

NOTICE
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2022 IL App (5th) 220390-U

NO. 5-22-0390

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> KADRICK H., KALAYZIA H.,)	Appeal from the
BRAYLEN W., and MALAYNA W., Minors)	Circuit Court of
)	Williamson County.
(The People of the State of Illinois,)	
)	
Petitioner-Appellee,)	Nos. 19-JA-75, 19-JA-76,
)	19-JA-77, 19-JA-78
v.)	
)	
Milik H.,)	Honorable
)	Amanda Byassee Gott,
Respondent-Appellant).)	Judge, presiding.

JUSTICE WELCH delivered the judgment of the court.
Justices Cates and Vaughan concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court’s finding that the respondent father was unfit because he failed to make reasonable efforts to correct the conditions that were the basis for the children’s removal during any nine-month period following adjudication was not against the manifest weight of the evidence. Also, the court’s finding that it was in the children’s best interests to terminate the respondent father’s parental rights was not against the manifest weight of the evidence. Accordingly, we affirm the court’s termination of the respondent father’s parental rights.

¶ 2 The respondent father, Milik H., appeals the judgment of the circuit court of Williamson County terminating his parental rights to his minor children, Maylayna W.,

Braylen W., Kadrick H., and Kalayzia H. On appeal, Milik H. argues that the court's findings that he was an unfit parent under sections 1(D)(g) and 1(D)(m)(i) of the Adoption Act (750 ILCS 50/1(D)(g), (m)(i) (West 2020)) were against the manifest weight of the evidence. He also contends that the court's best-interests finding was against the manifest weight of the evidence. For the reasons that follow, we affirm the trial court's findings.

¶ 3

I. BACKGROUND

¶ 4 Davina W.¹ and Milik H. had four children, Maylayna W., born February 14, 2017; Braylen W., born May 2, 2018; Kadrick H., born May 29, 2019; and Kalayzia H., born May 29, 2019. On July 22, 2019, the State filed petitions for adjudication of wardship in Williamson County case Nos. 19-JA-75, 19-JA-76, 19-JA-77, and 19-JA-78,² alleging that the children were neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(b) (West 2018)) as their environment was injurious to their welfare. The petition alleged that, on June 20, 2019, Milik H. was arrested and charged with domestic battery for striking Davina W. in the face multiple times. It was also alleged that, during the incident, he struck Kamora W., Davina W.'s daughter, in the face (he was not Kamora W.'s father). Thereafter, a no contact order was put into effect, which prohibited Milik H. from being at the residence or having any contact with Davina W. and the minor children.

¹Although Davina W.'s parental rights were also terminated, she was not part of this appeal. However, she has a separate appeal pending in this court that has not been decided as of the filing date of this decision. Our decision here will focus on the facts related to Milik H.

²These four cases were initially docketed as 5-22-0390, 5-22-0391, 5-22-0392, and 5-22-0393. However, on June 24, 2022, this court consolidated all four cases under 5-22-0390 for all purposes.

¶ 5 The petition further alleged that, on July 19, 2019, police responded to the protected residence for a wellness check and discovered Milik H. at home alone with the minor children. When the police arrived, Milik H. fled from them by exiting the apartment through a window. By fleeing, he left the children inside alone in the apartment with the front door locked and the oven on with food cooking inside. Braylen W., who was one year old at the time, was left lying on a bed about to fall off of it. Davina W. was aware that Milik H. was at the residence with the children.

¶ 6 On July 23, 2019, the trial court entered a temporary custody order, finding that probable cause existed that the minor children were neglected and placing temporary custody of them with the Illinois Department of Children and Family Services (DCFS). On September 5, 2019, the court entered an adjudicatory order, finding that the minor children were abused or neglected because they were in an environment that was injurious to their welfare.

¶ 7 On September 25, 2019, Caritas Family Solutions (Caritas) filed a dispositional hearing report for July 26, 2019, through September 24, 2019, which indicated that, on June 20, Davina W. was on the phone with a neighbor expressing that she was overwhelmed and not feeling supported when Milik H., who overheard the conversation, started hitting her in the face. The four-year-old child walked into the room during the incident and told Milik H. to stop hitting Davina W. He then hit the child. Either Davina W. or the neighbor called the police, and Milik H. fled the scene. On July 19, the police responded to the residence for a wellness check. Milik H. answered the door and told the officers that he was there with the children and to give him a minute. He then shut the

door. The police subsequently observed him jumping out of the window on the side of the residence. Because the front door was locked, the officers had to climb through the window to get inside. Once inside, they noticed one-year-old Braylen W. lying on the edge of a mattress. Milik H. was eventually caught and taken to jail for a bail bond violation.

¶ 8 The report also indicated that the family had been involved with the Lutheran Social Services intact program before becoming involved with Caritas. Caritas had been unable to contact and assess Milik H., but they had a new phone number for him, so they were going to try that number.

¶ 9 On October 10, 2019, the trial court entered a dispositional order, finding that Milik H. was unfit because he needed services. The permanency goal was to return the children home.

