

NOTICE

Decision filed 10/26/26. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2026 IL App (5th) 260522-U

NO. 5-26-0522

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

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).

<i>In re</i> MASON P., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Bond County.
	)	
Petitioner-Appellee,	)	
	)	
v.	)	No. 24-JA-21
	)	
Melissa S.,	)	Honorable
	)	Ronald S. Motil,
Respondent-Appellant).	)	Judge, presiding.

JUSTICE BARBERIS delivered the judgment of the court.
Justices Sholar and Bollinger concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court did not err in determining that it was in the minor's best interests that wardship be terminated and the case closed nor in finding that respondent remained unfit. As any arguments to the contrary lack merit, we grant the respondent's appointed counsel leave to withdraw and affirm the circuit court's judgment.

¶ 2 In October 2024, minor Mason P. (born in 2012) was adjudicated neglected due to an injurious environment. The circuit court then entered a dispositional order making Mason P. a ward of the court and finding the minor's legal mother, Melissa S. (Mother), unfit to care for him.

¶ 3 Mother appealed, and counsel was appointed to represent her. Mother's counsel now moves to withdraw pursuant to *Anders v. California*, 386 U.S. 738 (1967), contending there are

no issues of arguable merit. For the following reasons, we grant counsel’s motion to withdraw and affirm the circuit court’s judgment.

¶ 4

I. BACKGROUND

¶ 5 On April 23, 2024, the State filed a petition for adjudication of wardship and request for shelter care as to the minor in Montgomery County, Illinois.¹ The petition alleged the minor was neglected due to an injurious environment by Mother and the minor’s putative father, Steven P. (Father), and that the minor was in the custody of the Illinois Department of Children and Family Services (DCFS). See 705 ILCS 405/2-3(1)(b) (West 2022). The allegation stemmed from domestic violence between Mother and the minor’s older sister, Melody B. (born in 2009), who is not a party to this appeal, but was also taken into care. Mother was ultimately convicted of domestic battery against Melody B. (Bond County Case No. 2024-DV-6).

¶ 6 The same day, the State filed an amended petition, adding an allegation that the minor was abused due to Mother’s excessive corporal punishment. See *id.* § 2-3(2)(v). Also, that day, the circuit court entered a shelter care order, finding (1) there was probable cause that the minor was neglected, (2) it was a matter of immediate and urgent necessity to remove the minor from the home, and (3) leaving the minor in the home was contrary to the health, welfare, and safety of the minor. The court further found that reasonable efforts had been made to prevent or eliminate the need for removal, but that no reasonable efforts could be made. Therefore, the court ordered that the minor be placed in a shelter care facility and in the temporary custody and guardianship of DCFS.

¶ 7 On May 3, 2024, DCFS filed a “Parent Child Visitation and Contact Plan,” setting forth contact instructions for visitations between Mother, her husband (Mark S.), and the minor. Two

¹The case was later transferred to Bond County, Illinois.

months later, the circuit court entered an order transferring the case to Bond County, Illinois. On September 4, 2024, the State filed a first amended petition for adjudication of wardship, alleging the minor was neglected due to an injurious environment based on domestic violence between Mother and Melody B. The amended petition did not include the earlier allegation of excessive corporal punishment.

¶ 8 On October 11, 2024, an adjudicatory hearing for the minor was held with the State, guardian *ad litem* (GAL), Mother, and caseworkers present.² The State advised the circuit court that DCFS had temporary custody of the minor, while he was placed with his great-grandmother, Janice T. Melody B. was placed with her father, Michael B., who also had temporary custody of her. Mother asked that guardianship of the minor be granted to Janice T. The State asked the circuit court to take judicial notice of Mother's June 13, 2024, domestic battery conviction, without objection.

