

NOTICE
Decision filed 05/07/26. 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) 251004

NOS. 5-25-1004, 5-25-1005, 5-25-1006 cons.

IN THE
APPELLATE COURT OF ILLINOIS
FIFTH DISTRICT

<i>In re</i> SOREN W., RANGER W., and HARLEY W.,)	Appeal from the
Minors)	Circuit Court of
)	Clark County.
(The People of the State of Illinois,)	
)	
Petitioner-Appellee,)	Nos. 23-JA-2, 23-JA-3,
)	23-JA-5
v.)	
)	
Daniel W.,)	Honorable
)	Tracy W. Resch,
Respondent-Appellant).)	Judge, presiding.

PRESIDING JUSTICE CATES delivered the judgment of the court, with opinion.
Justices McHaney and Vaughan concurred in the judgment and opinion.

OPINION

¶ 1 The respondent, Daniel W. (Father), appeals orders of the circuit court of Clark County terminating his parental rights to three of his children.¹ He argues that the circuit court abused its discretion in taking “wholesale judicial notice” of its record. While we find that during the fitness portion of the termination of parental rights proceedings, the circuit court abused its discretion in considering permanency reports and evidence admitted during earlier hearings, we ultimately

¹Father filed separate appeals in each child’s case. This court ordered the three appeals consolidated under the case number assigned to the oldest child’s case, No. 5-25-1004.

affirm. We affirm the order terminating the respondent's parental rights where properly admitted evidence supports the circuit court's factual findings and Father was not prejudiced by the error.

¶ 2

I. BACKGROUND

¶ 3 Father and his paramour, Alexis B. (Mother), have four biological children together—Soren W. (a girl born in May 2020), Ranger W. (a boy born in July 2021), Harley W. (a girl born in June 2023), and Wylder W. (a boy born in October 2024).² When the Department of Children and Family Services (DCFS) first became involved with the family, Mother lived in Illinois with the two oldest children, while Father lived primarily in Iowa and spent weekends in Illinois with Mother and the children.

¶ 4 An intact case was opened in the latter half of 2022. Soren and Ranger were taken into protective custody on February 28, 2023, primarily due to the condition of their residence. According to a report filed with the circuit court, a mandated reporter who visited the residence that day observed garbage, old food, and dirty diapers littering the floor throughout the residence and medication bottles lying around where the children (both toddlers) could access them. In addition, the residence lacked running water, the children were dirty, and their hair was matted with syrup.

¶ 5 On March 2, 2023, the State filed petitions for adjudication of wardship and motions for temporary custody in the following two cases: No. 23-JA-2 involving Soren and No. 23-JA-3 involving Ranger. Because the pleadings in these cases and the subsequent case opened for Harley (No. 23-JA-5) are largely identical, we will refer to the pleadings in No. 23-JA-2 unless otherwise noted and discuss the cases collectively where possible. In the petitions, the State alleged that

²Mother has separately appealed the circuit court's ruling and is not a party to this appeal. Although cases were open involving all four children, Wylder's case is not before us. We will discuss matters related to Mother and Wylder only as they pertain to the issues before us in this appeal.

Soren and Ranger were neglected pursuant to sections 2-3 and 2-4 of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3, 2-4 (West 2022)). The petitions alleged that the children were in an environment injurious to their welfare because their home environment was unhealthy and unsafe and because Mother's mental health prevented her from properly caring for them. The circuit court held a shelter care hearing the same day, after which it entered orders placing the children in the temporary custody of DCFS.

¶ 6 In June 2023, Mother gave birth to the parties' third child together, Harley, who was taken into protective custody upon her discharge from the hospital. The State filed a petition for adjudication of wardship and a motion for temporary custody on June 27, 2023. The petition alleged that Harley was neglected pursuant to sections 2-3 and 2-4 of the Juvenile Court Act (705 ILCS 405/2-3, 2-4 (West 2022)) due to an environment injurious to her welfare in that her home environment was unhealthy and unsafe, Mother's mental health prevented her from properly caring for Harley, and Harley's siblings were in DCFS care. After a shelter care hearing that same day, the circuit court entered an order placing Harley in the temporary custody of DCFS.

¶ 7 On August 24, 2023, the circuit court held an adjudicatory hearing in all three cases and entered adjudicatory orders on August 29, 2023. The circuit court found that the children were neglected due to an environment injurious to their welfare and that the neglect was inflicted by Mother.

¶ 8 On October 5, 2023, the matter proceeded to a dispositional hearing. On October 16, 2023, the circuit court entered a dispositional order in Soren's case finding that both parents were unfit and unable to care for her and making Soren a ward of the court. The following day, the circuit court entered dispositional orders containing these same findings and making Ranger and Harley wards of the court.

¶ 9 The circuit court held the first permanency hearing in this case on April 4, 2024. It entered permanency orders on April 12, 2024, setting a goal of return home within 12 months. The circuit court found that neither parent had made reasonable efforts or reasonable and substantial progress toward that goal at that time.

¶ 10 After a permanency hearing on October 3, 2024, the circuit court made a docket entry finding that Father made reasonable efforts toward the return of the children but failed to make reasonable and substantial progress toward that goal. The circuit court further found that Mother failed to make either reasonable efforts or reasonable and substantial progress. The goal remained return home within 12 months.

¶ 11 The next permanency hearing was held on December 5, 2024. The circuit court entered permanency orders on December 20, 2024. The circuit court again found that Father made reasonable efforts toward the return of the children but failed to make reasonable and substantial progress and that Mother failed to make either reasonable efforts or reasonable and substantial progress. The goal was changed to substitute care pending determination of termination of parental rights.

¶ 12 On June 4, 2025, the State filed motions to terminate parental rights, alleging that both parents were unfit on the following two grounds: (1) failure to maintain a reasonable degree of interest, concern, or responsibility for the children's welfare (750 ILCS 50/1(D)(b) (West 2024)); and (2) failure to make reasonable progress toward the return of the children during any nine-month period following adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2024)). The petitions identified the nine-month period between February 7, 2024, and November 7, 2024, for purposes of the latter allegation.

