 2016, a caseworker filed a report to inform the court that the respondent had started the 12-step program while being incarcerated at the Taylorville Correctional Center, but that she was "unaware if he started any programs at Jacksonville Correctional." The report stated that G.M. and C.M. were "doing well" with the respondent's parents and that she had no concerns about the children's well-being in their care. In a separate report, the caseworker noted that S.M. was only five months old and lived in a traditional foster home. The caseworker's report informed the court about the

respondent's visitation with G.M. and C.M. at the prison and that his visitation with S.M. was to begin that month.

¶ 20 With respect to G.M. and C.M., based on the caseworker's report, the circuit court entered a permanency order with the goal of "[r]eturn home within twelve (12) months." The court found that the respondent had made reasonable efforts toward returning the minors home but had not made substantial progress, as he had not yet successfully completed all service plan tasks. The court continued the custody of G.M. and C.M. with DCFS. With respect to S.M., the court entered a dispositional order finding that she was neglected in that she was in an injurious environment and, as a newborn, was exposed to illicit drugs. The court made her a ward of the court, placed her custody with DCFS, and admonished the respondent that he must comply with the terms of DCFS's service plan or he risked the termination of his parental rights with respect to S.M.

¶ 21 On June 13, 2017, a caseworker filed a report that addressed the respondent's compliance with his service plan tasks up to that date. The caseworker reported that the respondent had successfully completed parenting classes on August 20, 2015, and had been engaging in individual and group counseling sessions while in prison. The respondent's mother consistently brought G.M. and C.M. to the prison for three to four hours of monthly supervised visits, and the caseworker brought S.M. to the prison for monthly one-hour supervised visits.

¶ 22 The caseworker noted that the respondent had completed a mental health assessment and that the only recommendation was substance abuse treatment, which he had been involved in while incarcerated. At the time of the report, the respondent had not

completed a domestic violence assessment and had not engaged in any domestic violence services. The caseworker explained that those services were not offered at the prison.

¶ 23 Based on the caseworker's report, on June 13, 2017, the circuit court entered a permanency order finding that the appropriate permanency goal remained return home within 12 months. The court found that the respondent had made reasonable efforts toward returning the children home but had not made substantial progress because he had not yet successfully completed all service plan tasks. The court ordered that the custody of the children would remain with DCFS and ordered DCFS to continue offering services consistent with the goal of returning the children home.

¶ 24 On November 28, 2017, a caseworker filed a new report, noting that the respondent continued to have "consistent monthly visitation with his children, while incarcerated." With respect to counseling, the caseworker noted that the respondent had been engaged in individual counseling but was discharged from the program in June 2017, "due to threats made against him in the housing unit." The caseworker spoke with the respondent's prison counselor who told her that the respondent was enrolled in a new program, but that "therapeutic services [were] very limited during sessions." The program was a drug educational course, not drug treatment. The counselor told the caseworker that the type of individual counseling that the caseworker believed the respondent needed was "not offered to all inmates, only persons with mental health issues." In her report, the caseworker noted that the respondent's "terms of parole will be outpatient substance abuse assessment and services, if recommended." The caseworker also noted that the respondent still had not completed domestic violence services, but that

she would provide him with service recommendations once he was released from prison. Based on the report, the circuit court entered a permanency order with the permanency goal of "return home within five (5) months."

¶ 25 On December 28, 2017, the State filed petitions for the termination of the respondent's parental rights to G.M., C.M., and S.M. and for the appointment of a guardian with the power to consent to adoption. The State alleged that the respondent was an unfit person because he failed to make reasonable progress toward return of the child from September 20, 2016, through the date of the filing of the petition. It also alleged that the respondent was depraved due to his felony convictions. Specifically, the State alleged that the respondent had the following felony convictions and dates of convictions as follows: criminal damage to property on January 13, 2004; burglary, theft, and damage to property on January 13, 2004; theft over $300 on September 16, 2004; possession of a stolen vehicle and criminal damage to property on May 5, 2005; possession of a stolen vehicle on May 5, 2005; burglary, theft, and criminal damage to property on May 5, 2005; unlawful possession of a controlled substance on August 28, 2006; aggravated battery on October 13, 2009; unauthorized possession of a prescription form on October 13, 2009; and theft on March 9, 2016.

