

¶ 2 The trial court found the respondent, Bridget R., unfit to parent the minors, J.S., Ja.S., and Je.S. Following a best interest hearing, the trial court determined that it was in the minors' best

interest to terminate the respondent's parental rights. The respondent appeals, arguing that: (1) the State failed to prove that she was unfit by clear and convincing evidence; and (2) the trial court's finding that it was in the minors' best interest to terminate her parental rights was against the manifest weight of the evidence. We affirm.

¶ 3

### FACTS

¶ 4 On January 23, 2009, the State filed juvenile petitions alleging that the minors, J.S. (3 years old), Ja.S. (16 months old), and Je.S. (4 months old) were neglected due to an injurious environment in that: (1) the minors were dirty and smelled bad; (2) the respondent left Ja.S. alone on the examining table at the doctor's office and asked J.S. to hold Je.S.; (3) the respondent was verbally abusive to the minors; (4) Ja.S. was unsupervised and fell down a stairway; (5) the minors' father struck the respondent, resulting in the respondent incurring two black eyes and a swollen face, about which both the respondent and the minors' father had lied; and (6) J.S. appeared to have six burn marks on his body that could not be confirmed as burn marks at the time of the doctor's examination because the areas were infected, and the respondent gave three varying explanations for the marks that were inconsistent with the doctor's findings.

¶ 5 On April 20, 2009, the respondent was found to be dispositionally unfit on the basis of a psychological evaluation and the allegations in the juvenile petitions. The respondent was ordered to: (1) execute releases of information requested by the Department of Children and Family Services (DCFS); (2) cooperate with DCFS; (3) complete counseling as recommended; (4) complete a parenting class; and (5) complete a basic literacy class and life skills class.

¶ 6 On December 17, 2010, the State filed a petition to terminate the respondent's parental rights, alleging two counts of the respondent's unfitness. In the first count, the State alleged that

the respondent was unfit pursuant to section 1(D)(p) of the Adoption Act (Act) (750 ILCS 50/1(D)(p) (West 2010)) in that she had an inability to discharge her parental responsibilities due to a mental impairment or developmental disability that would extend beyond a reasonable time period. In the second count, the State alleged that the respondent was unfit pursuant to section 1(D)(m)(iii) of the Act (750 ILCS 50/1(D)(m)(iii) (West 2010)) in that she failed to make reasonable progress toward the return of the minors during any nine-month period after the end of the initial nine-month period following adjudication of neglect, in this case, the period of December 30, 2009, to September 30, 2010.

¶ 7 On April 27, 2010, a hearing on the State's termination petition took place. The State entered into evidence the respondent's counseling records from the Center for Therapeutic Counseling. The respondent was referred to counseling for stress management, anger management, and domestic violence issues. The respondent consistently attended counseling from June 3, 2009, through June 10, 2010. During that time, the respondent expressed great frustration with DCFS and was under the impression that if she was able to maintain her own housing, the minors would be returned to her care. The respondent mainly focused her anger at DCFS and did not discuss the issues that led to the minors' removal. The respondent was seen with the minors' father and indicated that she believed he was no longer abusive. The therapist indicated that the respondent had a limited intellectual capacity and did not understand the decisions of DCFS. The therapist also noted that the respondent loved the minors and would not purposely harm them, but she could become overwhelmed and would not always make good decisions. The therapist indicated that the respondent would be able to function well as a parent if another adult was present, but the respondent was unable to live independently with her

children. From June 10 to August 1, 2010, the respondent missed many counseling appointments due to cancelling or forgetting appointments, missing her bus, and having no clean clothes. The case was transferred to a private agency as of August 10, 2010.

¶ 8 Officer Chris Collins of the Peoria police department testified that on July 18, 2010, he was dispatched to the Methodist hospital in relation to an assault on the respondent. The respondent told Collins that she had gotten into a fight with the minors' father and he shoved her to the ground, causing abrasions to her thigh. The respondent did not want to pursue charges against the minors' father and did not want him to go to jail. Officer Kris Kampas of the Peoria police department testified that on August 9, 2010, she was dispatched to the Walmart in reference to the respondent shoplifting. The respondent told Kampas that she was in the store stealing with a 13-year-old girl.

¶ 9 Jana Wilson, a DCFS caseworker, testified that she was the respondent's caseworker from December 30, 2009, until March 3, 2010. During the time Wilson was the respondent's caseworker, the respondent was cooperative and regularly attended counseling, life skills classes, and literacy classes.

¶ 10 Joan Pegues, a DCFS child welfare specialist, testified that she was assigned to the respondent's case from March to August of 2010. Pegues testified that the respondent had initially been cooperative but then stopped going to counseling sessions and quit doing literacy tests. Pegues indicated that the respondent attended and did fairly well in her parenting classes. As of August 20, 2010, the respondent had not completed counseling or her literary classes. The respondent attended all of her scheduled visits with the minors and ensured that she had a snack for them at those visits. The respondent interacted with each minor individually and displayed

affection for them. Pegues indicated that she had concerns for the minors' safety during visits because a few times the respondent did not catch one of the minors climbing on a toddler table or chair. Pegues opined that the respondent could have sometimes done a better job supervising the minors, and at other times she did a good job of supervising them. The respondent had informed Pegues of her arrest for retail theft and was forthcoming about the incident of domestic violence between her and the minors' father when questioned about the marks on her leg.

