

NOTICE
This Order was filed under
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under Rule 23(e)(1).

2026 IL App (4th) 260425-U

NO. 4-26-0425

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

September 8, 2026
Carla Bender
4th District Appellate
Court, IL

<i>In re</i> E.R., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Winnebago County
Petitioner-Appellee,	)	No. 23JA309
v.	)	
Elias R.,	)	Honorable
Respondent-Appellant).	)	Francis M. Martinez,
	)	Judge Presiding.

JUSTICE VANCIL delivered the judgment of the court.
Justices Grischow and Cavanagh concurred in the judgment.

ORDER

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

¶ 2 In March 2026, the trial court entered an order terminating the parental rights of respondent, Elias R., to his minor child, E.R. (born in May 2023). Respondent appealed, and counsel was appointed to represent him. Appellate counsel now moves to withdraw, citing *Anders v. California*, 386 U.S. 738 (1967), on the basis that she cannot raise any potentially meritorious argument on appeal. The record indicates a copy of counsel's motion and accompanying memorandum of law were sent to respondent by mail. Respondent did not file a response. After reviewing the record and counsel's memorandum, we grant the motion to withdraw and affirm the court's judgment.

¶ 3

I. BACKGROUND

¶ 4

A. Case Opening

¶ 5 On August 8, 2023, the State filed a petition alleging E.R. was a neglected minor pursuant to section 2-3(b), (c) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(b), (c) (West 2022)). The petition further alleged, *inter alia*, E.R. was in an environment injurious to her welfare as in that (1) respondent was involved in a 10-hour standoff with police after holding a gun to the head of E.R.'s mother, Vanessa S., (2) respondent had unresolved mental health issues, and (3) respondent and Vanessa had a history of domestic violence. (We note Vanessa is not a party to this appeal.) That same day, the trial court placed temporary custody and guardianship with the Illinois Department of Children and Family Services (DCFS).

¶ 6

On October 31, 2023, the trial court adjudicated E.R. neglected pursuant to Vanessa's stipulation. That same day, following a dispositional hearing, the court made E.R. a ward of the court and continued her custody and guardianship with DCFS.

¶ 7

B. Termination Petition

¶ 8

The State filed an amended motion for termination of respondent's parental rights on February 2, 2026. The motion alleged respondent was an unfit parent in that he (1) failed to make reasonable efforts to correct the conditions that caused E.R. to be removed (750 ILCS 50/1(D)(m)(i) (West 2024)) (counts I to III), (2) failed to make reasonable progress toward the return of the minor to his care during a nine-month period after the minor was adjudicated neglected (750 ILCS 50/1(D)(m)(ii) (West 2024)) (counts IV to VI), and (3) failed to protect E.R. from conditions within the environment injurious to her welfare (750 ILCS 50/1(D)(g) (West 2024)). The relevant time periods alleged by the State for counts I to III were October 31,

2023, to July 31, 2024, August 1, 2024, to May 1, 2025, and May 2, 2025, to February 2, 2026.

For counts IV-VI, the relevant time periods alleged were October 31, 2023, to July 31, 2024, August 1, 2024, to May 1, 2025, and May 1, 2025, to February 2, 2026. The motion further noted Vanessa signed a specific consent for adoption in January 2026.

¶ 9 C. Fitness Hearing

¶ 10 The trial court commenced the fitness hearing on March 5, 2026. At the outset, the court took judicial notice of, *inter alia*, permanency review orders, the adjudicatory and dispositional orders, respondent's inmate information from the Illinois Department of Corrections (DOC), and Vanessa's final and irrevocable consent to adoption.

¶ 11 Jennifer Downey, E.R.'s caseworker, testified respondent was required to complete a partner abuse intervention program (PAIP) evaluation and accompanying domestic violence recommendations. Respondent was further required to cooperate with the agency, which included participating in drug drops, participating in visitation with E.R., and completing parenting classes. Regarding the family service plan filed on February 8, 2024, Downey indicated respondent was rated unsatisfactory for all tasks because he "did not have any contact with DCFS during this review period." According to Downey, respondent's projected parole date from DOC was August 7, 2030, at which point E.R. would be seven years old. Downey indicated it was the agency's position the trial court should terminate respondent's parental rights, stating:

"When [respondent] was out of jail and prison, he did not make contact; he did not *** start services. He has been engaged, but at this time [E.R.] does not want to really interact with him. So *** I feel like it's in [E.R.'s] best interests to stay where she's at, at this point."

¶ 12 On cross-examination, Downey stated the agency could not complete an initial

integrated assessment because they were unable to make contact with respondent. Regarding the PAIP evaluation and domestic violence classes, Downey acknowledged DOC did not have a PAIP, but DOC did offer domestic violence classes. When asked whether the domestic violence classes offered at DOC would have fulfilled the PAIP requirement, Downey stated, “No. But it would have *** advanced [respondent]; it would have showed that he was trying. He was on a wait list, from my understanding when I talked to the counselor; but *** it was a long wait list.” Regarding visitation, Downey indicated respondent was rated unsatisfactory because “he was in lockdown for his behaviors” and therefore unable to visit with E.R.

