

NOTICE
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2022 IL App (5th) 220504-U

NO. 5-22-0504

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> KYNG T., a Minor)	Appeal from the
)	Circuit Court of
(The People of the State of Illinois,)	Macon County.
)	
Petitioner-Appellee,)	
)	
v.)	No. 19-JA-138
)	
Faith T.,)	Honorable
)	Phoebe S. Bowers,
Respondent-Appellant).)	Judge, presiding.

JUSTICE VAUGHAN delivered the judgment of the court.
Presiding Justice Boie and Justice Moore concurred in the judgment.

ORDER

- ¶ 1 *Held:* The trial court’s findings that respondent was unfit, and termination of her parental rights was in the child’s best interest, were not against the manifest weight of the evidence.
- ¶ 2 The respondent, Faith T., appeals the judgments of the Macon County circuit court finding her unfit pursuant to numerous sections of the Adoption Act (750 ILCS 50/1(D) (West 2020)), and that it was in the best interest of the minor child to terminate Faith’s parental rights. On appeal, she argues both the findings of unfitness and the court’s termination of her parental rights were in error. We disagree and, for the following reasons, affirm the trial court’s orders.

¶ 3

I. BACKGROUND

¶ 4 Faith is the biological mother of Kyng, born October 15, 2018. On May 2, 2019, the Illinois Department of Children and Family Services (DCFS) received a hotline report claiming that Faith was slurring her words on May 1, 2019, and incoherent in Kyng's presence. The reporter indicated that Faith was recently released from prison following a parole violation in which she tested positive for methamphetamine, PCP, and marijuana following a prior conviction of drug possession. The DCFS shelter care report confirmed Faith's prior drug usage as well as drug use at the maternal grandmother's house, where an alleged drug overdose recently occurred. The report further indicated that Kyng's primary care provider and medical staff noted Faith's "high" behavior at the child's medical visits as well as Faith's proclivity to steal diapers, cream, and blankets from the examining room to such extent that staff would remove the items from the examining room prior to the minor child's medical visits.

¶ 5 On May 6, 2019, the State filed a petition for adjudication of wardship. The petition alleged Kyng was (1) neglected due to Faith's substance abuse that included methamphetamine, PCP, and marijuana, and (2) abused because residing in Faith's residence created a substantial risk of physical injury due to Faith's substance abuse issues.

¶ 6 Following a shelter care hearing on May 6, 2019, temporary custody was placed with DCFS after probable cause was found based on "mother's ongoing, untreated, substance abuse issues" and "caring for the child while under the influence of methamphetamine, PCP & marijuana." An adjudicatory hearing was held on November 1, 2019, at which time Faith stipulated to the allegations in the State's petition. The trial court's order found Kyng was abused or neglected as defined by section 2-3 of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3 (West 2018)) in that the minor was in an environment injurious to his welfare pursuant to section

2-3(1)(b) of the Juvenile Court Act (*id.* § 2-3(1)(b)) due to Faith's "ongoing untreated substance abuse issues" and "caring for 6-month-old while under the influence."

¶ 7 On November 14, 2019, Webster-Cantrell Youth Advocacy (WCYA) filed its dispositional report. The report noted Faith was released from the Illinois Department of Corrections (IDOC) on April 22, 2019, after violating parole by having positive drug screens. The report also noted Faith tested positive for methamphetamine, marijuana, and PCP on May 1, 2019. On May 30, 2019, Faith met with the WCYA Assessment Team and completed the integrated assessment interview. Faith did not feel Kyng should have been removed from her care and disputed her drug use following her release from IDOC. The report indicated two prior convictions for drugs and alcohol, a family history of drug abuse, an educational history that ended when Faith dropped out of ninth grade, and the overdose of her prior paramour. Faith was referred for parenting, substance abuse, and mental health services.

¶ 8 The dispositional hearing was held on November 27, 2019. The trial court found Faith was, for reasons other than financial circumstances alone, unfit, and unable to care for, protect, train, educate, supervise, or discipline the minor and placement with her was contrary to the minor's health, safety, and best interest due to Faith's substance abuse issues. The trial court granted the State's petition, adjudicated the minor as neglected, and made the child a ward of the court. Custody was placed with the DCFS Guardianship Administrator and supervised visitation was ordered.