¶ 13 The matter came for a scheduled permanency hearing the following day. The circuit court entered orders on June 11, 2025, maintaining a goal of substitute care pending determination of termination of parental rights and again finding that Father made reasonable efforts but did not make reasonable and substantial progress and that Mother failed to make either reasonable efforts or reasonable and substantial progress.

¶ 14 The hearing on the State's motion to terminate parental rights began on August 28, 2025. The State's first witness was the children's DCFS caseworker, Jenna Kraus. She testified that Soren and Ranger came into care in February 2023, and Harley entered care in June 2023. She noted that the parties' fourth child, Wylder, was also in care, with a case that opened in November 2024. Kraus noted that throughout the life of the case, Father was married to a woman in Iowa named Margaret.

¶ 15 The primary reason the children entered care was environmental neglect. Kraus explained that DCFS received a report that the home where they lived was "very dirty" with trash and dirty diapers all over the home. In addition, the children were dirty and had not been bathed, and poisonous products were left within their reach. The case was assigned to Kraus when Soren and Ranger entered care, and she had been their caseworker since that time.

¶ 16 Kraus testified that Father's service plan required him to complete the following services between February and November of 2024: complete a mental health evaluation and follow any recommendations, work with a housing advocate, engage in parenting education, use the skills learned from parenting education in his visits with the children, participate in a substance abuse assessment and follow all recommendations, complete domestic violence services, cooperate with DCFS, maintain a clean home free of safety hazards, comply with the order of protection that was in place, and refrain from being in any relationship involving domestic violence.

¶ 17 Regarding Father's compliance with these requirements, Kraus initially testified that Father "actually has completed his Service Plan as far as checking all the boxes." However, she had concerns due to allegations of domestic violence in the home, Father's violation of an order of protection, his continued relationship with Mother despite his awareness of her lack of progress, "and just the constant lies."

¶ 18 When asked to address Father's compliance with specific service plan requirements, Kraus stated that he completed his substance abuse assessment and mental health evaluation. She stated that Father also completed domestic violence services, but he did not complete them within the nine-month period. When asked if Father cooperated with the housing advocate, Kraus replied, "No, the housing advocate reported that he was very inconsistent, didn't meet with her consistently, inconsistent reporting with income, things like that."

¶ 19 Kraus testified that Mother obtained an order of protection against Father in approximately March of 2024 based on allegations that he was physically abusive. Mother also alleged that Father cheated on her and lied to her. However, Father admitted to violating the order of protection, and Kraus was aware that he attended obstetrician appointments with Mother while the order was in place. Mother was also hospitalized twice for psychiatric treatment, which Mother attributed to domestic violence by Father.

¶ 20 Regarding cooperation with DCFS, Kraus testified that both parents remained in contact with her throughout the life of the case. Sometimes they were cooperative, but other times they were not. She stated that, at times, they made threats and sent harassing text messages and e-mails, thus making it unsafe to visit their home to assess its condition. Asked for examples of these threats, Kraus testified that Mother told her that she and her supervisor deserved to be dead. She did not provide any specific examples of threats made by Father.

¶ 21 On cross-examination by Father’s counsel, Kraus clarified that Father completed all required services except for working with the housing advocate. She testified that her main concerns were his violations of the order of protection and his decision to remain in a relationship with Mother despite her lack of progress with services. Kraus testified that Father was asked to participate in a psychological evaluation sometime after November 2024 due to concerns about his mental health. Regarding the condition of the parties’ residence, Kraus stated that the condition of the trailer was “greatly improved” when Father lived there without Mother. She noted, however, that during that period, Father was living primarily in Iowa and visiting the Illinois residence only on weekends.

¶ 22 In response to questioning by the guardian *ad litem* (GAL), Kraus testified that Father did not make reasonable progress toward the goal of providing the children with a safe living environment between February 7, 2024, and November 7, 2024. When asked to elaborate, Kraus first noted that there were issues involving domestic violence and an order of protection. After noting that Father lived in Iowa half the time and that Mother also moved out of the home for a while, she stated, “It just—it wasn’t consistent and safe for—for children.” Regarding the condition of the home itself, Kraus testified that it had improved, but it was still cluttered. She further testified that she made multiple visits to the home, some of which were announced in advance, while others were not. The home was often safe for children when she announced her visits in advance, but with the unannounced visits, “there were times that it still wasn’t always safe.” Regarding Father’s residence, Kraus testified that he worked in Iowa during the week and spent weekends in Illinois with Mother and the children. She further testified that he did not leave Mother with money to do laundry or purchase anything during the week.

¶ 23 The circuit court questioned Kraus about the order of protection entered against Father in March 2024. She testified that Mother told her she obtained an order of protection because Father hit her. Kraus subsequently learned that the order of protection was “dropped” in October 2024 “due to discrepant testimony.” She testified that although it was difficult to figure out which of Mother’s allegations against Father were true and which were not, she believed that some abuse occurred because Mother was admitted to Sarah Bush Lincoln Hospital for psychiatric treatment twice, in October 2023 and May 2024. On cross-examination by Father’s attorney, however, Kraus identified “Respondent Father’s Exhibit A” as a May 2024 discharge record from Sarah Bush Lincoln Hospital and noted that Father was not mentioned anywhere in the record. The exhibit was later entered into evidence without objection.

¶ 24 The State’s next witness was Kristan Williams, the Addus worker who supervised visitation with the children. Williams was assigned to supervise visits in this case when it opened in 2023. She testified that visits were always supervised. Initially, visits took place twice per week at a church in the community. However, visits were subsequently moved to a DCFS office after Father “got verbally abusive [toward Williams] during one of the visits.” Asked to elaborate, Williams explained that Father became agitated when she asked him to change Harley’s diaper, claiming he had just checked it. Williams did not recall when this incident occurred. Williams further testified that although Mother and Father initially visited the children together, they visited separately after the order of protection was entered. At the time of the hearing, each parent had a two-hour visit with the children once a month.

¶ 25 Williams testified that when Soren and Ranger first came into care, “[t]hey were pretty much nonverbal.” Soren was between 2½ and 3 years old at the time, and Ranger was between 1½ and 2 years old. Williams stated that the children “just ran wild.” They threw food and rode

on any object they could find, and it took two people to get the children into their car seats. Williams testified, however, that by the time of the hearing, their behavior had changed dramatically. She stated that they were generally well-behaved children and they even buckled themselves into their car seats.