¶ 10 On February 26, 2020, Caritas filed a DCFS permanency hearing report, which indicated that the following services were recommended for Milik H.: mental health services, domestic violence services, parenting services, stable housing, and stable income. He had not completed a mental health assessment and had not participated in domestic violence services. On December 4, 2019, he successfully completed the real-life parenting skills curriculum through Centerstone. It was recommended that he engage in a hands-on parenting program through Project 12 Ways, but a referral could not be made until he obtained stable housing. Milik H. reported that he was staying with various friends but had not provided an address. On February 21, 2020, a housing advocacy referral was made for him. Although Milik H. reported that he was employed at Bob Evans restaurant, he had not provided Caritas with any pay stubs or a work schedule.

¶ 11 Since weekly visits with the children began on January 17, 2020, Milik H. missed one visit due to a lack of transportation. Before January 17, he made no attempt to visit with them and failed to maintain contact with Caritas. During visits, he interacted appropriately with the children and usually did a good job of interacting with them all at the same time. However, he did ask agency staff to help when he struggled to calm one of them down, and there were times where staff had to step in to make sure that the children did not get hurt when he was focused on one of them. He regularly provided meals and drinks, often provided diapers, changed diapers during visits, and was often open to recommendations about their care. Maylayna W. and Braylen W. were often indifferent to him and needed to be encouraged to interact with him.

¶ 12 On March 12, 2020, the trial court entered a permanency order, finding that Milik H. had made some progress toward the children returning home. In the order, the court noted that Milik H. needed to work harder to complete service tasks. The permanency goal remained for the children to return home.

¶ 13 On July 30, 2020, Caritas filed another DCFS permanency hearing report that stated documentation received on March 4, 2020, indicated that Milik H. completed a mental health assessment on August 2, 2019, which recommended that he participate in mental health counseling and parenting. However, he did not fully participate in individual mental health counseling. He attended sessions on August 15, 2019, and November 7, 2019; he reengaged in mental health services in February 2020; he completed an updated assessment on February 24, 2020; and he attended a session on March 2, 2020. His counselor reported that he was engaged and progressing well in his services. He had not participated in

domestic violence services, he still had not secured stable housing, and he had not completed the hands-on parenting program. On July 1, 2020, he reported that he was living in a hotel but did not provide the name of the hotel. He was granted a housing advocate, but his case was closed on June 26, 2020, due to his lack of compliance; he was mailed two packets of initial paperwork but stated he lost them both, and he did not return his housing advocate's phone calls or text messages. He was working at Bob Evans but was laid off due to the COVID-19 pandemic; he reported that he was receiving unemployment.

¶ 14 During visits, Milik H. demonstrated some parental capabilities but had fallen behind in others. Specifically, he demonstrated a capacity to engage all four children in play at the same time, but he struggled to provide for their needs. He only provided food and drinks for one of the three recent visits, and he failed to provide diapers. He also expressed frustration to case aides for requiring him to parent as a single father.

¶ 15 On September 1, 2020, a DCFS permanency hearing report was filed, but it was only partially completed. The report indicated that Milik H. was engaged in mental health services, and he agreed to schedule an appointment with Shawnee Health Services to meet with a primary care physician and a psychiatrist. On August 27, 2020, he was referred to domestic violence services through Night's Shield because the facility would begin offering in-person classes on September 21, 2020. He had not completed the hands-on parenting program because he had not yet obtained stable housing. He provided proof of employment on August 14, 2020. He missed three visits since in-person visits were reinstated; he cancelled the August 7, 2020, visit due to a lack of license or insurance for his vehicle. At this time, due to the distance the children had to travel for visits, and his

short notice in cancelling visits, he was told that he was required to confirm the visits by a certain time each week or the visit would be cancelled. He failed to confirm the August 28, 2020, visit, so it was cancelled.

¶ 16 On September 10, 2020, the trial court held a permanency hearing, at which the court noted that the recently filed permanency report was incomplete, and it was brought to the court's attention that a service plan had not been filed and that Milik H. had not been provided with a service plan. The caseworker's supervisor, who was present at the hearing, then advised that Milik H.'s most recent service plan had been prepared in July 2020 and that nothing new had been added to it. The court then reprimanded Caritas for providing an incomplete report and failing to file a service plan. That same day, the court entered a written permanency order, again finding that Milik H. had made some progress toward the children returning home, but he needed to make better progress with the children and services.

¶ 17 On January 21, 2021, Caritas filed a permanency hearing report, which indicated that Milik H. was unsatisfactory in domestic violence services because, although on December 9, 2020, he reported that he completed online domestic violence services, he had not provided the name of the service provider or provided documentation of completion. He was also told at the September 2020 permanency hearing that an online domestic violence program would not qualify as a satisfactory domestic violence program. He was unsatisfactory in mental health services as he had not actively participated in counseling since October 27, 2020, and he was not successfully discharged. He still had not engaged in hands-on parenting services because a referral could not be made for him

until he obtained stable housing. His employment at Bob Evans through the past year had been intermittent due to the COVID-19 forced shutdowns.