¶ 9 Thereafter, the case proceeded with permanency hearings every six months. The June 22, 2020, WCYA permanency review report indicated that Faith was recommended for substance abuse treatment, parenting classes, and counseling. Faith stated she completed substance abuse treatment, but the caseworker was unable to confirm this, and Faith provided no paperwork

confirming completion. The report further noted that Faith was referred for drug testing but was inconsistent in attending all of her drops. Faith was also inconsistent with her attendance in parenting services, having missed 6 of the last 12 classes. Faith was having virtual visitation due to COVID. Kyng was a very happy one-year-old. He was bonded to his foster parents and the other children in the home. All of his medical needs were met, and he was developmentally on target.

¶ 10 The December 2020, WCYA permanency review report revealed Faith tested positive for methamphetamine and cocaine in August and September 2020 and thereafter failed to appear for drug testing on October 26, 2020, November 12, 2020, December 1, 2020, and December 15, 2020. By December 2020, the goal was changed from return home in 12 months to substitute care pending determination of termination of parental rights. The November 25, 2020, report revealed that Kyng was very intelligent and active and was now two years old. He was very strong willed and liked to get his way. He was bonded to his foster parents and other children in the home. All of his medical needs were met, and he remained developmentally on target.

¶ 11 The June 2, 2021, WCYA permanency review report indicated Faith was discharged unsuccessfully from drug treatment due to nonattendance. She continued parenting classes and visitation with some regularity. She failed to appear for drug testing on January 7, 2021, February 24, 2021, April 6, 2021, April 19, 2021, April 21, 2021, and April 23, 2021. Drug testing performed on April 12, 2021, was positive for PCP and THC. The report indicated Faith had visitation with Kyng once a month and those visits went well. Faith would bring gifts and snacks and was very attentive to him during the visits. The report further noted that Kyng would throw fits and break things and was now attending play therapy to address those issues.

¶ 12 The November 10, 2021, WCYA report revealed Faith's continued failures to appear for drug testing on May 24, 2021, May 26, 2021, June 14, 2021, June 24, 2021, July 19, 2021, July

21, 2021, July 27, 2021, August 11, 2021, August 31, 2021, September 9, 2021, September 10, 2021, September 14, 2021, September 17, 2021, September 22, 2021, September 24, 2021, September 29, 2021, and October 29, 2021. Faith did appear for drug testing on July 30, 2021, and November 9, 2021. The July 2021 test was positive for THC and the November 2021 test was positive for THC and cocaine. The report also revealed Kyng was now three years old, very intelligent, and busy. He still had some aggressive behaviors toward other children in the home and daycare. He often hit, kicked, bit, spit and had temper tantrums that could last an hour. He was seeing a behavior therapist and would be starting prekindergarten soon.

¶ 13 On December 15, 2021, the State filed a motion seeking a finding of unfitness and termination of parental rights. The motion alleged Faith failed (1) to maintain a reasonable degree of interest, concern, or responsibility toward the minor's welfare pursuant to section 1(D)(b) of the Adoption Act (750 ILCS 50/1(D)(b) (West 2020)); (2) to make reasonable efforts to correct the conditions that were the basis for the removal for any nine-month period following the adjudication of neglect pursuant to section 1(D)(m)(i) of the Adoption Act (*id.* § 1(D)(m)(i)); (3) failed to make reasonable progress toward the return of the minor for the nine-month period following the adjudication of neglect from November 1, 2019, to August 1, 2020, pursuant to section 1(D)(m)(ii) of the Adoption Act (*id.* § 1(D)(m)(ii)); and (4) failed to make reasonable progress toward the return of the minor for the nine-month periods following the adjudication of neglect from August 1, 2020, to May 1, 2021, and March 14, 2021, to December 14, 2021, pursuant to section 1(D)(m)(ii) of the Adoption Act (*id.*). An amended motion filed on February 24, 2022, contained the same allegations.

¶ 14 On April 26, 2022, WCYA submitted an updated report stating Faith had not returned for substance abuse treatment since her previous discharge. She had not attended drug testing since

November 9, 2021, when she tested positive for cocaine and THC. The report further indicated Faith was showing up for visitation under the influence of drugs. Urine testing performed prior to visitations revealed positive tests for methamphetamine, cocaine, and THC. Faith failed to appear for drug testing on December 9, 2021, December 23, 2021, January 13, 2022, January 19, 2022, January 26, 2022, March 22, 2022, March 29, 2022, April 1, 2022, and April 6, 2022. The report further revealed that Kyng continued to have temper tantrums that could last hours and continued to see a behavioral therapist. He was now attending prekindergarten and was very bonded with his foster parents and the other children in the home.