¶ 9 Chancey Parker, a child protection specialist with DCFS, testified that Melody B. was observed at school with marks and bruises on her. She indicated that an altercation, first verbal, then physical, had occurred between her and Mother. Parker also observed the injuries, consisting of a large bump in the middle of Melody B.'s forehead, bruising underneath the bump, scratch marks on her neck, and a significant bruise on her arm. Parker photographed the injuries and included them in her investigation report. Parker further testified that the family had a lengthy history with DCFS, with reports alleging physical abuse and domestic violence in the home. However, all the reports, aside from this one, had been unfounded.

¶ 10 During a forensic interview, the minor reported there had been previous incidents where Mother was violent toward his sister. With respect to this incident, the minor reported that he saw

²Mother elected to represent herself *pro se* at the hearing.

Mother scratching his sister. He also saw Mother throwing her to the floor, something he had seen “multiple” times before. Parker further testified that, at the time of the incident, Mother was going to jail and there had been previous concerns that her husband, Mark S., had been abusive to the minor. Although the minor was not the child who experienced the physical abuse in that instance, he witnessed it. Therefore, DCFS had to remove him from the home for his safety as well. The circuit court found the State proved, by a preponderance of the evidence, that the minor was neglected.

¶ 11 The same day, the cause proceeded to a dispositional hearing.³ The State asked the court to take judicial notice of Parker’s testimony and the adjudicatory hearing. Shaun Wilkinson, a placement supervisor with the Rutledge Youth Foundation (Rutledge), testified that he was assigned to the minor’s case and discussed services with the family. Mother was recommended for parent education, anger management, and mental health services. While she participated in some of the services, she lacked progress “in understanding her own role in her children coming into DCFS care.” She had not successfully completed all service plan tasks at that time. Father’s service plan was to complete paternity, then additional service recommendations would be made. There was also a visitation plan in place with respect to Mother, but the minor had refused to participate. The minor made it clear that he was not interested in visiting with Mother and did not want to return home. There was not a visitation plan in place with Father, as he had allegedly not responded to the requests.

¶ 12 Wilkinson testified that he would have safety concerns if the minor returned to Mother since she continued to minimize any role she had with the minor coming into DCFS care, which made it difficult for her to make the necessary changes to ensure his safety. Wilkinson, therefore,

³Mother again elected to proceed *pro se*.

recommended the minor be made a ward of the court, and that custody and guardianship be placed with DCFS. Likewise, the GAL recommended that custody and guardianship be granted to DCFS, and that Father be ordered to undergo parenting services once his DNA results were complete. The circuit court found the evidence showed that it was in the best interests of the minor to be made a ward of the court and that guardianship and custody vest with DCFS.⁴ Meanwhile, Mother was appointed counsel.

¶ 13 On March 28, 2025, the circuit court entered the first permanency order, stating that neither Mother nor Father had made reasonable progress or efforts toward returning the minor home. The court set a goal of return home within 12 months. The same day, the court entered a determination of parentage order declaring the existence of a parent-child relationship between the minor and Father. See 750 ILCS 46/201(a)(3) (West 2024). The court subsequently entered an order removing the Rutledge Youth Foundation as the assigned agency in the case and ordering DCFS to assign a new agency. Meanwhile, Mother was unsuccessfully discharged from Group Interventions for domestic violence and anger management services after she threatened to sue the organization.

¶ 14 Further permanency reports were filed on May 7, 2025, May 22, 2025, September 2, 2025, December 5, 2025, and January 30, 2026, all with a goal of return home within 12 months. The last report indicated that Mother's compliance was unsatisfactory with respect to anger management, mental health services, and cooperation, noting that she had not made efforts to re-enroll in domestic violence classes, the additional parenting class, or the mental health assessment.

⁴We note that the circuit court then advised Mother of her appellate rights, stating she had 30 days to file a notice of appeal. However, Mother did not file her notice of appeal until nearly three months later on January 3, 2025, leading this court to dismiss the appeal for lack of jurisdiction. See *In re Mason P.*, No. 5-25-0055 (2025) (unpublished summary order under Illinois Supreme Court Rule 23(c)(1) (eff. Feb. 1, 2023), dismissing the appeal for lack of jurisdiction).