¶ 26 Williams explained that, in addition to supervising visits, she provided parenting training. She explained that she sometimes met with Father and Mother one-on-one, but she also addressed parenting skills during their visits with the children. Asked if the parties implemented the skills they learned, she replied, “Briefly. For a few visits, they will.” She noted, for example, that she explained to them it would be better to have the children sit down for a meal at lunchtime rather than allowing them to snack throughout their visits as the children were hungry when they returned to daycare. The parties followed this advice for a few sessions and then reverted to their old habit. Williams also testified that when one of the children misbehaved during visits—for example, by taking a toy from a sibling or running out the door and down the hallway alone—Father would sometimes tell the child not to do that, but neither parent would discipline the child by imposing a time-out.

¶ 27 Asked if Father and Mother demonstrated “concern or attachment with the children,” Williams replied, “No, I—I—I do not see that.” She stated that they occasionally hugged the children, but most of the time, they just watched the children play during visits rather than actively engaging with them.

¶ 28 On cross-examination by Mother’s attorney, Williams testified that Mother brought snacks to visits and set up for visits by laying the snacks out on the table. Mother also cleaned up after visits. Williams did not see Father set up for visits or clean up before leaving.

¶ 29 On cross-examination by Father’s attorney, Williams testified that initially, Father’s parenting skills improved significantly. She acknowledged that this improvement was reflected in two permanency reports filed with the court. She testified, however, “He has now reverted back to where he just kind of lets the kids do what they want in visits.” She reiterated that Father mostly observes the children, explaining, “there’s not a lot of one-on-one, hands-on.”

¶ 30 In response to questioning by the GAL, Williams testified that she supervised most of the visits with the children and estimated that she had observed approximately 50 visits between Father and the children. She reiterated her previous testimony that both parents typically just watched the children play during visits. She further testified that neither parent asked the children many questions during the visits. Finally, Williams testified that neither parent asked her how Soren was doing in school or how the children were doing in their foster homes. Asked what she observed in the parties’ interactions with the children “or in their business” that demonstrated “interest or concern for their children,” Williams replied, “So they ask—they do ask about doctor’s appointments.” However, when the GAL later specifically asked if Father inquired about the children’s medical appointments “or something like that,” Williams responded, “No, no.”

¶ 31 The State’s final witness was Tina Sebok, a housing advocate with Webster Cantrell Youth Advocacy. She explained that her job as a housing advocate was to help clients find “adequate and safe housing.” Her services involved helping clients find affordable housing if they chose to move or helping them find resources to make their current home safe if they chose to remain, including contacting the landlord to make sure necessary repairs were made. Other services she provided included helping clients with budgeting and housekeeping.

¶ 32 The family was referred to Sebok by DCFS in September 2022 while an intact case was open. At that time, Mother lived with Soren and Ranger in a rented two-bedroom trailer, and Father

was home with Mother and the children every other weekend. Mother lived in the same trailer at the time of the hearing.

¶ 33 Sebok described her concerns with the condition of the residence before the children entered care. She explained that there was garbage throughout the home, with stacks of animal feces and dirty diapers. She further testified that “with the overflowing garbage were nests and other insects.” Sebok testified that she and the caseworker assigned to the family during the intact phase helped Mother clean the trailer a few times. Each time, the residence remained clean “for a week or—or so, but that it would unfortunately revert back.”

¶ 34 Sebok made a hotline report to DCFS regarding the condition of the home in February 2023. At that time, the shower was inaccessible due to items that were “piled up” in the bathroom, the washing machine was broken, and pill bottles were left on the floor within reach of the children. In addition, something was stuck in Soren’s hair, and Mother told Sebok she intended to shave Soren’s head to deal with the problem. The children were taken into protective custody after Sebok made the report.

¶ 35 Sebok next testified that she visited the home approximately once every two weeks, both before and after the children entered care. Some of her visits were announced in advance, while others were unannounced. Sebok testified that on some of these visits, the home was organized and clothes were put away, “but for the most part the trash was still overflowing. There was still animal feces present. And it was still very much the same.” She testified that the longest period of time during which the condition of the home was not concerning or unsafe for children was approximately three weeks. When specifically asked if the condition of the home improved, got worse, or remained the same between February and November of 2024, Sebok replied, “I would say it probably stayed about the same.”

¶ 36 Asked to describe the conditions that led her to conclude the home was unsafe for the children, Sebok testified, “There was a crockpot full of maggots.” She stated that she also observed ants and gnats inside the home and trash stacked high on the porch. However, she could not recall whether she made these specific observations before or after the children entered care.

¶ 37 Sebok noted that the family’s ability to find different housing was limited by their low income. In addition, they were ineligible for public housing due to a prior eviction from public housing.

¶ 38 On cross-examination by Father’s attorney, Sebok testified that the initial referral included only Mother and the children. At some point, a referral was made for Father, but she did not recall when that occurred. Sebok further testified that she did not see the condition of the residence during the period when the parties were separated and Father lived there alone. She noted that she was not aware he was living there during that time. In response to cross-examination by Mother’s attorney, Sebok stated that her last visit to the residence occurred approximately two months before the hearing.

¶ 39 Upon questioning by the GAL, Sebok noted that she was on medical leave for a portion of the relevant nine-month period, specifically, September to November of 2024. Sebok was not sure how many times she visited the residence between February 7, 2024, and the beginning of her medical leave. However, she testified that she visited roughly once every two weeks. She agreed with the GAL that this meant she made approximately 12 to 14 visits in total during the relevant nine-month time period. Sebok testified that the residence met minimal safety standards on only three of those visits.

¶ 40 After she returned to work late in November 2024, Sebok again attempted to visit the residence every other week. She estimated, however, that she was only able to visit five times

between November 2024 and the hearing. She testified that during all five of those visits, the home was in the same unsanitary condition it was in when the children entered care.

¶ 41 Sebok testified that nearly every time she visited the residence, Mother was the only parent present. However, she did have some contact with Father via text messaging. The GAL asked what Sebok addressed with Father in those text messages. In response, she testified that they discussed budgeting and income information as well as contacting Orkin to address “a bug situation.” When asked if that contact with Orkin ever occurred, Sebok replied, “No, we unfortunately, due to the budgets that we were provided with, they did deny any funding requests.” She did not know whether Father or Mother followed up with Orkin independently. She was not asked to elaborate on what type of funding requests were involved.