¶ 26 The State alleged in its petition that the respondent resided at the Jacksonville Correctional Center. However, shortly after the State filed the petitions, on January 1, 2018, the respondent was paroled from prison.

¶ 27 On May 22, 2018, a caseworker filed a court report concerning the best interests of G.M., C.M., and S.M. as well as the respondent's efforts and progress. The caseworker

reported that on February 5, 2018, the respondent completed the domestic violence assessment required by the service plan and that the assessment recommended no further domestic violence treatment so long as the respondent did not have contact with Christina. Specifically, the assessor stated, "[If the respondent] has any kind of contact with [Christina], whether secretive or public, he will be expected to engage and participate in 26 psycho-educational groups and take an Exit Exam at the end."

¶ 28 The caseworker's report indicated that the respondent had provided "clean drug drops" since he was released from prison and had complied with the terms of his parole. However, the report also noted that, in March 2018, the respondent self-reported a relapse after reengaging with Christina and that, on May 4, 2018, the respondent was charged with burglary. On May 7, 2018, the respondent's mother called the caseworker and told her that the respondent had initiated inpatient treatment. This inpatient treatment would have restricted the respondent's visitation with the children for the first 90 days of the treatment and would have required an 18-month stay in a treatment facility. On May 14, 2018, the respondent called the caseworker claiming that he left the inpatient treatment program because he did not want to risk losing his rights to his children during the 18-month stay.

¶ 29 In her May 22, 2018, report, the caseworker noted that, by March 2018, the respondent's visits with the children became "sporadic." At the time of the report, the respondent's last documented visit with the children was March 29, 2018, and the caseworker observed that he seemed irritable and overwhelmed at times during the visit. According to the caseworker, since January 2018, she had attempted to schedule the

respondent for random biweekly urinalysis, but the respondent often failed to appear. The caseworker also reported that, at the time of the report, the respondent had not completed inpatient drug treatment, had no residence, and, after his relapse, continued to fail to cooperate with her, recommended services, and the visitation plan.

¶ 30 The caseworker noted that the tasks in the respondent's service plan included, among other things, frequent and prolonged visits with the children, active involvement in the children's lives, completion of mental health services to address his substance abuse, and completion of domestic violence services if he had any contact with Christina after his release from prison. The caseworker reported unsatisfactory compliance with each of these tasks. She noted that the respondent had not engaged in mental health services since his release from prison, failed to engage in a scheduled and rescheduled drug and alcohol assessment, failed to appear for random biweekly urinalysis, reengaged with Christina without complying with recommendations for domestic violence services, and maintained only sporadic participation with the children's medical and school events since March 2018. The caseworker recommended that the court terminate the respondent's parental rights.

¶ 31 The caseworker reported that G.M. and C.M. were "extremely bonded" with their paternal grandparents and that S.M. was "extremely bonded" to her foster parents, who had been her caregivers since her birth. The children felt safe and were thriving in their environments. In addition, the paternal grandparents and S.M.'s foster parents saw that the children saw each other biweekly and worked to maintain their family ties.

¶ 32 On May 22, 2018, the circuit court entered a permanency order finding that the appropriate permanency goal for the children was "[s]ubstitute care pending determination of termination of parental rights." The court found that the respondent had not successfully completed all of his service plan tasks and had not made reasonable efforts or progress toward returning the children home. The court scheduled a July 12, 2018, evidentiary hearing on the State's request to terminate his parental rights.

¶ 33 On July 12, 2018, the respondent did not appear for the hearing to terminate his parental rights. The court continued the hearing to July 26, 2018.

¶ 34 On July 26, 2018, the respondent again did not appear at the hearing, and his attorney requested the court to continue the hearing "until he can be present." The prosecutor, however, told the court that the respondent had been "fully advised" of the hearing. The prosecutor had confirmed with the respondent's caseworker that the respondent was aware of the hearing. The court denied the motion to continue.