¶ 18 Milik H. had weekly visits with his children, and he had missed four visits since July 2020 because he failed to confirm before the agreed-upon deadline. During visits, he struggled to interact with the children, he often appeared overwhelmed, and he would watch them play instead of directly interacting with them. He struggled to manage all of the children at the same time, especially if more than one of them needed his attention at the same time. He often chose to ignore behaviors rather than disciplining them, and there had been times where staff had to intervene to ensure the safety of the children. He had demonstrated an ability to tend to their physical needs, such as diapering.

¶ 19 On January 26, 2021, Caritas filed a family service plan that reported Milik H. was staying with various friends in Marion, but he had not provided an address. He was employed at Bob Evans in January 2020 but was laid off due to the forced shutdown. His position was reinstated when the restaurant reopened for in-person dining, but he was again laid off in December 2020 due to COVID-19. He reported that he was receiving unemployment, although he had not provided any documentation as verification. He did not notify the caseworker of his change in employment status in a timely manner. He participated in mental health services until October 27, 2020, when he disengaged without being successfully discharged. Although he claimed that he completed domestic violence services, he did not state where he completed the program or provide any documentation showing that it was completed. He still could not be referred for in-home parenting services because he did not have stable housing. During visits, he struggled to parent all four

children at one time without help and often got overwhelmed when multiple children were upset or needed his attention at once.

¶ 20 On February 4, 2021, the trial court entered a permanency order, finding that Milik H. had made minimal progress toward the children returning home. The permanency goal remained for the children to return home within 12 months.

¶ 21 On March 22, 2021, DCFS filed another permanency hearing report, stating that Milik H. was unsatisfactory in mental health services, and reports from Centerstone indicated that he had not participated in counseling services since October 27, 2020. He still had not obtained stable housing and was unable to complete hands-on parenting services. A referral was made so that he could reengage in housing services, but it was denied because the provider was not taking new housing clients at the time. His visits with the children were still supervised due to his inconsistency with visits and lack of progress in services. He did not confirm his visits by the agreed-upon deadline for his March 2, 2021, and March 17, 2021, visits, and they were cancelled.

¶ 22 On April 1, 2021, the trial court entered another permanency order, finding that Milik H. had again made minimal progress. The permanency goal remained to return home within 12 months.

¶ 23 On August 2, 2021, the State filed a petition for termination of parental rights and for appointment of a guardian with power to consent to adoption. In the petition, the State contended that Milik H. was unfit under section 1(D)(b) of the Adoption Act (750 ILCS 50/1(D)(b) (West 2020)) in that he failed to maintain a reasonable degree of interest, concern, or responsibility as to the minor children's welfare; under section 1(D)(g) of the

Adoption Act (*id.* § 1(D)(g)) in that he failed to protect the children from conditions within their environment that were injurious to their welfare; and under section 1(D)(m)(i) of the Adoption Act (*id.* § 1(D)(m)(i)) in that he failed to make reasonable efforts to correct the conditions that were the basis for the children's removal during any nine-month period after the adjudication of neglect.

¶ 24 On August 5, 2021, Caritas filed a permanency hearing report, which indicated that Milik H. attended 9 of 15 counseling sessions between February 24, 2020, and October 27, 2020. He was then discharged from mental health and anger management treatment on March 1, 2021, for noncompliance. He provided a certificate of compliance for a four-hour online domestic violence program; he completed the program on September 10, 2020 (the program offered 4-, 8-, 12-, and 16-hour courses, and he chose to take the 4-hour course). However, he was previously informed by his caseworker that online domestic violence programs were not DCFS approved.

¶ 25 Milik H. occasionally participated in visits with the children; he attended 8 out of 14 visits over the last six months. During visits, he was overwhelmed and struggled to demonstrate levels of appropriate parenting techniques. He sometimes planned activities for the children to do during visits, but most of the visits he spent watching the children run around and provided little discipline to them. He was still living with friends. The report recommended that the permanency goal be changed to substitute care pending a determination on termination of parental rights.

¶ 26 On August 19, 2021, the trial court entered a permanency order, changing the permanency goal to substitute care pending a determination on termination of parental

rights. On January 31, 2022, Caritas filed a report, which indicated that Milik H. had not fully completed the requirements of his service plan, although he had ample opportunity to do so. He was rated unsatisfactory on every service plan with regard to parenting education and demonstrating learned behaviors. He still could not complete in-home parenting because he was homeless, and he did not demonstrate that he learned any parenting skills as evidenced by his inconsistent contact with the children for visits and his lack of engagement with all four children during visitation times.

¶ 27 Milik H. had been rated unsatisfactory on every service plan with regard to domestic violence treatment. However, he began a 24-week domestic violence perpetrator course with the Carbondale Police Department on October 18, 2021; he had attended 9 of 11 sessions. If he did not miss a session, he would complete the program by April 11, 2022. In August 2021, he provided the agency with proof of his income at Bob Evans. He also had been rated unsatisfactory on every service plan regarding proof of stable housing. He had been homeless or living with different family members throughout the life of the case, and he often refused to provide an address to the caseworkers. Although he recently moved into a two-bedroom apartment, and there were no major safety concerns with his residence, the apartment could not be considered stable housing because he moved there within the last month. The agency was concerned that he would be unable to afford the apartment given his fixed income.

