

NOS. 4-24-0332, 4-24-0333, 4-24-0334, 4-24-0346, 4-24-0347 cons.

NOTICE
This Order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

FILED
June 26, 2024
Carla Bender
4th District Appellate
Court, IL

<i>In re</i> Jam. C., Je. C., Jaz. C., J.P., and X.P., Minors	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Knox County
Petitioner-Appellee,	)	Nos. 20JA39
v.	)	20JA40
Josette C.,	)	20JA41
Respondent-Appellant).	)	20JA42
	)	20JA43
)	
	)	Honorable
	)	Curtis S. Lane,
	)	Judge Presiding.

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

ORDER

¶ 1 *Held:* The appellate court granted appellate counsel’s motion to withdraw and affirmed the trial court’s judgment, as no issue of arguable merit could be raised on appeal.

¶ 2 In December 2022, the State filed a petition to terminate the parental rights of respondent, Josette C., as to her five minor children, Jam. C. (born 2018), Je. C. (born 2016), Jaz. C. (born 2008), J.P. (born 2011), and X.P. (born 2010). Following fitness and best interest hearings, the trial court granted the State’s petition and terminated respondent’s parental rights. Respondent timely appealed, and the court appointed appellate counsel to represent her.

¶ 3 Appellate counsel now seeks to withdraw pursuant to the procedure in *Anders v. California*, 386 U.S. 738 (1967), contending any argument he might make would be meritless. We

gave respondent an opportunity to respond to the motion, and she filed no response. We grant counsel's motion to withdraw and affirm the trial court's judgment.

¶ 4

I. BACKGROUND

¶ 5 On August 17, 2020, the State filed petitions for adjudication of wardship as to each child, alleging they were neglected under section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(b) (West 2020)) in that their environment was injurious to their welfare. The State filed amended petitions on June 3, 2021, and October 12, 2021. The State alleged respondent inadequately supervised the children and it was an ongoing issue, respondent's paramour broke into the home and battered respondent in the presence of the children, respondent's paramour battered J.P., respondent reported her paramour no longer stayed in the home but the children stated he never left and hid in the basement if someone came by the home, respondent battered an unrelated minor in the park, and respondent failed to progress with substance abuse treatment. The Illinois Department of Children and Family Services (DCFS) took protective custody of the children.

¶ 6 On January 13, 2022, the trial court held an adjudicatory hearing, and respondent stipulated to the allegations in the petitions. The court adjudicated the children neglected.

¶ 7 On February 3, 2022, the trial court held a dispositional hearing, and respondent failed to appear. The court found respondent unfit, set a permanency goal of return home within 12 months, and made the children wards of the court. The court's written order admonished respondent she risked termination of her parental rights if she failed to cooperate with DCFS and service providers, comply with the terms of the service plan, correct the condition that brought the children into care, and complete random drug screens upon request.

¶ 8 On August 30, 2022, the trial court held a permanency hearing and found the permanency goal for the children should remain at return home within 12 months. The court ordered respondent to complete a parenting capacity assessment.

¶ 9 On December 8, 2022, the State filed petitions to terminate respondent's parental rights as to each child. The State supported the petitions with three grounds: (1) respondent failed to make reasonable efforts to correct the conditions which were the basis for removal of the children within nine months following an adjudication of neglect, namely, the period of January 13, 2022, to October 13, 2022 (750 ILCS 50/1(D)(m)(i) (West 2022)); (2) respondent failed to make reasonable progress toward the return of the children within nine months following an adjudication of neglect, namely, the period of January 13, 2022, to October 13, 2022 (750 ILCS 50/1(D)(m)(ii) (West 2022)); and (3) respondent failed to maintain a reasonable degree of interest, concern, or responsibility as to the children's welfare (750 ILCS 50/1(D)(b) (West 2022)).