¶ 35 At the beginning of the hearing, the State asked the court to take judicial notice of the respondent's felony convictions that were alleged in the petition. The court took judicial notice of the convictions without objection.

¶ 36 The State admitted into evidence a caseworker's report that addressed the best interests of the children that included evidence of the respondent's efforts and progress up to the date of the hearing. In her report, the caseworker noted that she attempted to set up visitation for the respondent after he left the inpatient drug treatment, but the respondent "often fail[ed] to respond to the visitation invites." The caseworker reported that, on May 15, 2018, after leaving the inpatient treatment program, the respondent

participated in a comprehensive assessment with Centerstone in Alton, Illinois. The caseworker received a call from a counselor at Centerstone on May 22, 2018, who informed her that the respondent tested positive for "benzos" and fentanyl. The staff at Centerstone tried to contact the respondent for services, but there were no replies to the phone calls. After 30 days, Centerstone closed the respondent's case. The caseworker reported that the respondent had not reengaged in substance abuse services after Centerstone. In addition, as of June 20, 2018, the respondent's parole officer had attempted to contact the respondent several times in May and June and was unable to contact him.

¶ 37 In her report, the caseworker noted that the respondent had a visit with the children on July 9, 2018, at a McDonald's restaurant. Prior to that visit, the respondent's last visit with his children was on March 29, 2018. The caseworker reported having no contact with the respondent since his July 9, 2018, visit with the children.

¶ 38 At the hearing, the caseworker testified that she had ongoing concerns that the respondent was using illegal substances at that time. Her concerns included evidence that the respondent was "dodging" her and his parole officer and that he had not "dropped" for her since February 2018. She emphasized that the respondent self-reported a "relapse from March, April, and May" and that his recent lab tests from Centerstone were positive for "benzos" and fentanyl. She also noted the respondent's recent theft charge, which was "one of his ways to feed his addiction." She testified that the respondent was unfit because he was "incapable of maintaining sobriety and providing the children with the minimum parenting standards for permanency." The children's guardian *ad litem* told the

court that she agreed with the caseworker's conclusion that the respondent was an unfit parent.

¶ 39 At the conclusion of the fitness hearing, the circuit court found that the respondent was "unfit for failing to make reasonable efforts and failing to make reasonable progress and also for depravity." The court found that the respondent failed to make reasonable efforts and progress from September 20, 2016, to the date of the hearing, July 26, 2018.

¶ 40 Immediately following the termination hearing, the circuit court conducted a hearing to determine whether it was in the children's best interests to terminate the respondent's parental rights. The caseworker testified G.M. and C.M. had been with their paternal grandparents since April 14, 2015, where they had been "well cared for, loved, and treated as that is their home and that they're their children." The caseworker told the court that the children were "[e]xtremely bonded" to their grandparents and viewed the grandparents' home as their home.

¶ 41 With respect to S.M., the caseworker testified that she was placed with her foster parents on March 19, 2016, when she was two days old. The caseworker explained that S.M. was not placed with her siblings because of "health concerns at that time" and because the paternal grandparents were already parenting G.M. and C.M. She testified that S.M. was loved and well cared for in the foster home and that the foster parents treated her as their own child. S.M. considered the foster home as her home and referred to the foster parents as mom and dad.

¶ 42 The caseworker told the court that G.M., C.M., and S.M. had visits with each other and that she believed that both sets of foster parents would continue to support sibling

visitation. She did not believe that terminating the respondent's parental rights would be detrimental to any of the children. She explained that C.M. and S.M. were in homes that they had known since birth and that "[a]ll of the children [were] being well cared for and provided for as if the foster parents were their own parents." The caseworker testified that it was in the children's best interests that the respondent's parental rights be terminated and the permanency goal for the children be changed to adoption. The children's guardian *ad litem* agreed with the caseworker.

¶ 43 At the conclusion of the best interests hearing, the court found that it was in the best interests of the children to terminate the respondent's parental rights. On July 26, 2018, the court entered a written order terminating the respondent's parental rights and appointing DCFS as guardian with power to consent to the children's adoption.