¶ 42 The State asked the circuit court to take judicial notice of the service plans and permanency orders on file. After asking the State to clarify the number of service plans that had been filed in each child’s case, the circuit court stated, “The Court will take judicial notice of the reports and the Service Plans on file in these cases.” Father did not object. All parties indicated they had no further evidence to present, and the hearing was continued for oral arguments.

¶ 43 We will discuss those portions of the service plans pertinent to this appeal. A service plan dated August 10, 2023, and filed on October 4, 2023, indicated that, at that time, Father resided in Iowa and spent weekends in Illinois with Mother. The plan noted that while Father reported staying with friends in Iowa, Mother said he was living in his truck. The service plan indicated that although Father participated in parenting classes with the Addus worker, he “struggle[d] to use the information.” During visits with the children, he did not demonstrate age-appropriate parenting skills, although his parenting was improving. Visits had to be moved to the DCFS offices in June 2023 due to Father’s aggressive behavior toward the Addus worker. However, due to improved

behavior on Father's part, the report stated that visits could be returned to the community at that time. Regarding housing, the service plan indicated that Father paid the rent and utilities for Mother's residence and expressed an intent to secure housing for himself and Mother. He also engaged with the housing advocate. However, the condition of the home remained unsanitary and unsafe for the children.

¶ 44 A service plan dated February 2, 2024, was filed with the circuit court on April 3, 2024. A narrative summary of the parties' progress noted that Father lived in Iowa at that time and spent two days a week in Illinois visiting Mother and the children. The summary noted that Father worked at Amazon and reported having a second job and receiving disability income. The summary further indicated that Father participated in parenting classes and habilitation services with Williams from Addus. Although he interacted with his children during visits, he "struggle[d] to apply the information that is provided in parenting."

¶ 45 The summary stated that Father "is to provide housing for his children and the home has improved but in September the home was not appropriate." The caseworker made an unannounced visit to the residence on September 13, 2023, during which she observed that there were clothes all over the living room floor, the bathroom was filthy, and the bedroom was dirty, with clothes all over the bed and floor. Mother informed the caseworker that she was unable to do laundry until Father came home on the weekend. The service plan indicated that Father paid the rent and utilities for the family's residence, but he did not leave Mother with money to support herself through the week.

¶ 46 Father's progress was rated as satisfactory on the following service plan goals: participation in parenting classes through Addus, keeping releases of information current, engaging in habilitation services, and meeting with his caseworker. However, he was rated as

unsatisfactory on the following services: demonstrating appropriate parenting skills during visits with the children, obtaining and maintaining safe housing for the children, maintaining an income to meet basic needs, and working with the housing advocate.

¶ 47 The final service plan was dated August 12, 2024, and filed on September 26, 2024. A summary of the family's progress contained the following information: Father continued to live in Iowa and spent weekends in Illinois with Mother and the children. In March 2024, Mother moved out of the residence and requested separate visits with the children, alleging that Father had "an anger and lying problem." She further alleged that Father hit her in October 2023, and she was hospitalized for psychiatric treatment as a result of this abuse. As of the date of the service plan, an active order of protection was in place, but Father and Mother were once again residing together.

¶ 48 Father was rated as satisfactory on the following services: parenting education with the Addus worker, demonstrating parenting skills during visits with the children, keeping releases of information current, habilitation services, meeting with his caseworker, maintaining income, and maintaining a safe home. However, Father was rated as unsatisfactory on housing advocacy due to his failure to consistently meet with the housing advocate. He was also rated as unsatisfactory on completing a substance abuse assessment and following all resulting recommendations pursuant to an August 8, 2024, evaluation; however, the summary of progress indicates that he had completed these services.

¶ 49 Finally, the service plan included new services, presumably added as a result of the order of protection. Father was required to complete a domestic violence perpetrator assessment and follow all recommendations, refrain from engaging in any relationship involving domestic violence, refrain from committing any new criminal offenses, and comply with the order of protection. The plan did not include evaluations of Father's progress on these services. The

summary of progress indicated that Father was in the process of scheduling the domestic violence assessment.

¶ 50 The fitness hearing resumed on September 9, 2025, with oral argument. The State began its argument by observing, “This is a case that began with concerns about the cleanliness and safety of the home, often among the more readily correctable conditions.” The State argued, however, that more than two years later, “these same conditions persist.”

¶ 51 The State next argued that Father did not complete the requirements of his service plans during the nine-month period between February 7, 2024, and November 7, 2024. Reviewing the requirements of the service plan filed April 3, 2024, the State noted that Father was rated as unsatisfactory on the requirement that he demonstrate age-appropriate parenting skills during visits with the children because he struggled to demonstrate the information learned from parenting classes. Father was also rated unsatisfactory on maintaining an income to support his children. The State highlighted information in the service plan evaluation noting that although Father was employed by Amazon in Iowa, he did “not leave his paramour with any money to take care of herself through the week.” Finally, the State noted that Father was rated as unsatisfactory on working with the housing advocate because he did not meet with her consistently, which was “consistent with the testimony of the witnesses that the State presented.”

¶ 52 Addressing the service plan filed on September 26, 2024, the State noted that Father was rated as unsatisfactory because he had not completed a substance abuse assessment. The State explained that he was required to complete a second substance abuse assessment because he was charged with DUI in March 2024. The State thus argued that, during the pertinent nine-month period, Father “had service plan goals that remained unsatisfactory.” The State also emphasized that the circuit court found that both parties failed to make reasonable and substantial progress

toward the return of the children during this period in the permanency orders entered in April and December of 2024.

¶ 53 Turning its attention to the allegation that the parties failed to maintain a reasonable degree of interest, concern, or responsibility for the children’s welfare, the State first emphasized that as of the fitness hearing, neither parent had made sufficient progress to have unsupervised visits with the children. The State again emphasized that the unsanitary condition of the home was the basis for the removal, and argued, “There was testimony of trash, feces, and insects in the home during the more than two years they’ve been given to remedy the situation.” The State emphasized testimony that Father “became hostile during visits, which required visits to be moved to the DCFS offices,” and testimony that Mother obtained an order of protection against Father and alleged that he was abusive toward her. The State also noted that Father “remained married to another woman in Iowa for the duration of these cases.”