Father, on the other hand, was marked satisfactory for all recommended services, except for his parenting assessment, which was marked pending as it was not yet complete. The circuit court entered a subsequent permanency order on December 19, 2025, stating that Mother had not made reasonable progress or efforts toward returning the minor home, while Father had made reasonable progress and efforts. The court granted Father unsupervised overnight visits at the agency's discretion, and set a goal of return home within 12 months.

¶ 15 Mother's psychological evaluation report filed on February 10, 2026, indicated that she suffered from attention deficit/hyperactivity disorder (ADHD), posttraumatic stress disorder (PTSD), and major depressive disorder. The report noted, *inter alia*, that Mother had a tendency to under-report concerns due to a desire to regain custody of her children, but this also indicated "a limited self-awareness." Additionally, Mother had a tendency to present herself in a positive light, which made it "difficult to assess her reported history of anger and aggression any further."

¶ 16 A third permanency hearing was held on February 13, 2026. The State, GAL, and respective counsel for Mother, Father, and DCFS were present. The State asked the circuit court to change its goal of return home within 12 months to a return home within 5 months. The State also asked the court to find that Father had made reasonable efforts and substantial progress, that the services were appropriate, that DCFS had made reasonable efforts, and that placement outside the home was no longer necessary. Thus, the State recommended that Father be given custody, while guardianship remain with DCFS. Over Mother's objection, the court entered an order, finding that Father had made reasonable efforts and progress, and returned legal custody of the minor to him.

¶ 17 The court proceeded with a hearing on the issue of whether Mother had made reasonable efforts and progress. Alexis Korte, a foster care case manager at Hoyleton Youth and Family

Services (Hoyleton), testified that she was the minor's caseworker and had made a service plan for Mother. Since she was assigned the case around September 2025, Korte had attempted to discuss services with Mother but was unable to because every time she tried, "the conversation revolved around DCFS, due process and legal jargon."⁵ Korte rated Mother unsatisfactory on her parenting services since she did not complete a parenting assessment or follow recommendations. Mother focused on DCFS's alleged failures, rather than the minor's wellbeing. Similarly, Mother did not follow through on her recommended mental health services and was unsuccessfully discharged from her domestic violence services. While Mother wanted to engage in visitation with the minor, he remained "steadfast" against it. Korte testified that Mother was rated unsatisfactory overall on her service plan.

¶ 18 During cross-examination, Korte testified that visits between the minor and Mother stopped prior to Hoyleton being assigned the case. While Mother claimed the minor's foster parent encouraged him not to attend visits, Korte did not believe that was the case. Additionally, the minor had been encouraged to receive counseling, but he declined. Mother was provided a list of mental health service providers, but had not reached out to them. According to Korte, Mother liked a previous counselor when she was with Rutledge, but she had not attempted to re-engage in that service. Korte further testified that at some point, there was a children and family team meeting scheduled, but it was canceled due to a "prior crisis."

¶ 19 The State asked the circuit court to find that Mother had not made reasonable efforts or substantial progress in this case. Specifically, the State asserted that Mother had "not taken any affirmative steps, whatsoever, to start engaging in services, let alone work services." The State further asked the court to find the agency had made reasonable efforts and that placement outside

⁵Korte later testified that an Administrative Case Review, or ACR, was held prior to the December 2025 permanency hearing, and DCFS found no "red flags" against Hoyleton.

of Mother's home was appropriate. Mother's counsel disagreed, arguing, *inter alia*, the agency had not made reasonable efforts at reunifying the family. The court ultimately found that Mother had not made reasonable efforts or progress, while the agency had made such efforts.

¶ 20 A permanency report was filed on April 20, 2026, noting the minor had returned home with Father and was doing well. The report recommended that custody and guardianship be returned to Father. The circuit court entered a subsequent permanency order on April 24, 2026, finding Mother had not made reasonable progress or efforts toward returning the minor home, while Father had. The court ordered that custody of the minor be placed with Father, while guardianship remained with DCFS.⁶ A final permanency report was filed on May 28, 2026. Mother was rated unsatisfactory for anger management, mental health assessment and treatment, and cooperation with the agency. Mother completed a psychological evaluation, as well as parenting classes, but the report noted that her service remained unsatisfactory as to parenting since she had made "ineffective contact with [the] agency." Father was rated satisfactory for all service plan tasks. The report recommended that custody and guardianship be returned to Father and the case closed.