¶ 11 On May 4, 2011, the trial court found that the State proved the unfitness allegations in both counts of the petitions by clear and convincing evidence.

¶ 12 On June 1, 2011, a best interest hearing took place. The court indicated that it had considered the best interest hearing report. The report stated that the minors had been in foster care for 2½ years.

¶ 13 The best interest report indicated that J.S. and Ja.S. resided together in their current foster home since July 20, 2010. J.S. was slowly adjusting to the new foster home. He had issues urinating in inappropriate places in the home and being aggressive with younger children. J.S. was enrolled in kindergarten but was not doing well in school. He had issues with paying attention and oppositional behavior. J.S.'s relative foster mother was dedicated to his scholastic success. He referred to his foster mother as "granny." J.S. called the respondent "mom" and struggled with understanding why she could not visit with the minors more often. J.S. thought that he would be returned home to the respondent and struggled with identifying his foster home as his home and bonding to his foster mother.

¶ 14 Ja.S. had a good bond with her relative foster mother. She appeared to be developmentally on target emotionally, behaviorally, and physically. Ja.S. was outgoing and

socially mature, and she possessed excellent verbal skills. Ja.S. called her foster mother "granny." Ja.S. had a good bond with the respondent and called her "mom."

¶ 15 Je.S. had been in the same foster home since his initial placement on January 21, 2009. He attended day care twice a week and developed friendships with other children in the day care. Je.S. was slightly delayed in meeting his developmental milestones but had completed early intervention services and was developmentally on target. Je.S. had a strong bond with his foster mother and stated that he loved her very much. He referred to his foster mother as "mommy" and would indicate that he missed her during his visits with the respondent. Je.S. did not interact with the respondent very much during visits and either played by himself or with J.S.

¶ 16 In concluding the best interest report, caseworker Amber Lefler recommended the respondent's parental rights to all three minors be terminated. Lefler indicated that although the respondent attempted to make reasonable efforts, her functioning level prohibited her from completing her service plan tasks.

¶ 17 The State presented no evidence at the best interest hearing. The respondent and her mother testified on the respondent's behalf. The respondent also presented Lefler as a witness.

¶ 18 According to the respondent's testimony, she had supervised visits with the minors once per month, and they called her "mom." The minors showed affection to the respondent at visits. They were happy to see her and sad when it was time for her to leave. According to the respondent, the visits went well. The respondent's mother also participated in the visits, and the minors called her "grandma." The respondent was living with her mother but was in the process of looking for a house.

¶ 19 The minors' maternal grandmother testified that she had participated in many of the visits

with the minors, and the respondent did very well interacting with the minors. According to their maternal grandmother, the minors love the respondent and always wanted to play with her. The respondent would take turns playing with each minor individually. The minors were very affectionate with the respondent. The minors' maternal grandmother had a close relationship with the minors, and she was willing to provide housing for them and the respondent. At the end of the visits, the minors became upset when the respondent had to leave.

¶ 20 Lefler testified that both sets of foster parents were willing to continue sibling visits if the respondent's parental rights were terminated. The relative foster mother of J.S. and Ja.S. was not committed to adopting them due to her older age and J.S.'s behavioral issues. However, J.S. and Ja.S. were being provided services to correct their behavioral problems, and if the foster mother saw some improvement in their behavior, she might be willing to adopt them. The foster parents for Je.S. were willing to adopt him.

¶ 21 In ruling, the court indicated that it "ha[d] considered all the evidence submitted, the arguments of counsel, the best interest hearing report and the best interest factors as required by law." The court found that it was in the best interest of all three minors to terminate the respondent's parental rights. The respondent appeals.

¶ 22 ANALYSIS

¶ 23 On appeal the respondent first argues that her parental rights should not have been terminated because the State failed to prove, by clear and convincing evidence, that she was an unfit parent under the Act. 750 ILCS 50/1(D) (West 2010). We disagree.

¶ 24 Section 1(D) of the Act defines an unfit person as "any person whom the court shall find to be unfit to have a child, without regard to the likelihood that the child will be placed for

adoption." 750 ILCS 50/1(D) (West 2010)). A finding of unfitness must be by clear and convincing evidence. *In re D.F.*, 201 Ill. 2d 476 (2002). Although section 1(D) of the Act provides numerous grounds under which a parent may be deemed "unfit," the grounds are independent, and the trial court's judgment may be affirmed if the evidence supports the finding of unfitness on any one of the alleged statutory grounds. See 750 ILCS 50/1(D) (West 2010); *In re Donald A.G.*, 221 Ill. 2d 234 (2006).