¶ 54 In Father’s argument, he emphasized Kraus’s testimony that he had completed most of the services in his plan. He argued that the home was safe and appropriate for the children while he lived there alone without Mother. He also argued that, according to the evaluations in his service plans, his parenting skills had improved, and he consistently participated in visits with the children. Finally, Father argued that his continued relationship with Mother even though he was still married to his wife was not germane to the question of parental fitness.

¶ 55 The GAL argued that the strongest evidence of Father’s unfitness related to the first statutory ground asserted by the State—failure to maintain a reasonable degree of interest, concern, or responsibility for the children’s welfare. As to the second ground—failure to make reasonable progress toward the return of the children—the GAL acknowledged that Father “met the arbitrary checklist for that specific timeframe.”

¶ 56 Turning his attention to the question of Father’s failure to maintain a reasonable degree of interest, concern, or responsibility for the children’s welfare, the GAL agreed that whether Father had another family in Iowa was not pertinent to the question of his fitness. He argued, however, that putting forth reasonable effort required Father to establish a base in Illinois to prepare for the return of the children to his custody. The GAL emphasized that, to the contrary, Father continued to maintain a residence in Iowa approximately 900 days after Soren and Ranger entered care. He argued that Father’s “part-time parenting” demonstrated that the children were not a priority, particularly given Mother’s difficulties in parenting them. The GAL also highlighted the testimony that Father was “passive” during his visits with the children. Finally, he argued that Father’s decision to remain in a relationship with Mother despite her problems provided additional support for a finding that he failed to maintain a reasonable degree of interest, concern, or responsibility for the children’s welfare.

¶ 57 Ruling from the bench, the circuit court first highlighted conflicting information concerning Father’s residence that appeared in two of the permanency reports. The circuit court found that the evidence did not clearly establish Father’s residence, a matter “uniquely within [his] knowledge.” Similarly, the circuit court observed that although the permanency report of September 26, 2024, indicated that Father intended to transfer his employment to Illinois, there was no information in the record as to whether he ever did so. The circuit court thus found that there was “no reliable information in evidence as to [Father’s] current or past employment history.” Moreover, the circuit court found no evidence that Father provided significant monetary support to Mother for the support of the children.

¶ 58 The circuit court noted that Father was married to a woman in Iowa when the case began and that it was unclear when or if his marriage had been dissolved. The circuit court then stated,

“There is no credible evidence that the circumstances surrounding [Father and Mother’s] historic relationship has materially changed since the commencement of the proceedings.” The circuit court went on to find that these “circumstances are the seedbed of the pervasive chaos, dissembling instability, and the general inability [of the parties] to make reasonable progress toward the return of the children and their failure to demonstrate a reasonable degree of interest, concern, or responsibility for the minors’ welfare.”

¶ 59 Turning to the condition of the residence, the circuit court noted that the testimony and photographs of the residence entered into evidence at the shelter care hearing, as well as the evidence at the adjudicatory hearing and in the permanency reports, showed that the residence was “extraordinarily filthy, unsanitary, unhealthy, and unsafe” when the children came into care. The circuit court further noted that housing advocate Sebok “observed the same kind of conditions” during her subsequent visits to the residence, including overflowing garbage, animal feces, dirty diapers, gnats, and maggots. The circuit court found that this failure to rectify the conditions in the home constituted both a failure to make reasonable progress and a failure to maintain a reasonable degree of interest, concern, or responsibility for the welfare of the children.

¶ 60 The circuit court noted that both parties completed some of their service plan requirements. The circuit court stated, however, that “the glaring fact remains” that the instability and disorder in their lives was “completely inconsistent with the needs of the children.” The circuit court also agreed with the GAL that the children were not a priority for Father.

¶ 61 The circuit court highlighted the testimony of Kraus and Williams that both Father and Mother were sometimes hostile toward their service providers and provided inconsistent information to their caseworkers and service providers. The circuit court stated, “The Permanency Reports of which the Court has taken judicial notice contain ample information on such conduct

on the part of the respondents.” The circuit court noted, for example, that Mother obtained an order of protection against Father based on allegations of domestic violence, but that order was subsequently dismissed at Mother’s request after she recanted her testimony in support of the order. The circuit court noted that while Mother initially told her caseworker that Father had abused her, causing her to be hospitalized for psychiatric care twice, she later told service providers that no abuse occurred. The circuit court further noted that although Father claimed to have missed two or three scheduled visits with the children due to the order of protection, he nevertheless met with Mother in violation of the order.

¶ 62 In conclusion, the circuit court stated that the service plans and the permanency reports of September 26, 2024, and November 26, 2024, provided details of the parties’ lack of progress toward the return of the children during the nine-month period ending on November 7, 2024. The circuit court found that this evidence established that Father and Mother failed to make reasonable progress within that nine-month period and also established “their correspondent failure to maintain a reasonable degree of interest, concern, or responsibility as to the minors’ welfare.” The circuit court thus found both parents unfit on both grounds asserted by the State.

¶ 63 On September 12, 2025, the circuit court entered a written “Finding of Parental Unfitness” in each of the three cases. In the written findings, the circuit court stated that the allegations of the motions to terminate parental rights were true and that both Father and Mother were unfit for the reasons asserted therein.

¶ 64 On November 19, 2025, the circuit court held a hearing on the best interests of the children. Because Father challenges only the circuit court’s finding of unfitness and does not challenge its best interest determination, we defer discussion of the evidence presented during this hearing. The

circuit court concluded by finding that termination of parental rights was in the best interest of the children.

¶ 65 On November 21, 2025, the circuit court entered orders terminating the parental rights of Father and Mother to all three children. Father filed a timely notice of appeal on December 9, 2025.

¶ 66

II. ANALYSIS

¶ 67 On appeal, Father argues that the circuit court abused its discretion in taking “wholesale judicial notice” of its record. In particular, he contends that the circuit court erred in considering the permanency reports and the testimony and evidence introduced in earlier hearings. Before addressing this contention, we must consider the State’s argument that Father has forfeited this claim.