¶ 28 Milik H. began mental health counseling at Centerstone on November 22, 2021, but mental health was traditionally a 6- to 12-month program. Given his history of domestic violence and his inability to recognize his role in the children coming into care, the agency

believed that he would need to be in mental health treatment for a significant amount of time. Since the permanency goal was changed to substitute care, his visits were decreased to one hour per month. During visits, he struggled to fully engage with all four children, and he seemed overwhelmed when one or more of them got upset.

¶ 29 The report concluded that Milik H. had ample time to complete his services and demonstrate a change in behavior. The case was opened July 19, 2019, and the children would be in care for 927 days as of the termination hearing. The children were extremely bonded to their current foster home and deserved permanency.

¶ 30 The fitness hearing was held on March 31, 2022, and June 13, 2022. At the hearing, Aubrey Berry, a caseworker for Caritas, testified that she was the caseworker in this case between November 2019 and May 2021. Milik H. was uncommunicative with the agency from November 2019 until late December 2019. He was recommended to complete the following services: parenting services, mental health services, domestic violence services, stable housing, and stable income. When she started as the caseworker, he was not involved in any of his services.

¶ 31 Milik H. was rated overall unsatisfactory on his January 2020 service plan. Although he completed an online parenting class through Centerstone, he was recommended to complete hands-on parenting through Project 12 Ways, but he had not started yet. He was living with various friends, and it was explained to him that he could not engage in the hands-on parenting program if he did not have a home. He also had not started domestic violence counseling. She explained to him that an in-person domestic violence course was required and recommended the course through the Carbondale Police

Department. He did not provide proof of his employment, and he was not doing mental health counseling. He did not attend the meeting for his new service plan, but he was not given any additional services. He started visits with the children in January 2020, but he did not attend all of his visits.

¶ 32 The next service plan was evaluated in July 2020, and he was again rated overall unsatisfactory. Milik H. was not cooperating with services; he had not engaged in domestic violence services, had not provided proof of his income, and had not secured stable housing. He had completed a mental health assessment through Centerstone, and it was recommended that he complete mental health services.

¶ 33 The next service plan was for July 2020 through January 2021, and Milik H.'s services were the same. Although he reported that he completed an online domestic violence class, he did not provide any verification. Berry believed that online domestic violence services were suggested at the September 2020 court hearing, but she was not present for that hearing. However, she had explained to Milik H. that the agency did not recognize online domestic violence classes. Berry acknowledged that, because of the COVID-19 pandemic, the Carbondale Police Department shut down their in-person domestic violence class in March 2020. When she spoke to them in approximately September 2020, they had reopened the program. However, there was a waitlist for the class. Milik H. contacted Berry about the program being shut down, but she did not have any suggestions for him since she could not recommend an online program, and there were no other in-person programs at that time.

¶ 34 Milik H. participated in mental health services, but his participation was inconsistent. He had no stable housing, so they were still not able to start in-home parenting. He did provide her with two pay stubs confirming his employment. From March 2020 to July 2020, in-person visits with the children were halted due to the COVID-19 pandemic. However, Milik H. received telephone visits with the older children. He was not consistent with the telephone visits.

¶ 35 From January 2021 through July 2021, Milik H. had not completed any of his services, and he was discharged from mental health services for lack of contact. He reenrolled in mental health services, but Berry could not say whether it was during this time period. He still did not have stable housing and had not started an in-person domestic violence program. He reported that he attempted to enroll in the Carbondale Police Department's program but was unable to talk with anyone. He attended visits and was cooperative with speaking to Berry.

¶ 36 Berry acknowledged that, on February 12, 2020, she received correspondence from Milik H.'s attorney stating that Milik H. had not received a service plan and requesting that she send it to him. She then met with Milik H. in person about his services, and he indicated that he understood his required services. However, she could not remember whether she gave him a physical copy of the service plan. Although she was under the impression that the service plans were being filed with the trial court, she acknowledged that the first service plan to be filed was filed on January 26, 2021. She also acknowledged that the permanency orders entered while she was the caseworker indicated that Milik H. had made some progress in his services. There were times when transportation was an issue for Milik

H.; he was having a hard time getting to visits because he lived in Carbondale and the children were in Mt. Vernon. However, Berry could not assist him with transportation, and she could not remember why. Although she submitted a referral for a housing advocate, Milik H. misplaced the initial paperwork two times and eventually stopped returning the advocate's telephone calls. Thus, he was terminated from their advocacy.

¶ 37 Marcus Clarry, a caseworker for Caritas, testified that he became involved in the case in May 2021, and he evaluated the July 2021 service plan. Regarding parenting, Milik H. completed the parenting course, but his efforts during visits were rated unsatisfactory because he was unable to perform or demonstrate what he had learned during his parenting classes. He was also rated unsatisfactory for mental health because he was not engaged in any mental health program. Although he had completed some evaluations and attended some counseling sessions, Milik H. had not completed any mental health services at that time. In November 2021, he reengaged in counseling after being discontinued in 2021 for only attending three sessions. At the time of the hearing, he was discharged successfully from the counseling program; he had seven counseling sessions in four months.