¶ 44 On August 10, 2018, the respondent filed a verified motion for rehearing in which he alleged that "he left a voicemail for his attorney on July 28, 2018, informing him that on the date of the hearing he was receiving emergency medical treatment for an injury which required multiple stitches." In addition, the respondent alleged that he was, at that time, "in Gateway inpatient rehab and [would] be released sometime in mid September." The respondent requested the court to vacate the July 26, 2018, order terminating his parental rights and reset the termination hearing to a date after the middle of September 2018. The State objected to the motion, noting that the respondent failed to provide any proof that he was unable to attend the court hearing and only left a voicemail for his attorney stating that he was receiving medical treatment. In addition, the State noted that the respondent's attorney was present and had the opportunity to cross-examine witnesses

and present testimony on the respondent's behalf. The record also includes a caseworker's report in which she reported the respondent having told her that he had to work on the day of the hearing in order to earn money to support his drug habit.

¶ 45 On September 25, 2018, the circuit court denied the respondent's motion for a new hearing. The respondent now appeals and asks us to reverse the circuit court's judgment terminating his parental rights.

¶ 46 ANALYSIS

¶ 47 Involuntary termination of parental rights is a two-step process governed by the Juvenile Court Act of 1987 (705 ILCS 405/1-1 *et seq.* (West 2016)) and the Adoption Act (750 ILCS 50/1 *et seq.* (West 2016)). *In re J.L.*, 236 Ill. 2d 329, 337 (2010). The State must first establish, by clear and convincing evidence, that the parent is unfit under one or more of the grounds of unfitness enumerated in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2016)). 705 ILCS 405/2-29(2) (West 2016); *In re J.L.*, 236 Ill. 2d at 337. If the court determines that the parent is unfit, the matter proceeds to a second hearing, at which the State must prove, by a preponderance of the evidence, that it is in the best interests of the children to terminate the parent's parental rights. 705 ILCS 405/2-29(2) (West 2016); *In re J.L.*, 236 Ill. 2d at 337-38.

¶ 48 On appeal, the respondent challenges the circuit court's findings at both stages of the two-step process. With respect to the first stage of the process, a trial court's finding of parental unfitness will not be reversed on appeal unless it is against the manifest weight of the evidence. *In re C.N.*, 196 Ill. 2d 181, 208 (2001). "A finding is against the manifest weight of the evidence where the opposite conclusion is clearly evident." *Id.*

Likewise, with respect to the second stage of the process, a trial court's determination that termination of parental rights is in the child's best interest will not be disturbed on review unless it is contrary to the manifest weight of the evidence. *In re R.L.*, 352 Ill. App. 3d 985, 1001 (2004).

¶ 49 I. Parental Fitness

¶ 50 The respondent's first argument is that the circuit court's finding that he was an unfit parent was against the manifest weight of the evidence. The circuit court found that the respondent was an unfit parent as defined in section 1(D) of the Adoption Act because of the following grounds: (1) he failed to make reasonable efforts[1] to correct the conditions that were the basis for the removal of the minors from the parent during a nine-month period following the adjudication of neglect (750 ILCS 50/1(D)(m)(i) (West 2016)); (2) he failed to make reasonable progress toward the return of the child to the parent during a nine-month period following the adjudication of neglect (*id.* § 1(D)(m)(ii); and (3) depravity (*id.* § 1(D)(i)). Where, as here, the State alleges multiple bases for a finding of unfitness, the State need only prove one statutory ground to establish parental unfitness. *In re Donald A.G.*, 221 Ill. 2d 234, 244 (2006). Here, the circuit court's finding that the respondent failed to make reasonable progress is supported by the record.

¶ 51 "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

[1]In its petition, the State did not allege that the respondent failed to make reasonable *efforts*. On appeal, the State concedes that this ground is not a basis for finding that the respondent is an unfit parent.

that the child can be returned to the parent in the near future." *In re Janine M.A.*, 342 Ill. App. 3d 1041, 1051 (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 (2001).

¶ 52 "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 (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 (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 (1998).