¶ 15 The fitness hearing was held on May 23, 2022. The State presented testimony from Lynley Young, Vicki Brown, and Alison Bickel. Ms. Young was the case manager at WCYA and was involved in the case beginning on May 2, 2019. She stated the service plans goals included mental health, substance abuse, and parenting. Ms. Young testified that Faith entered Prevention and Treatment Services (P.A.T.S.) and had a mental health assessment that did not reveal any need for treatment. She also had a substance abuse assessment and was recommended for Level 2 substance abuse and relapse prevention. Faith attended some substance abuse sessions but was discharged unsuccessfully, due to nonattendance. Ms. Young testified that 55 drug tests were scheduled and 11 were completed from January 15, 2020, until November 9, 2021. At every test completed, Faith was positive for at least one substance. Mostly she was positive for THC but also had positive test results for cocaine, methamphetamines, and PCP. Although Ms. Young advised Faith of the results and had conversations to motivate her, Faith always denied the positive tests or had an excuse for the positive test. The last conversation Ms. Young had with Faith was a recommendation to go straight to Crossings Elements, a substance abuse treatment center, following the visit. She had no proof that Faith ever went to Crossings.

¶ 16 Ms. Young stated that prior to May 2021, Faith was pretty consistent with visitation. Her consistency declined after May 2021. She canceled three visits and was a no-show for another. Thereafter, Faith began showing up for visitation exhibiting signs consistent with being under the influence of drugs. Testing performed, prior to visitation, revealed positive tests for cocaine, THC, amphetamines, and/or methamphetamines. On those instances, Faith would be denied visitation out of safety concerns for the child. Ms. Young testified that she advised Faith what drugs were shown during the drug testing and that she would need to be clean in order to have visitation.

¶ 17 Ms. Young stated that Faith engaged in parenting classes at the beginning. Then she went back to IDOC for a parole violation. She was referred again when she got out and attended quite a few of those sessions and took a post-assessment on January 12, 2021. The test results indicated that she was still at medium- to high-risk parenting, so she was still required to attend classes. On June 28, 2021, Faith was closed out as unsatisfactory due to nonattendance. She was referred again on November 22, 2021, but the parenting class teacher could not make contact with Faith on any of the updated phone numbers and she was again discharged. Of the required services, the only one successfully completed was taking the mental health assessment. Ms. Young did not believe it would be safe for the child to return home. She did not think Faith would be able to successfully parent in the next three to six months even if she started taking the classes, because that would not be enough time. On cross-examination, Ms. Young stated that if the agency had to cancel the visitation, it would be rescheduled, but that only happened once or twice. She also provided additional information regarding Faith's excuses related to the drug testing. For example, Faith would say the positive test was because she took a Vicodin; however, the drug test would be negative for Vicodin and positive for a different substance.

¶ 18 Vicki Brown testified that she was a supervisor at WCYA who took over visitation in July 2021. She stated that Faith would come in slurring her words and, a couple of times, she would be off balance when she was walking down the hallway. On those visits, Faith would have to take a drug test, and they would go in the restroom with her. From July to December 2021, Faith had three positive drug tests and two no-shows, so five of the six months resulted in no visitation. The only visitation that occurred during that period was in September 2021. On that visit, Faith provided Kyng with chips and a pop tart. Thereafter, they went to the vending machine and got extra snacks. During the visit, Faith put Barney on her phone, and Faith and Kyng played cars and trucks. Ms. Brown opined that it was not safe for Kyng to be returned home. On cross-examination, Ms. Brown testified that she never saw Faith parent. She confirmed there were six scheduled visits from July to December and three of those were canceled due to substance abuse.

¶ 19 Alison Bickel was the parenting educator and confirmed that Faith was referred for parenting classes. The first time Faith was referred was prior to her incarceration. After her release she was referred a second time in October 2019. She completed the nurturing parenting curriculum, which usually took about 8 months, after 15 months. Once completed, Faith took a post-assessment test that revealed a lack of growth and found Faith was still in the medium- to high-risk category. Due to the high-risk scores, Faith was recommended to continue parenting services in the protective factors program.

¶ 20 Faith started the protective factors program and completed 9 of the 15 sessions. After missing four weeks of sessions, Faith was sent a lack of engagement letter on June 8, 2021. When Faith did not respond to the letter, her services were closed on June 28, 2021. Ms. Bickel was involved with the last referral in November 2021. They unsuccessfully attempted to contact Faith four times over the course of a month and a lack of engagement letter was sent on December 21,

2021. When no response was received, Faith's parenting services were closed on January 10, 2022. Throughout the life of the case, 65 weekly parenting class appointments were scheduled. Faith attended 36, failed to appear for 24, and had 5 cancellations. Ms. Bickel opined that it would not be safe and in the best interest of Kyng to be returned to Faith. Successful completion of the 15-week protective factors curriculum was unlikely in the near future. Thereafter, the State rested.