¶ 38 In July 2021, Milik H. was still homeless and was sleeping at different family members' homes. He had stable income, but he had not provided any pay stubs to prove that; his attorney provided them to Clarry at the August hearing. Although there was a lull in Milik H.'s employment due to COVID-19 and restaurants being shut down, he went back to work as soon as he was able. In June, he was not engaged in domestic violence. Clarry was not aware that the Carbondale Police Department was not offering domestic violence classes for a time in 2020, but he noted that he had other clients that were offered

those services shortly after the pandemic in 2020. Milik H. had completed domestic violence services in April 2022; he started the program in October 2021.

¶ 39 At the time of the hearing, Milik H. had obtained housing; he resided in a two-bedroom apartment in Carbondale. Clarry had been to the residence several times and observed that, although there were not many items in the apartment, it was safe. Milik H. was going to give the bedrooms to the children, and he was going to sleep downstairs on a futon.

¶ 40 At the time that the petition to terminate parental rights was filed in August 2021, Milik H. was not rated satisfactory in all aspects of his service plan, and he had not completed all of his service plan tasks. At the time of the hearing, the children were not ready to be returned to Milik H.

¶ 41 Milik H. testified that, although he recognized that it took some time, he completed all of his services except the in-home parenting program, which he could not engage in unless the permanency goal was changed to return home. He did not receive much assistance from Berry as his caseworker, he did not receive a service plan until January 2021, and he only received two service plans throughout the case. However, he acknowledged that he had conversations with Berry about some of the tasks that he was required to complete, such as a mental health assessment and parenting classes. He also acknowledged that the fact that he did not have a service plan did not impact his ability to complete his services. He further acknowledged that he was aware that he had to complete in-home parenting as part of his services and that he needed his own home to do that. He denied that he ever stopped going to counseling, explaining that he was given a new

counselor, and the new counselor did not set up any further appointments for him. However, he reengaged in counseling two months later and subsequently completed that service in April 2022.

¶ 42 As for domestic violence services, Milik H. contacted the Carbondale Police Department on multiple occasions, but he was told that they were unable to do an in-person program because of the COVID-19 pandemic. He then completed a four-hour online domestic violence course and was told by Berry that it would be approved (he did not seek her approval before taking the course). However, when he brought his certificate of completion to court, she told him that it was not approved because it was an online program. He then continued his attempts to enroll in the Carbondale Police Department's program, but he was not able to start until November 2021. He successfully completed that program. He acknowledged that domestic violence was the reason why the children were brought into care.

¶ 43 Milik H. acknowledged that he was homeless for most of 2020. He obtained his current housing in December 2021. He was employed at Bob Evans before the COVID-19 pandemic, was laid off when the restaurant was shut down for about four months, and then went back to work there when they reopened. He still worked there. His income allowed him to pay his rent and other bills. He admitted that he was unable to take care of four children and had consented to their maternal grandmother being their temporary guardian.

¶ 44 After hearing the testimony, the trial court found that the State had not proven, by clear and convincing evidence, that Milik H. failed to maintain a reasonable degree of

interest, concern, or responsibility as to the minor children's welfare. However, the court found that the State had proven, by clear and convincing evidence, that Milik H. was unfit because he failed to protect the children from the conditions within their environment that were injurious to their welfare and failed to make reasonable efforts to correct the conditions that led to their removal during any nine-month period following adjudication. The court noted that there were multiple nine-month periods in the case, and Milik H. had not been able to complete services.

¶ 45 In making these findings, the trial court recognized that there had been issues with the service plans and difficulties that arose because of the COVID-19 pandemic, such as a delay in some services. However, the court noted that Milik H. was not diligent or quick with his services. Although he had stable income for the majority of the case, he had housing issues. The court acknowledged that, although Milik H. was out of work for approximately four months, that was because of the shutdowns caused by the COVID-19 pandemic. The court noted that this was for a finite amount of time, and the pandemic did not provide a sufficient explanation for why Milik H. had not completed his services in a timely manner. The court recognized that domestic violence services were delayed but noted that did not cause a one-year delay in him completing this service.

¶ 46 Even though Milik H. did not have a service plan, the trial court found that this did not prevent him from doing his services or knowing what services he needed to complete, which he admitted. The court believed that there was a service plan, but it was an oversight that it did not get filed because this case started as an intact case. The court explained that this was not an excuse and that the service plan should have been filed but noted that it had

not heard any testimony from Milik H. about him not knowing what services were required. The court noted the children had been in care for almost three years, and there was ample time for services to be completed, so that they could be returned home. Thus, the court found Milik H. to be an unfit parent.

¶ 47 The trial court then proceeded to the best-interests hearing. At that hearing, Clarry testified that the children had been in care for almost three years, and the youngest were three-year-old twins. All four children had been living in the same foster home for over one year, it was an upper middle-class home, and they all enjoyed their home. They only had great things to say about their foster parents. Clarry visited the home once a month to observe them playing, their rooms, and their well-being, and he had no concerns. The foster parents met all of their medical and educational needs, were cooperative with services, were willing to adopt them all, and provided the children with stability. The children shared a large bedroom, but it was adequate for the space that they needed. The two oldest were in bunk beds, and the two younger ones were in toddler beds. They had a lot of toys, and it was loud in the home because the children were rambunctious. Clarry believed that it was in the children's best interests that Milik H.'s parental rights be terminated. He believed that taking the children from the foster home, especially the twins who had been in the same home since they were nine weeks old, would be a difficult transition.