¶ 53 In the present case, the respondent's underlying problem was his abuse of illegal substances, and he had ample opportunity to overcome his addiction so that he could parent his children. The respondent, however, never showed progress with respect to his drug use such that it would be likely that the children could be returned to his care in the near future. The circuit court's finding that the respondent failed to make reasonable

progress from September 20, 2016, to the date of the hearing, July 26, 2018, is supported by the record.

¶ 54 When C.M. was born in March 2015, the respondent had an admitted problem with heroin use and had voluntarily sought methadone treatment. He used drugs with C.M.'s mother knowing that she was pregnant with C.M. at the time. In addition, the record supports the conclusion that the respondent's drug usage was related to several criminal convictions prior to C.M.'s birth, including multiple convictions for burglary, theft, and possession of controlled substances, among others. Also the year prior to C.M.'s birth, DCFS investigated incidents involving G.M., and the respondent concealed his drug usage which resulted in unfounded reports.

¶ 55 DCFS became involved with G.M. and C.M. when C.M. was born with drugs in his system in March 2015. G.M. and C.M. were made wards of the court, but the respondent was soon allowed unsupervised visitation. Less than one month later, he was arrested for stealing merchandise at a store in the presence of the children. Shortly after that incident, he was arrested in another incident involving burglary and theft. He was incarcerated from September 2015 until January 1, 2018, due to these crimes. The respondent did well with respect to some of his service plan tasks while in prison, including participation in some programs and visitation with his children, but his freedom of choice and access to illegal drugs were restricted while he was incarcerated. In addition, the paternal grandparents and the caseworker were responsible for seeing that regular visitations occurred.

¶ 56 The court found S.M. to be a neglected child on September 20, 2016, shortly after her birth and while the defendant was in prison and had not completed the service plan tasks. The respondent was paroled from prison on January 1, 2018, without having completed most of the tasks of his service plan. Once he was paroled, rather than focus on what was necessary to reunite with his children, he instead reunited with Christina, resumed his drug use, and his visits with the children became sporadic. His whereabouts became unknown for periods of time, he did not complete the domestic violence services that were required once he had contact with Christina, he was again charged with burglary on May 7, 2018, he often failed to appear for random biweekly urinalysis, he did not complete drug treatment, and he failed to cooperate with the caseworkers with respect to recommended services and the visitation plan. His caseworker testified at the termination hearing that the respondent had not made reasonable progress toward the return of the children for these reasons, and the children's guardian *ad litem* told the court that she agreed.

¶ 57 We believe that the record supports the circuit court's findings that were based on the caseworker's testimony and reports. Nothing in the record suggests that the respondent made measurable or demonstrable movement toward the goal of reunification with the children for any nine-month period beginning when the court found S.M. to be a neglected child on September 20, 2016, through the date of the hearing. The circuit court, therefore, ruled correctly in finding the respondent to be an unfit parent as defined in the Adoption Act.

¶ 58 Because we find that the record before us is more than sufficient to establish that the respondent is unfit under section 1(D)(m)(ii) of the Adoption Act for failure to make reasonable progress, we need not address the circuit court's findings with respect depravity as an alternative ground for finding unfitness.

¶ 59 II. Best Interests

¶ 60 Next, the respondent argues that the circuit court erred in finding that the termination of his parental rights was in his children's best interests. We disagree.

¶ 61 After the circuit court finds a parent to be unfit, the court must then determine whether it is in the children's best interests that parental rights be terminated. 705 ILCS 405/2-29(2) (West 2016). At this stage, the court's focus shifts from the rights of the parent to the best interests of the children. *In re B.B.*, 386 Ill. App. 3d 686, 697 (2008). The State must prove, by a preponderance of the evidence, that termination of the parent's rights is in the best interest of the minors. *In re Tiffany M.*, 353 Ill. App. 3d 883, 891 (2004). The court must consider the factors set forth in section 1-3(4.05) of the Juvenile Court Act of 1987 (705 ILCS 405/1-3(4.05) (West 2016)) when determining the best interest of the minors, but is not required to specifically mention each factor listed. As stated above, we review the trial court's determination that termination of parental rights is in the child's best interest under the manifest weight of the evidence standard. *In re R.L.*, 352 Ill. App. 3d at 1001.