¶ 21 A permanency hearing was held on May 29, 2026. Korte testified that the minor had been living with Father since February 2026 and was thriving. Father had completed all recommended services, while Mother had not completed her services and was rated unsatisfactory on the service plan. Korte recommended that custody and guardianship be returned to Father, and the case be closed.

¶ 22 On cross-examination, Korte testified that she was under the impression that Father was not able to visit the minor prior to this case being opened. She further testified that visits between the minor and Mother stopped because the minor had refused visits. Mother had completed the

⁶The order also contained a *nunc pro tunc* correction relating back to the February 13, 2026, hearing.

psychological evaluation and attempted to participate in domestic violence classes. However, Group Interventions was unwilling to accept Mother after she threatened the provider. In response to questioning from the court, Korte explained that Mother's anger management rating was unsatisfactory because she never reached out to other providers after she was denied by Group Interventions.

¶ 23 Korte testified that Mother was no closer to having the minor returned to her than she was when the case was opened. Mother then gave a statement, noting that she had previously been imprisoned and had since rebuilt her life. Mother felt as though she did not receive adequate services and had not been treated with dignity and respect. She emphasized that she wanted to have a relationship with her children.

¶ 24 The State argued that it was in the best interests of the minor to close the case and grant Father sole parenting time and responsibility. Mother had been given several opportunities to work on her services, but she refused to do so, while Father had done everything asked of him. The State argued the minor deserved permanency and that Mother was "no closer today to having this child returned to her" than when the case was opened. Mother's attorney objected to the case being closed, arguing that the agency had not made reasonable efforts toward reunification, and asked the court to order that more services be provided to Mother. The GAL argued, *inter alia*, that Mother was not willing to put the minor's needs above her own and no closer to having him returned to her. Additionally, the minor was thriving with Father, his grades were up, and, most importantly, he was not exposed to any domestic violence. The GAL thus asked the court to close the case and restore custody and guardianship to Father. The court ultimately agreed, closed the case, and restored sole custody and guardianship to Father.

¶ 25 The circuit court entered an order terminating wardship and granting sole parenting time and responsibility to Father on May 29, 2026, and Mother appealed.

¶ 26 II. ANALYSIS

¶ 27 On appeal, Mother’s appellate counsel moves to withdraw on the ground that no issue of arguable merit can be raised. See *In re S.M.*, 314 Ill. App. 3d 682, 685 (2000) (holding that *Anders* applies to parental rights cases). Appellate counsel supports her motion with a brief identifying four issues of potential worth—challenging the termination of wardship, best-interest determination, Mother’s unfitness finding, and trial counsel’s effectiveness—but ultimately explains these would be frivolous. Mother has not responded, despite having the opportunity to do so. For the following reasons, we agree with appellate counsel’s assessment that no meritorious issue can be raised on appeal.

¶ 28 Section 2-31(2) of the Juvenile Court Act of 1987 (Act) (705 ILCS 405/2-31(2) (West 2024)) states, in pertinent part, as follows:

“Whenever the court determines, and makes written factual findings, that health, safety, and the best interests of the minor and the public no longer require the wardship of the court, the court shall order the wardship terminated and all proceedings under this Act respecting that minor finally closed and discharged.”

“The failure to comply with the requirements of the Act renders an order discharging a case ineffectual.” *In re Vicente G.*, 408 Ill. App. 3d 678, 683 (2011). Whether the lower court complied with statutory requirements presents a question of law, which we review *de novo*. *Id.* at 682.