¶ 10 A. Fitness Hearing

¶ 11 On January 18, 2024, the trial court held a fitness hearing. Respondent failed to appear. Cassie Ford, a DCFS caseworker, testified she was assigned to the case from March 2022 to November 2022. She stated respondent was required to complete various services, such as a domestic violence assessment, substance abuse treatment, mental health treatment, and parenting classes. She was also required to participate in visitation, maintain safe and stable housing, and maintain legal and verifiable employment. Respondent completed a domestic violence assessment but did not complete the required domestic violence counseling and reestablished a relationship with her abusive paramour. Although respondent completed a parenting class, she was also ordered to complete a parenting capacity assessment because of the extreme difficulty she had parenting her children during visitation. For example, respondent did not use the skills she learned in

parenting class, the children did not respect her or listen to her, she had difficulty breaking up fights between the children, she would give Jam. C. her cell phone when he threw a tantrum in order to get him to stop, she would mostly engage with Jam. C., and two of the children (Jaz. C. and X.P.) refused to go to the visits partly due to their knowledge that respondent remained in a dating relationship with her abusive paramour. Ford stated the children were raised on junk food, and one of the children was prediabetic and another had significant tooth decay. Respondent was advised to bring more fruits and vegetables and fewer sugary snacks to visits. However, she continued to bring the children soda.

¶ 12 Ford testified respondent was unsuccessfully discharged from substance abuse treatment, which was a prerequisite to obtaining a mental health assessment. Respondent was required to complete drug tests but often failed to appear. Of the tests respondent completed, five were negative and four or five were positive for methamphetamine. Ford testified she was never able to verify that respondent maintained safe and stable housing because respondent never gave her an honest answer as to where she was living. For example, respondent stated she was living in Knoxville, Illinois, when she was actually living in Galesburg, Illinois. Ford was not able to verify that respondent had a legal source of income because respondent never provided her with proof of income.

¶ 13 The trial court found the State proved respondent unfit to parent the children by clear and convincing evidence with respect to each ground alleged.

¶ 14 **B. Best Interest Hearing**

¶ 15 On January 30, 2024, the trial court held a best interest hearing. Respondent again failed to appear. Heather Stokes, a DCFS caseworker, testified the children were placed separately in foster care. Jam. C. had been in a home for about 18 months located in Galesburg; Je. C. had

been in a home for 6 months in Kankakee, Illinois; Jaz. C. had been in a home for almost 2 years in Monmouth, Illinois; J.P. had been in a home for under 6 months in Tinley Park, Illinois; and X.P. had been in a home for 13 months in Morrison, Illinois.

¶ 16 Stokes testified each child was doing well in their placement and was bonded with their foster parents. Each child was loved, felt secure, wanted to be adopted, and developed ties in their communities. The foster parents developed stability and physical safety for them, and all of the foster parents expressed an interest in adoption. As to Jaz. C., Stokes stated she was able to visit her grandfather in her current placement and was doing well in school. Stokes had no concerns about these placements and agreed the children were physically safe and well cared for, each had a sense of community and belonging, and it was in their best interest to remain in their current placements.

¶ 17 The trial court found all factors favored termination and it was in the children's best interest to terminate respondent's parental rights. The court entered an order terminating respondent's parental rights with respect to each child.

¶ 18 These appeals followed.

¶ 19 **II. ANALYSIS**

¶ 20 Appellate counsel moves for leave to withdraw from respondent's appeals with respect to each child. *We sua sponte* consolidated the cases for disposition. Counsel supports his motion with a memorandum, which states he considered raising the following issues on respondent's behalf: whether the trial court erred when it found (1) respondent failed to make reasonable progress toward the return home of the children during the relevant nine-month period, (2) respondent failed to make reasonable efforts to correct the conditions that brought the children into care during the relevant nine-month period, (3) respondent failed to maintain a reasonable

degree of interest, concern, or responsibility as to the children’s welfare, and (4) the children’s best interest favored terminating respondent’s parental rights. Counsel explains why he concluded these issues would be frivolous and without arguable merit.

¶ 21 We consider appellate counsel’s motion to withdraw under the procedure set out in *Anders*. After examining the record, we agree the issues counsel identified lack arguable merit, and we otherwise have identified no issues of arguable merit. We therefore grant counsel’s motion to withdraw and affirm the trial court’s judgment.