¶ 68 As Father acknowledges, he did not object when the circuit court ruled that it would take judicial notice of the permanency reports. Failure to object to an error results in forfeiture of that claim on appeal. *In re M.W.*, 232 Ill. 2d 408, 430 (2009). Father does not expressly argue that the circuit court’s decision to take judicial notice of the reports amounts to plain error. Nor does he contend he received ineffective assistance of counsel. Instead, he urges us to consider his claim because, due to the nature of the rights at stake, it is the responsibility of the circuit court and all parties to ensure that only admissible evidence is judicially noticed. See *In re M.D.*, 2022 IL App (4th) 210288, ¶ 87.

¶ 69 The principle of forfeiture applies to proceedings under the Juvenile Court Act. *In re M.W.*, 232 Ill. 2d at 430. Nevertheless, forfeiture is a limitation on the parties, not this court. *Kic v. Bianucci*, 2011 IL App (1st) 100622, ¶ 23. We may consider claims that are otherwise forfeited “in the interest of finding a just result.” *Kic*, 2011 IL App (1st) 100622, ¶ 23. Here, the circuit court

relied heavily on the permanency reports in explaining its ruling. In addition, the circuit court considered evidence from earlier hearings without offering the parties an opportunity to object. In light of these circumstances and in view of the importance of the rights at stake, we choose to address the merits of Father’s claim.

¶ 70 On appeal, we review a circuit court’s decisions regarding judicial notice for an abuse of discretion. *In re S.M.*, 2015 IL App (3d) 140687, ¶ 13; *In re J.G.*, 298 Ill. App. 3d 617, 627 (1998). It is often necessary for a circuit court to take judicial notice of portions of the prior record during the fitness phase of termination proceedings to help answer such threshold questions as what remedial steps the respondent parent was required to take, “ ‘when the clock began to run’ ” on those requirements, and what the circuit court’s prior orders were. *In re M.D.*, 2022 IL App (4th) 210288, ¶¶ 79-80 (quoting *In re J.G.*, 298 Ill. App. 3d at 628-29). However, “wholesale judicial notice of everything that took place prior to the unfitness hearing is unnecessary and inappropriate.” *In re J.G.*, 298 Ill. App. 3d at 629.

¶ 71 While judicial notice of some portions of the record—including the circuit court’s prior orders—is appropriate, the evidence underlying prior orders generally may not be considered at the fitness hearing. *In re M.D.*, 2022 IL App (4th) 210288, ¶¶ 80-81. This is because the decision to find a parent unfit must be based solely on properly admitted evidence, and different rules apply to the admission of evidence at different hearings. *In re M.D.*, 2022 IL App (4th) 210288, ¶¶ 77, 83. At permanency hearings, for example, the usual rules of evidence do not apply, and the circuit court may consider all evidence relevant to its determination. *In re M.D.*, 2022 IL App (4th) 210288, ¶ 72. Fitness hearings, by contrast, are governed by the rules of evidence applicable in other civil proceedings. *In re M.D.*, 2022 IL App (4th) 210288, ¶ 75; *In re J.G.*, 298 Ill. App. 3d at 629. Permanency reports are thus admissible at permanency hearings, but they constitute

inadmissible hearsay at the fitness portion of termination proceedings. *In re M.D.*, 2022 IL App (4th) 210288, ¶ 82.

¶ 72 Because a finding of unfitness must be based only on properly admitted evidence, it is imperative that the circuit court limit the scope of its judicial notice to admissible evidence when making that determination. *In re M.D.*, 2022 IL App (4th) 210288, ¶¶ 87-88. Permanency reports are inadmissible at a fitness hearing, and, as such, they must not be judicially noticed, either. *In re M.D.*, 2022 IL App (4th) 210288, ¶ 82. Service plans, however, are admissible as substantive evidence under the Juvenile Court Act's version of the business records exception. 705 ILCS 405/2-18(4)(a) (West 2024); *In re A.L.*, 409 Ill. App. 3d 492, 505 (2011); *In re A.B.*, 308 Ill. App. 3d 227, 235 (1999). Thus, consideration of the service plans was appropriate, but the circuit court abused its discretion in taking judicial notice of the permanency reports.

¶ 73 We must also determine whether the circuit court properly considered testimony and other evidence from earlier hearings. The Juvenile Court Act provides that circuit courts may judicially notice testimony and other evidence from prior proceedings involving the same children if (1) the respondents were represented by counsel at those hearings or knowingly waived that right and (2) taking judicial notice will not result in consideration of hearsay at a hearing where it otherwise would be inadmissible. 705 ILCS 405/2-18(6) (West 2024). In addition, a circuit court "should only take judicial notice of those portions of the underlying court files that have been proffered by the State and to which the respondent is given an opportunity to object." *In re J.P.*, 316 Ill. App. 3d 652, 663 (2000).

¶ 74 Here, the circuit court referenced photographs entered into evidence during the shelter care hearing as well as unspecified testimony from both the shelter care hearing and the adjudicatory hearing. Father did not appear at the shelter care hearing and was not represented by counsel. Thus,

it was improper for the circuit court to take judicial notice of any evidence introduced during that hearing. 705 ILCS 405/2-18(6)(a) (West 2024). Further, none of the parties asked the circuit court to take judicial notice of evidence from prior hearings, and because judicial notice of that evidence was not addressed before the circuit court announced its findings of unfitness, there was no opportunity to object. A circuit court errs when it “effectively ‘notices’ matters not introduced at the unfitness hearing.” *In re C.D.*, 2020 IL App (3d) 190176, ¶ 30. That is precisely what occurred here.

¶ 75 This conclusion does not end our inquiry, however. Improper judicial notice does not always require reversal. Illinois courts have repeatedly held that where the properly admitted evidence was sufficient to prove at least one ground of parental unfitness by clear and convincing evidence and the respondent parent cannot demonstrate prejudice resulting from the circuit court’s error, reversal is not warranted. See, e.g., *In re A.L.*, 409 Ill. App. 3d at 505; *In re A.B.*, 308 Ill. App. 3d at 239; *In re J.G.*, 298 Ill. App. 3d at 629. Here, although we acknowledge that the circuit court referred to the permanency reports frequently in rendering its decision, we nevertheless conclude that the evidence was sufficient to support the circuit court’s finding and Father was not prejudiced by the error for the reasons that follow.