¶ 21 The defense called Faith who confirmed she was Kyng's mother. Faith admitted receiving the May discharge letter. She stated that Ms. Bickel's letter stated that she had done well on parenting but wanted Faith to continue the services for self-care. After that, Faith "got into moving and stuff like that," so she had less contact with Ms. Bickel. She further testified that when she was referred again in November, she called Ms. Bickel to let her know that she wanted to get back into classes, but Ms. Bickel did not respond. Faith confirmed that she provided both the parenting educator and her caseworker with her updated phone number and address.

¶ 22 Faith was asked to explain the positive drug tests. She admitted smoking marijuana and drinking alcohol but disputed the positive findings for the other drugs, stating, "Ms. Young, for whatever reason, was misreading the test." She further testified that when Vicki was her case aide, she had to schedule visitation on Vicki's schedule and Vicki was too busy.

¶ 23 On cross-examination Faith stated that she missed 19 drug tests because she did not have the same number anymore. She stated that every time she gave a new address, job, or telephone number to the caseworker, the caseworker would pretend she did not get, or forgot, the information. Faith also stated that she tested positive for cocaine during the two drug tests because "it must have been in the weed."

¶ 24 Following argument, the court found it was

“obvious that [Faith] has a substance abuse issue. She has shown little to no effort in engaging in any service. Fifty-five drug drops requested, 11 completed. All were positive for some sort of substance. She was told several times to begin substance abuse treatment. I received no evidence she ever began this treatment[.] [S]he did complete one parenting curriculum successfully; however, it took her twice as long to complete tha[n] it should have. Also, at the end of that curriculum, she still tested medium to high [risk], so it doesn’t seem like those classes helped any. She was then referred to protective factors, which it looks like she completed a few of those but then didn’t show up for four weeks and was discharged.

The visits are concerning. Between May and December 2021, she had a true visit one time out of six available visits. Three were canceled because of positive drug tests, two no-shows. Just all of this combined shows [Faith] has failed to maintain a reasonable degree of interest, concern, or responsibility as to her child’s welfare. She has failed to make reasonable efforts to correct the conditions which led to the removal of her child. These were substance abuse issues, and I would say for all of the periods referenced in paragraphs (c), (d), and (e). I do find that the State has shown by clear and convincing evidence that [Faith] is an unfit parent for the reasons set forth in paragraphs 4(a) through (e).”

¶ 25 On June 14, 2022, WCYA filed a best interest report in anticipation of the June 30, 2022, hearing. The report noted Faith’s discharge from substance abuse treatment and two dismissals from parenting classes. Of the 55 random drug tests, Faith only attended 10 and tested positive on all 10 tests. Field testing during visitation also revealed positive tests for cocaine and THC on four tests, with additional findings of methamphetamine and/or amphetamine on two of those tests. Faith participated in only two visitations from May 11, 2021, to April 15, 2022. The visits occurred

on May 11, 2021, and September 7, 2021. The other 10 visits were either canceled due to Faith's nonappearance or positive results from field drug testing indicating Faith was under the influence at the time of the planned visitation. The report further noted Faith was currently on conditional discharge for battery following an incident on February 27, 2022, involving Faith and her mother. Kyng was doing well but continued to have behavioral issues and was seeing a therapist at SIU.

¶ 26 The best interest hearing was held on July 22, 2022. The State provided testimony from Ms. Young and Ms. Brown. Ms. Young testified that she prepared the June 14, 2022, report, and the only addition was that visitation scheduled for July 28, 2022, did not occur because Faith failed to attend drug testing scheduled for June 23, 2022. She used the same number that was used by Faith on June 30, 2022, when she called Ms. Young to ask the time of the next court hearing.

¶ 27 Ms. Young stated that Kyng was in a potential adoptive placement and had been there since he came into care at six months of age on May 2, 2019. She stated there were other children in the home and Kyng was very bonded to them. He played with them, and they acted as siblings, complete with sibling squabbles. She stated it "was very much as if they were grown up together and were siblings." She explained that one child had been adopted and the other children were in foster care. The foster parents took the children to the park and Kyng was in prekindergarten, so he was also able to socialize in other atmospheres. Kyng was very bonded with his foster parents, had been with them since he was six months old, and acted like they were his parents. He was treated as part of the family. The foster parents were able and willing to continue to raise Kyng, provide his medical needs, education, clothing, food, and basically care for him as if he were their biological son. Ms. Young stated that Kyng did not have any special medical or educational needs, but he did see a therapist at SIU for outbursts and anger. The agency recommended termination of parental rights and a goal change to adoption.