¶ 25 Pursuant to section 1(D)(m)(iii) of the Act, a parent will be found unfit for failing to make reasonable progress during any nine-month period after the end of the initial nine-month period following an adjudication of a neglected or abused minor. 750 ILCS 1(D)(m)(iii) (West 2010). Reasonable progress is an objective standard that requires demonstrable movement toward the goal of reunification. *In re C.N.*, 196 Ill. 2d 181 (2001). The benchmark for measuring a parent's progress toward the return of the child 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 any other conditions that later become known and would prevent the court from returning custody of the child to the parent. *C.N.*, 196 Ill. 2d 181. A parent has made reasonable progress when the court can conclude that the parent's progress in complying with directives given for the return of the child is of such quality that the court will be able to order the child returned to the parent in the near future. *In re Aaron R.*, 387 Ill. App. 3d 1130 (2009).

¶ 26 We review the trial court's unfitness determination under the manifest weight of the evidence standard. *In re Adoption of Syck*, 138 Ill. 2d 255 (1990). A trial court's decision is contrary to the manifest weight of the evidence where the opposite conclusion is clearly evident



or the determination is unreasonable, arbitrary, or not based upon the evidence presented. *D.F.*, 201 Ill. 2d 476.

¶ 27 Here, the trial court found the respondent unfit for failing to make reasonable progress during the nine-month period of December 30, 2009, through September 30, 2010. During the last few months of the nine-month period, the respondent stopped regularly attending counseling. Although she was originally referred for counseling for stress management, anger management, and domestic violence issues, the respondent refused to address those issues in counseling. The respondent also stopped engaging in literacy classes and testing that she had been directed to complete. In June of 2010 the respondent was seen with the minors' father and believed that he was no longer abusive, but on July 18, 2010, she was once again the victim of domestic violence that involved him. The respondent's inability to care for herself and the minors and her inability to consistently make good decisions was demonstrated during the nine-month period by shoplifting with a 13-year-old girl and in missing counseling appointments due to her forgetting appointments, missing her bus, and having no clean clothes.

¶ 28 Based upon this record, the respondent has failed to show a demonstrable movement toward reunification with the minors, and it does not appear that the minors will be able to return to her in the near future. Consequently, the trial court's finding of unfitness because the respondent failed to make reasonable progress toward the return of the minors, under section 1(D)(m)(iii) of the Act, was not against the manifest weight of the evidence. Since the trial court's finding of the respondent's unfitness under section 1(D)(m)(iii) has been upheld, we need not consider the respondent's arguments regarding the trial court's finding of unfitness under section 1(D)(p).

¶ 29 Once the trial court has found the parent to be unfit, all considerations must yield to the best interest of the minor. *In re D.T.*, 212 Ill. 2d 347 (2004). Accordingly, at the best interest hearing, the focus shifts from the parent to the child's interest in a stable, loving home life. *D.T.*, 212 Ill. 2d 347. At the best interest stage, the State must prove by a preponderance of the evidence that termination of parental rights is in the minor's best interest. *D.T.* 212 Ill. 2d 347. In considering a minor's best interest, the trial court must consider certain statutory factors in light of the minor's age and developmental needs, including: (1) the physical safety and welfare of the minor; (2) the development of the minor's identity; (3) the familial, cultural and religious background of the minor; (4) the minor's sense of attachment, including love, security, familiarity, and continuity of relationships with her parental figures; (5) the wishes of the minor; (6) the minor's community ties; (7) the minor's need for permanence, including stability and continuity of relationships; and (8) the preferences of persons available to care for the minor. 705 ILCS 405/1-3(4.05) (West 2010). On appeal, a trial court's decision to terminate the rights of a parent to their child will not be disturbed unless it is contrary to the manifest weight of the evidence. *In re Austin W.*, 214 Ill. 2d 31 (2005).

¶ 30 Our review of the record indicates that the State proved by a preponderance of the evidence that it was in the minors' best interest to terminate the respondent's parental rights. For over one year, J.S. and Ja.S. have been living in relative foster care with their foster mother, whom they refer to as "granny." Being in relative foster care afforded J.S. and Ja.S. the ability to maintain contact with their extended family members. Due to J.S.'s behavioral issues, J.S. and Ja.S.'s foster mother cannot commit to adopting them until J.S.'s behavior improved, and J.S. is receiving services to address those issues. It is clear from the record that Je.S. has a strong bond

to his foster parents, who are willing to adopt him. Je.S. has no sense of attachment to the respondent. Should Je.S. be adopted by his foster parents, they are willing to continue to facilitate his relationship with J.S. and Ja.S. Additionally, the minors are in foster homes in which there are no concerns regarding their physical safety and welfare.

¶ 31 The minors have been in foster care for almost three years, and their need for permanency is great. Based on the foregoing, permanence for these minors was best served by terminating the respondent's parental rights. We acknowledge that J.S. is having problems bonding to his foster mother and foster home, but in light of there being little evidence that he would be able to return home in the near future, or at any point, we cannot say the termination of the respondent's parental rights as to J.S. was against the manifest weight of the evidence. Accordingly, we hold that the circuit court's best interest determination as to all three minors was not against the manifest weight of the evidence.

¶ 32 CONCLUSION

¶ 33 The judgment of the circuit court of Peoria County is affirmed.

¶ 34 Affirmed.