¶ 76 As discussed above, the State asserted two grounds for unfitness in this case: (1) failure to maintain a reasonable degree of interest, concern, or responsibility for the children’s welfare and (2) failure to make reasonable progress towards the return of the children during any nine-month period after adjudication of neglect, specifically the period between February 7, 2024, and November 7, 2024 (750 ILCS 50/1(D)(b), (m)(ii) (West 2024)). Because a parent may be found unfit if the State proves any one of the statutory grounds by clear and convincing evidence, we may affirm the circuit court’s decision if the evidence supports its finding as to either of these

grounds. *In re Baby Boy*, 2025 IL App (4th) 241427, ¶¶ 63-64. For this reason, we need only consider whether the circuit court made sufficient factual findings based on admissible evidence to support its determination that Father failed to maintain a reasonable degree of interest, concern, or responsibility for the children’s welfare.

¶ 77 A respondent parent’s failure to comply with service plan requirements and/or inconsistent visitation with the children are sufficient to support a finding of unfitness for failure to maintain a reasonable degree of interest, concern, or responsibility for the welfare of the children. *In re D.P.*, 2024 IL App (1st) 231530, ¶ 33 (citing *In re Nicholas C.*, 2017 IL App (1st) 162101, ¶ 24). Unlike failure to make reasonable progress, our consideration of the parent’s conduct is not limited to a specific time period. *In re D.P.*, 2024 IL App (1st) 231530, ¶ 33; see 750 ILCS 50/1(D)(b) (West 2024). Our “focus is on the parent’s reasonable efforts more so than the parent’s success.” *In re Za. G.*, 2023 IL App (5th) 220793, ¶ 36. Thus, we must consider any circumstances that made it difficult for the parent to demonstrate the requisite reasonable degree of interest, concern, or responsibility. *In re Za. G.*, 2023 IL App (5th) 220793, ¶ 36.

¶ 78 Significantly, however, a parent cannot avoid a finding of unfitness by showing *some* interest, concern, or responsibility; the question is whether the parent’s interest, concern, or responsibility is *reasonable*. *In re M.I.*, 2016 IL 120232, ¶ 30. In addition, because the statutory language is disjunctive, any one of the three elements may provide a basis for a finding of unfitness. *In re Za. G.*, 2023 IL App (5th) 220793, ¶ 36. That is, a parent may be found unfit for failing to maintain a reasonable degree of interest, a reasonable degree of concern, or a reasonable degree of responsibility. *In re Za. G.*, 2023 IL App (5th) 220793, ¶ 36.

¶ 79 We give deference to the circuit court’s finding of unfitness because that court had the opportunity to observe and evaluate the parties and their testimony. *In re Daphnie E.*, 368 Ill. App.

3d 1052, 1064 (2006). As such, we will reverse the finding only if it is against the manifest weight of the evidence. *In re Baby Boy*, 2025 IL App (4th) 241427, ¶ 63. A decision is against the manifest weight of the evidence “if the opposite conclusion is apparent or when findings appear to be unreasonable, arbitrary, or not based on the evidence presented.” *In re Za. G.*, 2023 IL App (5th) 220793, ¶ 31.

¶ 80 In finding that Father failed to maintain a reasonable degree of interest, concern, or responsibility for his children’s welfare, the circuit court highlighted Sebok’s testimony that the residence remained unsanitary and unsafe for the children and her descriptions of the conditions she observed, including the presence of overflowing trash, animal feces, dirty diapers, gnats, maggots, and other insects. The circuit court thus explicitly relied on competent evidence in finding that both parents failed to remedy the primary problem that brought the children into care in the first place.

¶ 81 Another matter emphasized by the circuit court was the instability in the parties’ relationship and circumstances. This finding was supported by Kraus’s testimony that the parties’ circumstances, particularly Father’s part-time residence and Mother’s decision to move out for a time, created an environment that was not “consistent and safe” for the children.

¶ 82 The circuit court also mentioned the testimony of Kraus and Williams that Father was sometimes hostile, noncooperative, and dishonest in his dealings with them. Further evidence of Father’s hostility and its impact on his ability to cooperate with service providers is found in the August 2023 service plan, which indicates that visitation had to be moved to DCFS’s offices for several months due to Father’s threatening behavior.

¶ 83 The circuit court found that Father failed to make his children a priority, in agreement with the GAL’s argument. Although the court did not specify what evidence it relied upon in making

this finding, the GAL argued that Father’s “part-time parenting” demonstrated his lack of commitment. The fact that Father lived primarily in Iowa was established by Kraus’s testimony as well as notations to that effect in multiple service plans.

¶ 84 Similarly, the circuit court found that there was no evidence that Father provided significant financial support to Mother and the children. This finding was likewise supported by the testimony of Kraus and by information in two of the service plans. Although Father paid the rent and utilities for the trailer, he did not leave Mother with money to meet her basic needs when he returned to Iowa during the week. During one of the caseworker’s visits, Mother attributed the cluttered condition of the residence, in part, to her inability to do laundry until Father returned on the weekend.

¶ 85 Although the circuit court should not have relied on the permanency reports and evidence from prior hearings in making many of its other factual findings, we find that nearly all of the specific factual findings based on information gleaned from the improperly noticed materials were also supported by the testimony or the information found in the service plans or both. For example, the circuit court emphasized the events surrounding the order of protection Mother obtained against Father and the parties’ violations of that order. Although the circuit court pointed to the September 26, 2024, permanency report in making these findings, Kraus testified to the very same facts. Specifically, she testified that Mother obtained an order of protection based on allegations of physical abuse by Father and that the parties subsequently violated that order before Mother had it dismissed. The August 2024 service plan likewise states that Mother obtained an order of protection due to allegations of physical abuse by Father and that the parties were residing together in violation of that order. In referring to the permanency report, the circuit court noted that Father complained of missing two visits with the children while the order of protection was in effect.

Although this particular information is not available from any other source, we do not believe it played a significant role in the circuit court's decision.