¶ 28 On cross-examination, Ms. Young confirmed there was a report of abuse or mistreatment with the foster family, which was later determined unfounded because the bruises were due to vaccines. She also confirmed that a bruise was seen on Kyng's face but was later determined to stem from falling when he was learning how to walk. Ms. Young stated she was present during some of Faith's visitations and agreed Faith would bring toys and play with the child. When asked if she believed there was a bond between Faith and Kyng, Ms. Young did not think so "currently" because Faith had not attended visitation since September 7, 2021. She did believe there was a bond in May 2021, stating Kyng knew Faith, they played, and Kyng was comfortable. She noted, however, that Kyng was always happy when the worker arrived and was talkative to her, stating Kyng's reaction was the same for the worker as it was for Faith. She agreed that Kyng was very friendly. When asked how long it would take for Faith to be restored to fitness if rights were not terminated, Ms. Young stated the main concern was the excessive drug use that required intensive inpatient treatment and she could not speak as to how long that would take.

¶ 29 Ms. Brown testified that Faith's last visitation was in September 2021 due to positive drug testing or failing to appear from October 2021 to June 2022. She stated that when Faith did not appear, the reason given was usually illness or lack of transportation. As to Kyng, Ms. Brown stated he was a happy little boy, with behavior typical of little boys playing with other kids. On cross-examination, Ms. Brown confirmed visitation was denied when there was a positive drug test. The State rested after noting Faith failed to attend the June 23, 2022, drug test.

¶ 30 The defense provided testimony from Debbie Gray, Carzell Robertson, Patsy Gray, Uthman Muhammad, and Faith. Debbie Gray confirmed that she was Faith's mother and stated that before Kyng was removed, Faith was good with him; she took care of his needs and treated him well. Debbie stated she was lucky to get to hold and play with him because Faith always

wanted to have him. Debbie attended two visitations with Faith in September of the previous year. She said Kyng had a sparkle in his eye and seemed excited to see Faith. She stated there was definitely a bond between Faith and Kyng.

¶ 31 Carzell Robertson testified that he was in a relationship with Faith that lasted about three years and was with her when she still had custody of Kyng. He stated Faith was a loving and caring mother during that time and Faith and Kyng had a strong bond. He stated that he assisted Faith in getting to her parenting classes, her substance abuse classes, and going to WCYA. He thought she was strong and motivated to do what was necessary to get her son back. He did not attend any of the visitations; he only saw Kyng and the caseworker in the parking lot after the visitation. On cross-examination, Mr. Robertson confirmed he was the paramour who was smoking in the driveway with Faith when the case began. He stated that he no longer used drugs but admitted using them when they were together. He continued to believe Faith did not do any drugs regardless of the drug testing results. Upon the court's inquiry, Mr. Robertson stated he was still off and on with Faith and was currently living in Tennessee.

¶ 32 Patsy Gray testified that she was Faith's older sister,. She stated that she saw her sister interact with Kyng when she still had custody and opined that her sister was a great mother. Patsy stated Faith just needed help to get the opportunity to be a mother. She was not present during any of the visitations with Kyng. However, she helped Faith get records from places where she attended classes, that were somehow misplaced. She stated she also witnessed calls between her sister and DCFS trying to determine why Kyng was sick and why Faith was not allowed to see her son.

¶ 33 Uthman Muhammad, a friend of the family, testified that when Faith had custody, she was very active, very positive, and was taking good care of her son. He helped transport Faith to places for the case. He said she was motivated and trying to do the necessary things.

¶ 34 Faith also testified and addressed the lack of visitation since September 2021, due to failed drug testing. She stated she did not even get a call for October visitation and had to call the agency. She thought that happened because of an altercation with the case aide on September 7, 2021. She said the last time they denied her was because they said her pee did not look real. Faith believed that the agency just made up reasons why she could not see her son half the time to wean him off of her. She stated that Ms. Young looked “wowed” by the fact that he called her “mommy” or said “I love you” to her. She was also “shocked” when Kyng remembered Faith after she was released from prison. She stated that Kyng always called her “mommy” when they visited and always said “I love you.” No temper tantrums, spitting, or kicking occurred during her visits.