¶ 22 The termination of parental rights is a two-step process governed by the Juvenile Court Act (705 ILCS 405/1-1 *et seq.* (West 2022)) and the Adoption Act (750 ILCS 50/0.01 *et seq.* (West 2022)). *In re D.F.*, 201 Ill. 2d 476, 494 (2002). First, the State must prove, by clear and convincing evidence, that the parent is “unfit” under any one of the several grounds provided in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2022)). *In re J.H.*, 2020 IL App (4th) 200150, ¶ 67. Second, after the State meets this burden, the trial court then holds a hearing where the State must prove, by a preponderance of the evidence, that the termination of parental rights serves the best interest of the child. *In re AL. P.*, 2017 IL App (4th) 170435, ¶ 59. On review, we determine whether either of these findings is against the manifest weight of the evidence. *J.H.*, 2020 IL App (4th) 200150, ¶¶ 68, 85. A finding is against the manifest weight of the evidence where the opposite conclusion is clearly apparent or if it is unreasonable, arbitrary, or not based on the evidence. *In re Tiffany M.*, 353 Ill. App. 3d 883, 890 (2004).

¶ 23 A. Fitness Finding

¶ 24 In the case *sub judice*, the trial court found respondent unfit as to all three grounds alleged by the State: (1) respondent failed to make reasonable progress to correct the conditions which were the basis for removal of the children within nine months following an adjudication of

neglect, (2) respondent failed to make reasonable efforts toward the return of the children within nine months following an adjudication of neglect, and (3) respondent failed to maintain a reasonable degree of interest, concern, or responsibility as to the children's welfare.

¶ 25 Counsel provides he considered challenging the trial court's fitness finding, but any argument would be frivolous. He correctly notes that the State needed to only prove one of these three grounds for unfitness. Therefore, we only address the first finding of unfitness raised by counsel as we find it is sufficient to support the court's determination.

¶ 26 Counsel first addresses the trial court's finding that respondent failed to make reasonable progress toward the return of the children within nine months following an adjudication of neglect. See 750 ILCS 50/1(D)(m)(ii) (West 2022). " '[F]ailure to make reasonable progress toward the return of the child to the parent' includes the parent's failure to substantially fulfill his or her obligations under the service plan and correct the conditions that brought the child into care during any 9-month period following the adjudication ***." 750 ILCS 50/1(D)(m)(ii) (West 2022). The benchmark for measuring a parent's progress toward the return of the child is her "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). "Reasonable progress" is an objective standard and exists when the court can conclude:

"the progress being made by a parent to comply with directives given for the return of the child is sufficiently demonstrable and of such a quality that the court, in the *near future*, will be able to order the child returned to parental custody. The court will be able to order the child returned to parental custody in the near future

because, at that point, the parent *will have fully complied* with the directives previously given to the parent in order to regain custody of the child.” (Emphases in original.) *In re L.L.S.*, 218 Ill. App. 3d 444, 461 (1991).

However, we emphasize, “the overall focus in evaluating a parent’s progress toward the return of the child remains, at all times, on the fitness of the parent in relation to the needs of the child.” *C.N.*, 196 Ill. 2d at 216. Finally, when determining a parent’s fitness based on lack of reasonable progress, the court may only consider evidence from the time period alleged in the State’s petition to terminate parental rights. *In re D.D.*, 2022 IL App (4th) 220257, ¶ 39.

¶ 27 During the relevant nine-month period in this case, respondent failed to make any reasonable progress toward the return of the children. The children were removed from respondent’s care where their environment was injurious to their welfare. Respondent was required to complete certain services, such as a domestic violence assessment, substance abuse treatment, mental health treatment, and parenting classes. Respondent completed the domestic violence assessment but did not complete the required domestic violence counseling and reestablished a relationship with her abusive paramour. Respondent also completed a parenting class but failed to complete a parenting capacity assessment that was ordered due to the difficulty she had parenting the children during visitation. She also failed to bring appropriate food and beverages for the children when she saw them for visitation. The purpose of requiring respondent to engage in services and attend these classes was so that she could apply what she learned and demonstrate the children would be safe in her care. See *In re Ta. T.*, 2021 IL App (4th) 200658, ¶ 56 (“[T]here [is] a significant difference between going through the motions, checking off the boxes, and mechanically doing what is asked of the parent and actually changing the circumstances that

brought the children into care.”). It is evident from the record that respondent did not apply what she learned from either domestic violence services or parenting classes.