¶ 48 Clarry believed that Milik H. was not ready for the children to be returned to him. Although he recently completed some services, there were still concerns about his ability to parent four children at one time. This was based on Clarry's observations during visits

and on what the aides had reported about visits. Clarry talked with Milik H. about these concerns, and Milik H. felt like he was doing his best to care for the children. Clarry also spoke with Milik H. about providing adequate meals for the children and not just snack food and about being present and playing with them instead of giving them cell phones to play with for 30 minutes out of the hour-long visit. Overall, the visits were chaotic at times, and it was hard to control the children because there were no established rules. However, Clarry recognized that it would be difficult to establish rules with children when the parent only had once-per-month visits, and the children had not lived with the parent for several years. Clarry also acknowledged that Milik H. would sit down with the children and help them with meals, he brought books to some visits to read to them, and he wanted them to enjoy the visits. Clarry acknowledged that Milik H. loved them, and they loved him.

¶ 49 After visits, Clarry drove the children 45 minutes back to their home, so he also observed them after visits. He noticed that, two months before, it was difficult to calm Kalayzia H. down at the end of visits; it took about 5 to 10 minutes for her to calm down after Milik H. left. However, once she realized that she was returning to her foster home, she was fine and stopped crying. She indicated that she just wanted her mommy and daddy; he believed that she was talking about her foster parents. The other children also referred to the foster parents as mom and dad.

¶ 50 The children's oldest sister was placed in a foster home that was about two miles from them. They saw each other often, and the foster parents set up visits outside of the normal visitation times, so that the children could have more time together.

¶ 51 The guardian *ad litem* (GAL) testified that the children had all flourished in the foster home, and they were all very active. The GAL requested that the trial court find that it was in the children's best interests to terminate parental rights.

¶ 52 Milik H. testified that he worked so hard for his children to be returned to him and to show the trial court that he was trying to be the best father that he could be and to get his children back in his care. During visits, the children liked taking pictures with his phone, he helped to clean them up, he brought them toys that he bought, and he showed them equal attention. He felt that they did not want to leave him at the end of visits, they called him daddy, and he loved them all. He worked two jobs and wanted to show his children that he was a good role model. He completed all of the services that were asked of him, and he wanted his children to be with him because he knew that he deserved them and could take care of them. He felt like his caseworker offered the bare minimum of support.

¶ 53 Davina W. testified that she believed that Milik H. loved the children, that he was not the same person as before, and that the children would be safe with him. She trusted him to have sole custody of the children and believed that he was a good father.

¶ 54 After hearing the testimony, the trial court found that the State had proven, by a preponderance of the evidence, that it was in the children's best interests that Milik H.'s parental rights be terminated. In deciding, the court noted that time was not on the parents' side in juvenile court cases, and sometimes the parents did not realize that until it was too late. The court noted Milik H. clearly loved the children, but there were two children who had been in care for the majority of their lives, and the next oldest child had been in care

for two-thirds of that child's life. The court concluded that it was left with the only choice that it could find, at three years into the case, and that it was in the children's best interests to have permanency. The court explained that, if it denied termination, the children would be left in care and would be looking at four or five years in placement while Milik H. continued his attempts to get his life back in order. The court found that would be unfair to the children. Thus, the court found that termination was in their best interests.

¶ 55 On June 15, 2022, the trial court entered a written order of termination of parental rights, reiterating its findings that the State had proven that Milik H. was unfit and that it was in the children's best interests for his parental rights to be terminated. Milik H. appeals.

¶ 56

II. ANALYSIS

¶ 57

A. Fitness Determination

¶ 58 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)). *In re D.F.*, 201 Ill. 2d 476, 494 (2002). A petition to terminate parental rights is filed under section 2-29(2) of the Juvenile Court Act, which delineates a two-step process in seeking to terminate parental rights involuntarily. 705 ILCS 405/2-29(2) (West 2020). It must first be established, by clear and convincing evidence, that the parent is an unfit person under one or more of the grounds of unfitness enumerated in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2020)). 705 ILCS 405/2-29(2), (4) (West 2020); *In re D.F.*, 201 Ill. 2d at 494-95.

¶ 59 Our courts have recognized that parental rights and responsibilities are of deep importance and should not be terminated lightly. *In re C.P.*, 191 Ill. App. 3d 237, 244 (1989). Thus, the State must prove parental unfitness by clear and convincing evidence. *In re Tiffany M.*, 353 Ill. App. 3d 883, 889 (2004). A finding of parental unfitness will not be disturbed unless it is against the manifest weight of the evidence. *In re D.D.*, 196 Ill. 2d 405, 417 (2001). A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly apparent. *In re C.N.*, 196 Ill. 2d 181, 208 (2001).