¶ 35 She testified that the September 7, 2021, altercation started because Kyng hit her in the face and pulled food out of her mouth. She stated that when he got out the car, the caseworker said that he said he was hungry. “So[,] he ate six bags of chips, four Gatorades, two bags of cookies, and a grilled cheese *** within two hours.” Faith did not like that Kyng was eating more than he was playing. Kyng smacked her, pulled food out of her mouth, hid the food from her, and told her she could not eat. When she asked him why, he said it was because she was bad, and when she asked him what she did, he said she fell down. He also called her a dummy, which was not normal behavior for Kyng. Faith tried to take him back into the building, and the caseworker barricaded her in the car, called her a bunch of “B” words and told her she was lucky she even had a visit. The caseworker told her that she should not really be there and then called Ms. Brown.

¶ 36 Faith stated she was concerned for her child’s safety. She believed Kyng was mistreated in his foster placement. Faith stated she would enter a residential drug treatment program if that was what was needed for her to keep her son. She blamed her caseworker, and other employees at WCYA, for her lack of success and claimed they were not providing her with the tools she needed

to succeed. She stated that she “never got offered anything.” They kept telling her to let them know when she had a house and a job, but when she told them she had a house, they never came to see it. Further, they never told her how to fix the problems.

¶ 37 On cross-examination, Faith stated that she used to have a drug problem but did not anymore. She stated that she does smoke marijuana a lot. She did not have a support program to overcome her drug problem; she relied on her family. She did the Heritage thing because it was a stipulation for parole. She stated her trigger was not being around her son and that was why she was using drugs. She did not use drugs around her son. She disagreed that her drug use was why DCFS became involved in the first place. The court inquired as to whether Faith had been in any drug treatment since her son was taken away. She stated she had been to Heritage and PATS. She completed Heritage but did not complete PATS. She never had inpatient treatment.

¶ 38 When asked if she thought she had a drug problem, she said she would have one if they took her son away completely. She admitted her marijuana problem had gotten worse, stating that she smoked blunts now instead of hitters. She smoked one blunt in the morning and then smoked about half of one a few hours later. Faith stated she did not have a job but had an interview that day at 4:30. She was not in parenting classes because she was waiting for a referral from Ms. Young. She admitted using methamphetamine and cocaine in the past but not since 2019. Currently she only used marijuana. She did not know why she had not seen her child since September 2021 and stated the WCYA personnel did not give her drug tests.

¶ 39 Following the hearing, the court found:

“[W]hat I’ve heard and mostly considered today is that [Faith] hasn’t had a visit since September 2021. There’s been several no shows, several canceled visits, several visits canceled because of dirty drug drops. *** [T]hroughout the course of this case there’s been

several failures to appear to drug drops. *** [T]his child has been in care since May of 2019. He is three years old *** and has been with the same foster family since he was six months. He has more of a bond with that foster family than his biological mother who has only seen him a few times since he was taken.

From what I've heard today [it] sounds like he's very bonded with the foster family, with the other children in the home. That is where his sense of attachment is. I do not doubt [Faith's] love for her child. I just don't believe she is able to provide the care that the child needs at this time.

The child's currently in preschool. It doesn't sound like he has any specialized needs but is getting *** counseling. And the foster family has indicated that they would be willing to be a permanent placement for the child. So[,] with all that said I'm going to find that the State has shown by a preponderance of the evidence that it is in the child's best interest that [Faith's] parental rights be terminated.”

¶ 40 On July 22, 2022, the trial court issued judgment as to parental fitness and permanent termination. The judgment found Faith was unfit for: (1) failing to maintain a reasonable degree of interest, concern, or responsibility as to the minor (750 ILCS 50/1(D)(b) (West 2020)); (2) failing to make reasonable efforts to correct the conditions that were the basis for the removal of the minor during any nine-month period following the adjudication of neglect (*id.* § 1(D)(m)(i)); and (3) failing to make reasonable progress toward the return of the minor during the nine-month periods from November 1, 2019, to August 1, 2020, August 1, 2020, to May 1, 2021, and March 14, 2021, to December 14, 2021, pursuant to section 1(D)(m)(ii) of the Adoption Act (*id.* § 1(D)(m)(ii)). The trial court further found it was in Kyng's best interest to terminate Faith's parental rights. Faith timely appealed.