¶ 29 In this case, the circuit court entered its order terminating wardship and granting sole parenting time and responsibility to Father on May 29, 2026. In that order, the court found that the minor came into care based on domestic violence between Mother and his older sister, Melody B. The minor was adjudicated neglected on October 11, 2024. A dispositional order was entered the same day, vesting custody and guardianship of the minor with DCFS. The minor was returned

home to Father on April 24, 2026. Father completed all services requested of him, while Mother had not completed services and was not restored to fitness. Likewise, Father was willing and able to care for the minor at home without endangering the minor's health or safety. The court ordered that Father be restored to fitness, and that sole parenting time and responsibility be granted to Father. The court found that returning the minor home to Father was in the minor's best interests, and that the health, safety, and best interests of the minor and the public no longer required wardship. The court therefore terminated wardship and closed the case.

¶ 30 Moreover, in conjunction with the court's written findings, the court's oral findings at the May 29, 2026, permanency hearing provided factual findings. See *In re K.S.*, 317 Ill. App. 3d 830, 833 (2000) (in assessing the sufficiency of a circuit court's written findings under section 2-31(2) of the Act, the court considered the lower court's written findings in conjunction with its oral pronouncements). After reviewing the testimony, the court stated,

“I think it's been adequately stated that it's paramount that the Court must rule what is in the best interest of the minor child. That is the issue that the Court is faced with. The Court is concerned with the unsatisfactory reports from the witness stand from the caseworker with regard to the mental health being—recommendations being unsatisfactory; the anger management being unsatisfactory; the parenting issue—I think there may have been a completion of a portion of it but unsatisfactory reports on the cooperation and such.”

The court then commended Father for completing his service plan and ruled that he would be restored sole custody and guardianship of the minor.

¶ 31 As set forth, the circuit court's factual findings, both written and oral, satisfied section 2-31(2) of the Act where the court specifically found that the health, safety, and best interests of the minor and the public no longer required wardship. The court considered that Father had successfully completed all recommended services, while Mother had not. Moreover, Father was willing and able to care for the minor, who had already been living with Father for over a month when the court's order terminating wardship was entered. While appellate counsel has directed our

attention to two cases in which the appellate court found the section 2-31(2) requirements were not met, we need not address them here as appellate counsel has correctly observed those cases are distinguishable. *Cf. In re Sapphire R.*, 2025 IL App (5th) 241143-U, ¶¶ 43, 48 (holding that the circuit court’s written and oral statements failed to satisfy the requirements of the Act where the court did not consider whether terminating wardship and guardianship would serve the health, safety, and best interests of the minor and the public); *In re Aaron L.*, 2013 IL App (1st) 122808, ¶ 26 (similar).

¶ 32 Likewise, the circuit court did not err in determining that it was in the minor’s best interests that wardship be terminated and the case closed. In making a best-interest determination, the court must consider several factors, within the context of the child’s age and developmental needs. 705 ILCS 405/1-3(4.05) (West 2024). The factors are as follows:

“ ‘(1) the child’s physical safety and welfare; (2) the development of the child’s identity; (3) the child’s familial, cultural[,] and religious background and ties; (4) the child’s sense of attachments, including love, security, familiarity, continuity of affection, and the least disruptive placement alternative; (5) the child’s wishes and long-term goals; (6) the child’s community ties; (7) the child’s need for permanence, including the need for stability and continuity of relationships with parent figures and siblings; (8) the uniqueness of every family and child; (9) the risks related to substitute care; and (10) the preferences of the person available to care for the child.’ ” *In re J.B.*, 2019 IL App (4th) 190537, ¶ 32 (quoting *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1072 (2006)).

We will not reverse the lower court’s best-interest determination unless it is against the manifest weight of the evidence, which occurs only if the facts demonstrate that the court should have reached the opposite conclusion. *In re Daphnie E.*, 368 Ill. App. 3d at 1072.