¶ 86 The circuit court likewise referred to the photographs admitted at the shelter care hearing and testimony from earlier hearings in making findings concerning the conditions of the residence when the children came into care. Although consideration of this evidence was improper, Sebok described these same conditions in detail during her testimony at the fitness hearing. Further, as mentioned earlier, the circuit court explicitly relied on Sebok's testimony that she continued to observe "the same kind of conditions that existed when custody was taken" as the case proceeded, including the presence of feces, trash, dirty diapers, and insects.

¶ 87 Father also asserts that the circuit court relied on testimony from a previous hearing in finding that he was married to a woman in Iowa when the case opened. However, in making this finding, the circuit court did not specify the source of that information. Moreover, Kraus testified at the hearing that Father was married when the case opened. Thus, this finding was supported by properly admitted evidence.

¶ 88 The circuit court also looked to the permanency reports for information regarding Father's residence and employment. Many of the facts highlighted by the circuit court in its ruling were also included in the service plans. For example, the service plan dated August 10, 2023, indicates that Father reported living with friends in Iowa, while Mother reported that he lived in his truck, a discrepancy noted by the circuit court in its ruling. Regarding Father's employment, all service plans in the record state that Father was employed by Amazon in Iowa, and some mention that he had a second job with Danfoss.

¶ 89 We acknowledge that the circuit court also referred to some matters that were only addressed in the permanency reports. For example, the circuit court noted that Father's residence

was “variously identified as Luther, Iowa, and Davenport, Iowa,” while the testimony and service reports indicated only that Father resided in Iowa without specifying a city. Similarly, the circuit court pointed to information in a September 26, 2024, permanency report indicating that Father intended to transfer his employment to Illinois to be with Mother and the children before finding that there was no evidence he had done so. Although there was no competent evidence that Father expressed this intent, the August 2024 service plan indicates that Father expressed an intent to retire and move to Illinois to care for the children. We do not find the distinction between seeking a transfer and planning to retire or the finding that Father did not provide specific evidence of his residence to be particularly significant or prejudicial. Because nearly all of the circuit court’s factual findings were explicitly based on competent evidence or were supported by properly admitted evidence, we simply do not believe that the circuit court would have reached a different result had it not considered the improperly noticed material.

¶ 90 Finally, we note that, although not discussed by the circuit court, additional evidence supported the finding of unfitness for failure to maintain a reasonable degree of interest, concern, or responsibility for the children’s welfare. For example, Williams testified that Father did not actively engage with the children during many visits and did not take appropriate action when the children misbehaved, such as imposing a time-out. Williams acknowledged that Father’s parenting improved for a while, but she testified that he subsequently reverted to his old habits and often failed to put into practice the parenting skills he learned.

¶ 91 In addition, both the service plans and the testimony of Kraus established that Father did not consistently engage with the housing advocate, thus failing to address the most important issue in this case. Although Father was rated as satisfactory for most of his services in the August 2024 service plan, he was not rated as satisfactory on this crucial requirement. Moreover, the August

2024 service plan indicated that DCFS added requirements to Father's service plan to address concerns that arose due to Father's arrest for DUI, Mother's allegations of domestic violence, and both parties' violations of an active order of protection. There 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." *In re Ta. T.*, 2021 IL App (4th) 200658, ¶ 56.

¶ 92 In its oral ruling, the circuit court emphasized that due to the unsanitary condition of the parties' shared residence throughout the more than two years this case remained pending, it was "not a suitable place for visitation with the children, let alone residing there." On appeal, Father points out that the condition of the home improved during the time he lived there alone. The evidence in the service plans supports this contention. However, because Father did not live in the residence full-time, it could not have been deemed a safe and appropriate home for the children when Mother moved out, no matter how clean it was.

¶ 93 Moreover, although we recognize that the condition of the home resulted largely from Mother's inability to keep it clean, we cannot overlook the role Father played by being absent from the home and failing to provide adequate financial support. Despite Mother's challenges in parenting the children and maintaining the residence, Father continued to live and work in Iowa for more than two years after the children entered care. In a service plan, DCFS recognized that Father's absence made it difficult for him to support Mother in taking care of their home. In addition, he did not leave Mother with money to do laundry or make necessary purchases during the week. Ultimately, Father was required to provide his children with safe and appropriate housing, whether jointly with Mother or on his own. However, the record contains substantial evidence of the ongoing unsanitary condition of the parties' shared residence and no evidence that

Father attempted to establish another home for his children. Thus, he clearly failed to satisfy this requirement.

¶ 94 The properly admitted evidence we have discussed establishes that the condition of the home did not improve and Father did not consistently engage with the housing advocate who was working to help him address that problem, and the parties' relationship remained unstable, leading Mother to move out of the residence while Father continued to live primarily in Iowa. In addition, regardless of the progress Father made on many of his services, he reverted to former habits in terms of his parenting skills and interaction with the children, and his conduct led DCFS to add new services to his plan. Viewed in its entirety, we find this evidence sufficient to support the circuit court's finding of unfitness for failure to maintain a reasonable degree of interest, concern, or responsibility for the welfare of the children by clear and convincing evidence. Further, although the circuit court considered the permanency reports and prior hearings in making some of its factual findings, most of the information it relied upon in making these findings was also available in the properly admitted evidence. As such, Father cannot show that he was prejudiced by the error. We may thus affirm the circuit court's finding of unfitness.

¶ 95 Father does not challenge the circuit court's finding that termination of his parental rights was in the children's best interest. As such, he has forfeited consideration of any such claim. Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020) (providing that points not argued in an appellant's brief are forfeited). We therefore affirm the circuit court's best interest finding as well as its finding of unfitness.

¶ 96

III. CONCLUSION

¶ 97 For the foregoing reasons, we affirm the circuit court's orders terminating Father's parental rights.

¶ 98 Affirmed.

In re Soren W., 2026 IL App (5th) 251004

Decision Under Review: Appeal from the Circuit Court of Clark County, Nos. 23-JA-2, 23-JA-3, 23-JA-5; the Hon. Tracy W. Resch, Judge, presiding.

**Attorneys
for
Appellant:** John B. Hensley, of Champaign, for appellant.

**Attorneys
for
Appellee:** Kyle P. Hutson, State's Attorney, of Marshall (Patrick Delfino, Patrick D. Daly, and Luis E. Hizo Quiel, of State's Attorneys Appellate Prosecutor's Office, of counsel), for the People.