¶ 41

II. ANALYSIS

¶ 42 Termination of parental rights proceedings are governed by the Juvenile Court Act (705 ILCS 405/1-1 *et seq.* (West 2020)) and the Adoption Act (750 ILCS 50/0.01 *et seq.* (West 2020)). After a petition for involuntary termination is filed under the Juvenile Court Act, a two-step process is required for parental right termination. See 705 ILCS 405/2-29(2) (West 2020). The State must first establish, by clear and convincing evidence, that the parent is unfit under one of the grounds set forth in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2020)). 705 ILCS 405/2-29(2), (4) (West 2020). “If the court makes a finding of unfitness, the court then considers whether it is in the best interest of the child that parental rights be terminated.” *In re C.W.*, 199 Ill. 2d 198, 210 (2002).

¶ 43 On appeal, Faith argues that the trial court’s findings of unfitness pursuant to sections 1(D)(b), 1(D)(m)(i), and 1(D)(m)(ii) of the Adoption Act (750 ILCS 50/1(D)(b), (D)(m)(i), (D)(m)(ii) (West 2020)) were against the manifest weight of the evidence. She further argues that the trial court’s finding that it was in Kyng’s best interest to terminate her parental rights was against the manifest weight of the evidence. A finding is against the manifest weight of the evidence “only where the opposite conclusion is clearly apparent.” *In re N.G.*, 2018 IL 121939, ¶ 29.

¶ 44

A. Unfitness

¶ 45 The trial court found that Faith was unfit on all grounds alleged by the State. In a proceeding to terminate parental rights, “[a] parent’s rights may be terminated if even a single alleged ground for unfitness is supported by clear and convincing evidence.” *In re Gwynne P.*, 215 Ill. 2d 340, 349 (2005). “This means that, on review, if there is sufficient evidence to satisfy any

one statutory ground we need not consider other findings of parental unfitness.” *In re M.J.*, 314 Ill. App. 3d 649, 655 (2000).

¶ 46 Although other grounds were alleged, we address only those related to section 1(D)(m)(ii) of the Adoption Act (750 ILCS 50/1(D)(m)(ii) (West 2020)). This section provides that a parent will be considered “unfit” if he or she fails “to make reasonable progress toward the return of the child” during any nine-month period following the adjudication of neglect. “Reasonable progress” has been defined as “demonstrable movement toward the goal of reunification.” (Internal quotation marks omitted.) *In re C.N.*, 196 Ill. 2d 181, 211 (2001). The benchmark for measuring a parent’s progress toward this goal “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.” *Id.* at 216-17.

¶ 47 On appeal, Faith argues that her efforts were reasonable for her and someone in her position. She states that she completed a mental health assessment that revealed no services were needed, completed a substance abuse assessment, and engaged in services. She further argues that she engaged in parenting classes right after the child came into care. Although she went to IDOC on a parole violation, when she was released, a new referral was provided and she “attended to those.” Therefore, her progress was reasonable given her incarceration in the middle of the case and the circumstances she was in.

¶ 48 First, we note the State provided three nine-month periods addressing this ground: November 1, 2019, to August 1, 2020; August 1, 2020, to May 1, 2021; and March 14, 2021, to December 14, 2021. None of Faith’s arguments address any specific period. We further note that all these periods alleged in the State’s petition occurred after Faith’s initial release from IDOC on

April 22, 2019, as well as her second release in August 2019. With regard to the first alleged period, the caseworker resubmitted referrals for Faith to reengage in her parenting and substance abuse services. While Faith advised her caseworker that she completed her substance abuse services, neither Faith, nor the agency providing the services, provided documentation in support of the claim. From January 13, 2020, to July 23, 2020, Faith completed three drug tests (all in January 2020) and failed to appear for any other drug tests scheduled during that period. By May 6, 2020, Faith missed 6 of 12 sessions provided for parenting services.

¶ 49 During the second period from August 1, 2020, to May 1, 2021, Faith tested positive for cocaine on August 19, 2020, methamphetamine on September 16, 2020, and cocaine on September 22, 2020. The caseworker counseled Faith that she needed to reengage in drug treatment due to the positive drug test results. Thereafter, for nearly two months, Faith failed to contact the agency. The agency was finally able to contact Faith on November 18, 2020. At that time, the caseworker noted that Faith was inconsistent in attending either visitation or parenting classes and had yet to provide the caseworker with her new address. Faith failed to appear for any scheduled drug testing from September 28, 2020, to January 7, 2021. Faith began attending drug treatment services on January 18, 2021; however, drug testing performed on January 28, 2021, and February 26, 2021, was positive for THC, and testing on April 12, 2021, was positive for PCP and THC. Faith was discharged from the drug treatment program on April 12, 2021.