¶ 33 As set forth, the permanency reports and testimony established that since being returned to Father, the minor was thriving, his grades were up, and, most notably, he was not exposed to any domestic violence. The minor appeared happy, comfortable, and bonded with Father. The minor had also adjusted to his new school and joined the band, playing the trumpet. Father was even

starting the minor in private trumpet lessons. Father was willing and able to care for the minor, thus giving him permanence and stability. Additionally, throughout most of the proceedings, the minor refused to participate in visitations with Mother. He made it clear that he did not want to return to Mother's home. Accordingly, we cannot say the lower court's decision that it was in the minor's best interests to terminate wardship was against the manifest weight of the evidence as there was sufficient evidence to support that decision.

¶ 34 Next, the circuit court did not err in finding that Mother remained unfit. Section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2024)) provides that an “ ‘Unfit person’ means 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.” Relevant here, a ground for unfitness includes the following:

“(m) Failure by a parent (i) to make reasonable efforts to correct the conditions that were the basis for the removal of the child from the parent during any 9-month period following the adjudication of neglected or abused minor under Section 2-3 of the Juvenile Court Act of 1987 or dependent minor under Section 2-4 of that Act, or (ii) to make reasonable progress toward the return of the child to the parent during any 9-month period following the adjudication of neglected or abused minor under Section 2-3 of the Juvenile Court Act of 1987 or dependent minor under Section 2-4 of that Act.” *Id.* § 1(D)(m)(i), (ii).

Reasonable efforts are judged by a subjective standard with the goal of correcting the conditions that caused the minor's removal, while reasonable progress is judged by an objective standard based on the amount of progress measured from the conditions existing at the time custody was taken from the parent. *In re Daphnie E.*, 368 Ill. App. 3d at 1066-67. “At a minimum, reasonable progress requires measurable or demonstrable movement toward the goal of reunification.” *Id.* at 1067. “The benchmark for measuring a parent's progress 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 that gave rise to the removal of the child and other conditions which later become known and would prevent the court from returning custody of the child to the parent.” *Id.* Simply

put, reasonable progress exists when the court can conclude that it will be able to return the minor to parental custody in the near future. *Id.*

¶ 35 Here, the evidence delineated above clearly and convincingly demonstrated that Mother failed to make both reasonable efforts and progress during the first nine months after adjudication. While Mother participated in some of her recommended services, she lacked progress “in understanding her own role in her children coming into DCFS care.” As Shaun Wilkinson from Rutledge observed, Mother continuously minimized any role she had with the minor coming into DCFS care, which made it difficult for her to correct the conditions that led to the minor’s removal and ensure his safety. Moreover, Mother never reached out to other providers for domestic violence and anger management classes after she was denied by Group Interventions for threatening the provider, leading to her unsatisfactory rating for anger management. Finally, Alexis Korte from Hoyleton testified that Mother was no closer to having the minor returned to her than she was when the case was opened. Accordingly, Mother cannot show the circuit court erred in finding that she remained unfit.

¶ 36 Finally, appellate counsel has not identified any area that trial counsel’s representation of Mother fell below an objective standard of reasonableness. Parents in termination of parental rights proceedings have a statutory right to counsel and effective assistance by counsel. *In re Ca. B.*, 2019 IL App (1st) 181024, ¶ 41. To establish ineffective assistance of counsel, a parent must prove that (1) the performance of counsel fell below an objective standard of reasonableness, and (2) he or she was prejudiced by counsel’s performance such that the result of the proceedings would have been different but for counsel’s errors. *Id.* ¶ 42 (citing *Strickland v. Washington*, 466 U.S. 668, 694 (1984)). Appellate counsel argues that even if trial counsel’s representation could be deemed below an objective standard of reasonableness, Mother cannot establish the prejudice prong

because the record does not show that the proceedings would have been different, regardless of counsel's performance. See *People v. Beasley*, 2017 IL App (4th) 150291, ¶ 26 ("This court may dispose of a claim on prejudice grounds alone, without deciding whether counsel's performance was deficient."). We agree for all the reasons set forth above.

¶ 37

III. CONCLUSION

¶ 38 For the foregoing reasons, we grant appellate counsel's motion to withdraw and affirm the circuit court's judgment.

¶ 39 Motion granted; judgment affirmed.