¶ 13 Respondent testified he had participated in parenting classes and had “gotten, like *** three certificates so far.” He described the parenting classes as “Parenting While Incarcerated”, “half parenting, half *** Bible,” and “Connecting With Your Child.”

¶ 14 On cross-examination, respondent admitted he had not provided Downey with completion certificates for the parenting classes. After arguments from the parties, the trial court took the matter under advisement.

¶ 15 On March 31, 2026, the trial court found respondent to be unfit by clear and convincing evidence. The court referenced Downey’s testimony that respondent was rated unsatisfactory for each service plan. Moreover, respondent was “assigned a number of services. Among them and relevant to accomplishing return home were domestic violence services and parenting.” The court described those particular services as “most critical.” While respondent did testify that he participated in certain classes, the court did not believe those classes “advanced the cause of reunification” because those classes “were not technically in compliance with the service plan.” The court further observed, “[T]here was little communication with [respondent]. And as far as specifically as to progress, there was certainly no movement under the

circumstances toward being found fit, willing and able.”

¶ 16 D. Best-Interest Hearing

¶ 17 The trial court proceeded immediately to the best-interest hearing.

¶ 18 Downey testified E.R. had been in her current foster placement for two and a half years. E.R. referred to her foster parents as “ ‘mom’ and ‘dad’ ” and she had a “good relationship” with her foster siblings. E.R.’s foster parents provided appropriate food, shelter, and clothing, and they understood “the importance of keeping [E.R.] close with her Hispanic identity.” E.R. was well bonded with her foster parents and looked to them for comfort and security. Downey further testified E.R.’s foster placement was “the only real home that [she] remembers because she was three months old” when she was taken into protective custody. E.R.’s foster parents were committed to providing permanency through adoption.

¶ 19 After arguments from the parties, the trial court found it was in E.R.’s best interest that respondent’s parental rights be terminated. The court noted E.R. had been “fully integrated” into her foster family. Moreover, respondent was projected for parole in 2030 and “[t]he math is [respondent] may be paroled when [E.R. is] seven, reunified when she’s nine, ten or eleven. So she languishes. And the Court has ruled over and over again that that is not in the best interests of a child.”

¶ 20 This appeal followed.

¶ 21 II. ANALYSIS

¶ 22 On appeal, appellate counsel seeks to withdraw on the basis that she cannot raise any arguments of potential merit. We agree.

¶ 23 The procedure for appellate counsel to withdraw set forth in *Anders* applies to findings of parental unfitness and termination of parental rights. *In re S.M.*, 314 Ill. App. 3d 682,

685 (2000). According to this procedure, counsel’s request to withdraw must “be accompanied by a brief referring to anything in the record that might arguably support the appeal.” *Anders*, 386 U.S. at 744. “[C]ounsel must *** sketch the argument in support of the issues that could conceivably be raised on appeal, and then *** explain why [she] believes the arguments are frivolous.” *S.M.*, 314 Ill. App. 3d at 685. Counsel must then conclude the case presents no viable grounds for appeal. *S.M.*, 314 Ill. App. 3d at 685. In doing so, counsel should review both the unfitness finding and the best-interest determination and indicate in the brief she has done so. *S.M.*, 314 Ill. App. 3d at 685-86.

¶ 24 In the instant case, counsel asserts she has reviewed the record on appeal, including the report of proceedings of the termination hearings, and has concluded there are no appealable issues of merit. Counsel states she has considered raising an argument the trial court erred in finding respondent unfit. She also indicates she has considered raising an argument challenging the court’s best-interest finding. We address each argument in turn.

¶ 25 A. Unfitness Finding

¶ 26 We first address appellate counsel’s assertion no meritorious argument can be made the trial court erred in finding respondent unfit.

¶ 27 Termination of parental rights under the Juvenile Court Act is a two-step process. *In re Julian K.*, 2012 IL App (1st) 112841, ¶ 1. Parental rights may not be terminated without the parent’s consent unless the trial court first determines, by clear and convincing evidence, the parent is unfit as defined in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2024)). *In re Gwynne P.*, 215 Ill. 2d 340, 354 (2005). Pursuant to section 1(D)(m)(ii) of the Adoption Act (750 ILCS 50/1(D)(m)(ii) (West 2024)), a parent may be found unfit if he fails to “make reasonable progress toward the return of the child to the parent during any 9-month period

following the adjudication of neglected *** minor.” A “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” constitutes a failure to make reasonable progress for purposes of section 1(D)(m)(ii). 750 ILCS 50/1(D)(m)(ii) (West 2024). This court has explained reasonable progress exists when a trial court “can conclude that *** the court, in the *near future*, will be able to order the child returned to parental custody.” (Emphasis in original.) *In re L.L.S.*, 218 Ill. App. 3d 444, 461 (1991). “ ‘Reasonable progress’ is measured by an objective standard.” *In re A.R.*, 2023 IL App (1st) 220700, ¶ 70. “As the grounds for unfitness are independent, the trial court’s judgment may be affirmed if the evidence supports the finding of unfitness on any one of the alleged statutory grounds.” *In re H.D.*, 343 Ill. App. 3d 483, 493 (2003).