¶ 50 The third period, from March 14, 2021, to December 14, 2021, revealed only a further decline in Faith's progress. Faith was discharged from parenting classes on June 28, 2021, with an unsatisfactory status after failing to reengage in parenting services. From May 2021 to October 27, 2021, Faith failed to appear for 17 scheduled drug tests. She appeared on July 30, 2021, and November 9, 2021, but tested positive for cocaine and THC on both dates. Faith also became

inconsistent with visitation, often failing to show up or cancel beforehand. When she did attend visitation, she was under the influence of drugs as evidenced by field tests revealing positive results for methamphetamine, cocaine, and THC on December 7, 2021.

¶ 51 The evidence of Faith’s noncompliance with her service plans, in light of the fact that Kyng was removed due to her substance abuse, is overwhelming. As the trial court correctly noted, it is obvious that Faith has a substance abuse problem. While relapses are concerning, it is the lack of Faith’s desire to seek, attend, participate, or receive substance abuse treatment following each relapse that reveals Faith’s lack of compliance with the service plan for each of the three periods ensconced in the State’s petition. In each period, Faith was inconsistent with her visitation, did not attend drug testing, failed to complete substance abuse services, and failed to complete parenting class services. Given these facts, we find the trial court’s unfitness finding was not against the manifest weight of the evidence.

¶ 52 B. Termination of Parental Rights

¶ 53 Once a parent is found unfit, the “issue is no longer whether parental rights *can* be terminated; the issue is whether, in light of the child’s needs, parental rights *should* be terminated.” (Emphases in original.) *In re D.T.*, 212 Ill. 2d 347, 364 (2004). On appeal, Faith argues that there was a bond between her and Kyng before he was removed, and it would be in Kyng’s best interest to grow up with his mother who loves him and fought for him. Despite the emotional plea, no legal argument on the best interest issue was provided.

¶ 54 The trial court considers numerous statutory factors in making the best interest determination. 705 ILCS 405/1-3(4.05) (West 2020). These factors include (1) the physical safety and welfare of the child, (2) the development of the child’s identity, (3) the child’s background and ties, (4) the child’s sense of attachments, (5) the child’s wishes, (6) the child’s community ties,

(7) the child's need for permanence, (8) the uniqueness of every family and child, (9) the risks attendant to entering and being in substitute care, and (10) the preferences of the people available to care for the child. *Id.* "The court may also consider the nature and length of the child's relationship with his present caretaker and the effect that a change in placement would have upon his or her emotional and psychological well-being." *In re Ca. B.*, 2019 IL App (1st) 181024, ¶ 30.

¶ 55 There is no dispute that "[p]arental rights and responsibilities are of deep human importance and will not be lightly terminated." *Paul v. Steele*, 101 Ill. 2d 345, 351-52 (1984). However, here, no argument can be made that the trial court's consideration of the factors was erroneous. The evidence revealed that Faith remained unsuccessful with her substance abuse battle and there were occasions when she would present for visitation under the influence of drugs. Such evidence fails to support any finding that Kyng's physical safety and welfare or the development of his identity would be a priority in Faith's care. Nor do we believe Faith's failure to attend visitation strengthened Kyng's attachment to his mother. Kyng was in foster care for all but the first six months of his life. He is now over four years old, an age too young to address his wishes but too old to be without any sense of permanence in his home life. While we acknowledge Faith's preference to retain her parental rights, such preference is tempered by Faith's inability to proceed in any manner that would allow for such result.

¶ 56 Further, Faith's bond with Kyng during his initial six months of life is but one factor for consideration. "[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." *In re D.T.*, 212 Ill. 2d at 364. Here, the evidence revealed that Kyng spent 3½ years with the same foster family. During that time, he adjusted to and was now closely bonded with that family. Conversely, his bond with Faith was reduced to a relationship no stronger than that seen with the caseworker.

¶ 57 “The court’s decision is against the manifest weight of the evidence only when the opposite conclusion is clearly apparent [citation], and it abuses its discretion only when it acts arbitrarily without conscious judgment [citation].” *In re Tajannah O.*, 2014 IL App (1st) 133119, ¶ 20. Given the evidence in this case, no such finding can be made, and therefore, we affirm the trial court’s finding that it was in Kyng’s best interest to terminate Faith’s parental rights.

¶ 58

III. CONCLUSION

¶ 59 For the reasons stated herein, we affirm the trial court’s findings of unfitness and that it was in the best interest of Kyng to terminate Faith’s parental rights.

¶ 60 Affirmed.