¶ 62 The factors in section 1-3(4.05) of the Juvenile Court Act include: the child's physical safety and welfare; the development of the child's identity; the child's family, cultural, and religious background and ties; the child's sense of attachments, including

continuity of affection for the child, the child's feelings of love, being valued, and security and taking into account the least disruptive placement for the child; the child's own wishes and long-term goals; the child's community ties, including church, school, and friends; 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; the uniqueness of every family and child; the risks attendant to entering and being in substitute care; and the wishes of the persons available to care for the child. 705 ILCS 405/1-3(4.05) (West 2016).

¶ 63 Here, C.M. and S.M. had resided with their respective foster parents since days after their births. G.M. had lived with her foster parents since she was four. G.M. and C.M. resided with their parental grandparents, and S.M. resided with traditional foster parents. Both sets of foster parents made efforts to maintain the children's sibling-relationships. The caseworker testified that the children had "extremely" bonded with their foster parents, that the children considered the foster parents' homes as their own homes, and that they were loved and well cared for by the foster parents. The foster parents were raising the children as their own and wanted to provide them with permanency through adoption. The children flourished in their stable environments while the respondent continued with his drug usage and other criminal activities. The circuit court's finding that it was in their best interests to terminate the respondent's parental rights is supported by the record and is not against the manifest weight of the evidence.

¶ 64 III. Denial of the Motion to Continue

¶ 65 Finally, the respondent argues that the circuit court committed reversible error by denying his motion to continue the fitness and best interests hearings and denying his motion for a rehearing. Again, we disagree.

¶ 66 When a party moves for a continuance, it is within the circuit court's discretion whether to grant or deny the motion, and the court's decision will not be disturbed absent manifest abuse or palpable injustice. *In re K.O.*, 336 Ill. App. 3d 98, 104 (2002). An abuse of discretion occurs where no reasonable person would take the circuit court's view. *In re Marriage of Knoche*, 322 Ill. App. 3d 297, 308 (2001). A party does not have an absolute right to a continuance. *In re D.P.*, 327 Ill. App. 3d 153, 158 (2001). A parent has the right to be present at a termination hearing, but that presence is not mandatory, and the circuit court is not obligated to delay proceedings until the parent chooses to appear. *In re C.L.T.*, 302 Ill. App. 3d 770, 778 (1999).

¶ 67 In the present case, the record establishes that when the respondent was released from prison, he relapsed, and his caseworker and parole officer did not know his address for a period of time. He failed to appear at a May 22, 2018, permanency hearing and failed to appear for a July 12, 2018, termination hearing. The court rescheduled the termination hearing for July 26, 2018, and he again failed to appear for that hearing, which resulted in the termination of his parental rights. Although his attorney requested a continuance, the prosecutor informed the court that the respondent's caseworker had spoken with the respondent to confirm that he knew about the July 26, 2018, court

hearing. The circuit court, therefore, was well within its discretion to deny the respondent's motion to continue.

¶ 68 After the court terminated his parental rights, the respondent filed a motion for a new termination hearing, alleging that, two days after the July 26, 2018, hearing, he called his attorney and left a voicemail to inform the attorney that he had received emergency medical treatment on the day of the hearing. In the motion, the respondent also alleged that he was in a rehabilitation facility and anticipated being released in mid-September. The respondent, however, never provided the court with any evidence of any hospitalization or medical treatment on the day of the termination hearing. Instead, the record before the court included a caseworker's report in which the caseworker reported that the respondent had told her that he did not attend the hearing because he needed to work to earn money to pay for his substance abuse addiction.

¶ 69 Based on these facts in the record, we cannot conclude that the circuit court abused its discretion in denying the respondent's motion to continue or his motion for a new hearing. The respondent had notice of the hearing, and his attorney was present and had the opportunity to present evidence and cross-examine witnesses.

¶ 70 CONCLUSION

¶ 71 For the foregoing reasons, the circuit court's judgment terminating the respondent's parental rights is hereby affirmed.

¶ 72 Affirmed.