¶ 28 We will not disturb an unfitness finding unless it is against the manifest weight of the evidence. *In re J.H.*, 2020 IL App (4th) 200150, ¶ 68. “A finding is against the manifest weight of the evidence only if the evidence clearly calls for the opposite finding [citation], such that no reasonable person could arrive at the circuit court’s finding on the basis of the evidence in the record.” (Internal quotation marks omitted.) *J.H.*, 2020 IL App (4th) 200150, ¶ 68. “This court pays great deference to a trial court’s fitness finding because of [that court’s] superior opportunity to observe the witnesses and evaluate their credibility.” (Internal quotation marks omitted.) *In re O.B.*, 2022 IL App (4th) 220419, ¶ 29.

¶ 29 Here, respondent was required to complete a PAIP evaluation and any follow-up domestic violence recommendations, cooperate with the agency, participate in drug drops, and attend visitation with E.R. Respondent failed to participate in an initial integrated assessment. Further, according to Downey, respondent had “no contact” with the agency between August

2023 and February 2024. Respondent additionally failed to complete a PAIP evaluation and, therefore, was rated unsatisfactory regarding domestic violence services. Indeed, the trial court identified domestic violence services as “critical” to the goal of “return home.” Additionally, respondent’s visitation was suspended by the court due to “an outstanding warrant.” Even though respondent was incarcerated during a portion of the relevant time period, our supreme court has noted incarceration “does not toll the nine-month period.” *In re J.L.*, 236 Ill. 2d 329, 341 (2010).

¶ 30 Based on this evidence, respondent did not “substantially fulfill his *** obligations under the service plan” and therefore did not make reasonable progress toward the return of E.R. to his care. 750 ILCS 50/1(D)(m)(ii) (West 2024). Accordingly, we agree with counsel no meritorious argument can be made the trial court’s finding was against the manifest weight of the evidence.

¶ 31 B. Best-Interest Finding

¶ 32 Counsel next asserts no meritorious argument can be made the trial court’s best-interest finding was against the manifest weight of the evidence.

¶ 33 When a trial court finds a parent to be unfit, “the court then determines whether it is in the best interests of the minor that parental rights be terminated.” *In re D.T.*, 212 Ill. 2d 347, 352 (2004). “[A]t a best-interests hearing, the parent’s interest in maintaining the parent-child relationship must yield to the child’s interest in a stable, loving home life.” *D.T.*, 212 Ill. 2d at 364. 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 at 366. In making the best-interest determination, the court must consider the factors set forth in section 1-3(4.05) of the Juvenile Court Act (705 ILCS 405/1-3(4.05) (West 2024)). These factors include:

“(1) the child’s physical safety and welfare; (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, security, familiarity, and continuity of affection, and the least-disruptive placement alternative; (5) the child’s wishes; (6) the child’s community ties; (7) the child’s need for permanence, including the need for stability and continuity of relationships with parental figures and siblings; (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.” *In re Jay. H.*, 395 Ill. App. 3d 1063, 1071 (2009) (citing 705 ILCS 405/1-3(4.05) (West 2008)).

“The court’s best interest determination [need not] contain an explicit reference to each of these factors, and a reviewing court need not rely on any basis used by the trial court below in affirming its decision.” *In re Tajannah O.*, 2014 IL App (1st) 133119, ¶ 19. “A reviewing court affords great deference to a trial court’s best-interest finding because the trial court is in a superior position to view the witnesses and judge their credibility.” *In re J.B.*, 2019 IL App (4th) 190537, ¶ 33. On review, “[w]e will not disturb a court’s finding that termination is in the child[]’s best interest unless it was against the manifest weight of the evidence.” *In re T.A.*, 359 Ill. App. 3d 953, 961 (2005).

¶ 34 Here, the evidence showed E.R. was well cared for and loved in her current foster placement, where she had resided since 2023. E.R. was well bonded with her foster parents and her foster siblings. In addition, E.R. looked to her foster parents for comfort and security, and she referred to them as “ ‘mom’ and ‘dad.’ ” Her foster parents provided E.R. with appropriate food, shelter, and clothing and were committed to providing permanency for E.R. through adoption.

Moreover, her foster parents understood “the importance of keeping [E.R.] close with her Hispanic identity.” Conversely, respondent was currently incarcerated in DOC and was projected for parole in 2030. As the trial court noted, “The math is [respondent] may be paroled when [E.R. is] seven, reunified when she’s nine, ten or eleven.” Ultimately, the court concluded E.R. deserved permanency and stability. Based on this record, we agree with counsel no meritorious argument can be made the court’s best-interest finding was against the manifest weight of the evidence.

¶ 35

III. CONCLUSION

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

¶ 37 Affirmed.