¶ 28 Respondent was also without success as to substance abuse treatment and mental health treatment. She was unsuccessfully discharged from substance abuse treatment, as she often failed to appear for tests, and of the 10 tests she completed, half were negative, and the other half were positive for methamphetamine. Moreover, substance abuse treatment was a prerequisite for a mental health assessment, and therefore, she did not satisfy that service requirement either. Services aside, respondent still did not progress in this case, as she failed to verify she maintained safe and stable housing, was dishonest with her caseworker about her living situation, and failed to verify she had a legal source of income.

¶ 29 Based on the foregoing, the children’s environment with respondent would still be injurious to their welfare. The trial court was no closer to returning the children to respondent’s care by the end of the nine-month period than when they were removed from respondent’s care. See *L.L.S.*, 218 Ill. App. 3d at 461. Therefore, we cannot say the court’s finding of unfitness was against the manifest weight of the evidence. Since we find the evidence sufficient to support one ground of unfitness, it is sufficient alone to support the court’s finding that respondent is an unfit person. See *In re F.P.*, 2014 IL App (4th) 140360, ¶ 83. Accordingly, there appears to be no basis upon which counsel could formulate a meritorious challenge to the court’s fitness finding.

¶ 30 **B. Best Interest Finding**

¶ 31 After the trial court finds a parent unfit, it must give full and serious consideration to the child’s best interest. *In re Jay. H.*, 395 Ill. App. 3d 1063, 1071 (2009); see *In re D.T.*, 212 Ill. 2d 347, 364 (2004) (explaining, at the best interest stage, “the focus shifts to the child,” and “the parent’s interest in maintaining the parent-child relationship must yield to the child’s interest

in a stable, loving home life”). When determining whether termination of parental rights is in the child’s best interest, the court must consider the following factors enumerated in section 1-3(4.05) of the Juvenile Court Act: (1) the child’s physical safety and welfare, including food, shelter, health, and clothing; (2) the development of the child’s identity; (3) the child’s background and ties, including familial, cultural, and religious; (4) the child’s sense of attachments, including love, attachment, sense of being valued, security, familiarity, and continuity of affection, and the least-disruptive placement alternative; (5) the child’s wishes and long-term goals; (6) the child’s community ties, including church, school, and friends; (7) the child’s need for permanence, including the need for stability and continuity of relationships with parental figures, siblings, and other relatives; (8) the uniqueness of every family and child; (9) the risks related to substitute care; and (10) the preferences of the persons available to care for the child. 705 ILCS 405/1-3(4.05) (West 2022).

¶ 32 Here, the children had been in foster care for over three years and were placed separately. At the time of the hearing, Jam. C. had been in a home for about 18 months; Je. C. had been in a home for 6 months; Jaz. C. had been in a home for almost 2 years; J.P. had been in a home for under 6 months; and X.P. had been in a home for 13 months. The evidence demonstrated each child was doing well in their placement and was bonded with their foster parents. Each child was loved, felt secure, wanted to be adopted, and developed ties in their communities. The foster parents developed stability and physical safety for them, and all foster parents expressed an interest in adoption. Jaz. C. was even able to visit her grandfather in her current placement and was doing well in school. The trial court found all the factors favored terminating respondent’s parental rights, and based on the foregoing, we cannot say that determination was against the manifest

weight of the evidence. Accordingly, there appears to be no basis upon which counsel could formulate a meritorious challenge to the court's best interest finding.

¶ 33

III. CONCLUSION

¶ 34 For the reasons stated, we grant appellate counsel's motion to withdraw and affirm the trial court's judgment.

¶ 35

Affirmed.