¶ 60 A trial court's finding of unfitness is given great deference because the court's determination of parental unfitness involves factual findings and credibility assessments that the court is in the best position to make. *In re M.J.*, 314 Ill. App. 3d 649, 655 (2000). A reviewing court, therefore, does not reweigh the evidence or reassess the credibility of the witnesses. *In re M.A.*, 325 Ill. App. 3d 387, 391 (2001). Each case is unique and must be decided on its own particular facts and circumstances. *In re Gwynne P.*, 215 Ill. 2d 340, 354 (2005).

¶ 61 Here, Milik H. first contends that the trial court's finding that he was unfit was against the manifest weight of the evidence. The court found Milik H. unfit on the following grounds: he failed to protect the minor children from conditions within their environment that were injurious to their welfare, and he failed to make reasonable efforts to correct the conditions that were the basis for the children's removal during any nine-month period following the adjudication of neglect. Although section 1(D) of the Adoption Act sets forth numerous grounds under which a parent may be deemed unfit, any one ground, properly proven, is sufficient to support a finding of unfitness. *In re C.W.*, 199 Ill.

2d 198, 210 (2002). As we affirm the trial court's finding that Milik H. was unfit on the basis of his failure to make reasonable efforts to correct the conditions that led to the children's removal, we do not address the remaining basis for the trial court's unfitness finding.

¶ 62 Reasonable efforts relate to the goal of correcting the conditions that caused the children's removal and are judged by a subjective standard based upon the amount of effort that is reasonable for a particular person. *In re P.S.*, 2021 IL App (5th) 210027, ¶ 34. For reasonable efforts, the trial court must determine whether the parent has made earnest and conscientious efforts toward correcting the conditions that led to the removal of the minor children from the home. *In re L.J.S.*, 2018 IL App (3d) 180218, ¶ 24.

¶ 63 There were three nine-month time periods between the adjudication of neglect and the fitness hearing: September 6, 2019, through June 6, 2020; June 7, 2020, through March 7, 2021; and March 8, 2021, through December 8, 2021. Although the State did not specify in its petition for termination of parental rights which time period formed the basis for its allegations of unfitness, at the fitness hearing, the parties proceeded as though all three time periods were relevant. See *In re S.L.*, 2014 IL 115424, ¶ 24.

¶ 64 The children were taken into care in July 2019 after Milik H. left the children, who ranged in ages from five to two months old, unsupervised when he fled from police who were conducting a welfare check at Davina W.'s apartment. The apartment door was locked, and, after climbing through a window to enter the residence, the police discovered that the oven was left on and the one-year-old was left lying on a bed where he could have easily fallen off. Prior to this, there was a domestic violence incident where Milik H.

allegedly struck Davina W. in the face multiple times and also struck her oldest daughter. Milik H.'s service plan tasks related to parenting services, mental health services, domestic violence services, stable housing, and stable income.

¶ 65 Milik H. reportedly maintained stable employment throughout the duration of the case, excluding approximately four months that he was laid off due to the forced shutdowns caused by the COVID-19 pandemic. However, he did not obtain stable housing until December 2021, which was at the end of the third nine-month period. He had been referred to a housing advocate but had been discharged due to lack of compliance. His completion of the online parenting class at Centerstone did not satisfy his parenting services requirement; he was also required to complete the in-home parenting program. Because he did not have adequate housing before the petition to terminate his parental rights was filed, he was unable to complete the recommended in-home program that was part of his parenting services. He was also rated unsatisfactory in parenting because he was unable to perform or demonstrate what he had learned during his parenting classes.

¶ 66 Although the acceptable in-person domestic violence services were closed for much of 2020, Milik H. was referred to a program through Night's Shield, which commenced on September 21, 2020. However, he never enrolled in this program. Instead, he completed a four-hour online domestic violence course on September 10, 2020, without verifying whether this program would satisfy his domestic violence service requirement. He claimed that Berry initially told him, after taking the course, that it would be acceptable, but then she later said that it was not approved. However, Berry testified that she had previously

told Milik H. that an in-person domestic violence course was required. He did not complete a DCFS approved course until April 2022 (he started the course in October 2021).

¶ 67 Between January 2021 and July 2021, Milik H. was not engaged in any mental health program and was discharged from mental health services for lack of contact. He eventually reengaged in mental health services in November 2021 and subsequently completed that service in April 2022, after the three relevant time periods had passed. Even if Milik H. had completed his services in a timely manner, Clarry believed that Milik H. was still not ready for the children to be returned to him. Clarry explained that there were concerns about Milik H.'s ability to parent four children at one time; there were reports about him becoming overwhelmed during visits when more than one child needed his attention and about him not being present with the children during visits. These might have been issues that could have been addressed in the in-home parenting program, but Milik H. was never able to engage in that program because of his lack of stable housing.

¶ 68 In arguing that the trial court's finding of unfitness was against the manifest weight of the evidence, Milik H. contends that his efforts were hampered by Berry's failure to file a service plan within 45 days of entry of the dispositional order as required, by a delay in services caused by the COVID-19 pandemic, and by Berry's minimal support as he attempted to complete the recommended services. In making the finding that Milik H. was unfit, the court recognized that there had been issues with the service plans not being timely filed and a delay in available services caused by the pandemic. However, the court still found that Milik H. had not been diligent or quick in his services, noting that the pandemic did not provide sufficient explanation for why he did not complete his services in a timely

manner. The court further noted that the delays from the pandemic did not cause his one-year delay in completing domestic violence services.

¶ 69 Also, even though Milik H. testified that he was not provided with all of the service plans, that did not prevent him from doing his services or knowing what services he needed to complete. In fact, he acknowledged that he had conversations with Berry about some of the services that he was required to complete, and there was no testimony from him about not knowing what services needed to be completed. Therefore, there was no indication that Milik H. was unaware of what he needed to do to achieve permanency for the children.

¶ 70 Although the record indicates that the service plan was not timely filed, this does not preclude the trial court from making a finding of unfitness if the State has shown, by clear and convincing evidence, that the parent is unfit by any one of the grounds sufficient to support such a finding. See *In re L.O.*, 2016 IL App (3d) 150083, ¶ 21 (the statutory requirement that the service plan be filed within 45 days of placement or prior to disposition is directory, not mandatory). However, in concluding this, we do not mean to suggest that DCFS should not follow the statutory requirements concerning the filing of the service plans. The service plans are designed to, among other things, stabilize the family situation and reunify the family, and filing them in a timely manner is an integral part of achieving these goals. See *id.*

¶ 71 In concluding that the trial court's finding that Milik H. was unfit because he failed to make reasonable efforts was not against the manifest weight of the evidence, we commend Milik H. on his last-minute progress in his service plan tasks. However, this

cannot overcome the fact that the children have been in care since July 2019, and his meaningful efforts to achieve permanency have come too late.

¶ 72

B. The Best-Interests Determination

¶ 73 If the trial court finds that the parent is unfit, the matter proceeds to a second hearing, at which it must be proven that termination of parental rights is in the best interests of the child. 705 ILCS 405/2-29(2) (West 2020); *In re J.L.*, 236 Ill. 2d 329, 337-38 (2010). Following a finding of parental unfitness, the focus shifts entirely to the child. *In re S.K.B.*, 2015 IL App (1st) 151249, ¶ 48. At the best-interests stage, all considerations must yield to the best interests of the child and the parent's interest in maintaining a parent-child relationship yields to the child's interests in a stable, loving home life. *In re D.T.*, 212 Ill. 2d 347, 364 (2004). The State has to prove that termination of parental rights is in the child's best interests by a preponderance of the evidence. *In re Julian K.*, 2012 IL App (1st) 112841, ¶ 80. The trial court's decision to terminate parental rights will not be reversed unless it is contrary to the manifest weight of the evidence. *In re M.C.*, 2018 IL App (4th) 180144, ¶ 35.

¶ 74 In reaching a best-interests determination, the trial court must consider, within the context of the child's age and developmental needs, the following factors: (1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's familial, cultural, and religious background and ties; (4) the child's sense of attachments, including love, security, familiarity, continuity of affection, and the least disruptive placement alternative; (5) the child's wishes and long-term goals; (6) the child's community ties; (7) the child's need for permanence, including the need for stability and

continuity of relationships with parent figures and siblings; (8) the uniqueness of every family and child; (9) the risks related to substitute care; and (10) the preferences of the person available to care for the child. *In re Dal. D.*, 2017 IL App (4th) 160893, ¶ 52; see also 705 ILCS 405/1-3(4.05) (West 2020). However, the trial court's best-interests determination does not have to contain a specific reference to each of the statutory factors. *In re Tr. A.*, 2020 IL App (2d) 200225, ¶ 58.

¶ 75 Here, Milik H. contends that the trial court's finding that termination of his parental rights was in the children's best interests was against the manifest weight of the evidence. Specifically, he contends that he loved his children; the current placement was loud and chaotic, and all four children were sleeping in one bedroom; he provided snacks and lunch during visits and often tried to spend individual time with each child; the children loved him; he tried to ensure that they enjoyed their short visits with him; and he had taken every possible step, despite being failed by the system, to complete all services at his disposal.

¶ 76 Looking at the above best-interests factors, the children have been in foster care for most of their lives, they have been living in the same house for over one year, and all of their needs are being met in this home. They were bonded with their foster family, the foster parents wanted to adopt them, they were flourishing in that environment, and they were able to spend time with their older sibling, who was living in a different foster home. Clarry, who had observed the children in their foster home, testified that removing them from that home would be a difficult transition for them. Although it was undisputed that Milik H. loved and cared for his children, he was still not able to fully care for them.

¶ 77 Emphasizing the children’s need for permanency and that they would need to remain in placement while Milik H. continued in his attempts to achieve permanency, the trial court found that termination would be in the children’s best interests and leaving them in care would be unfair to them. Although there was testimony that the foster home was loud and rambunctious, and the children shared a bedroom, Clarry explained that the room was large and had plenty of space for their beds and toys, and the house was loud because the children were playing with each other, which was a good thing. Based on a thorough review of the record, we find that the court’s determination that it was in the children’s best interests to terminate Milik H.’s parental rights was not against the manifest weight of the evidence.

¶ 78

III. CONCLUSION

¶ 79 For the foregoing reasons, we affirm the judgment of the circuit court of Williamson County.

¶ 80 Affirmed.