

NOTICE
This Order was filed under
Supreme Court Rule 23 and is
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limited circumstances allowed
under Rule 23(e)(1).

2026 IL App (4th) 260463-U
NO. 4-26-0463
IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

FILED
August 26, 2026
Carla Bender
4th District Appellate
Court, IL

<i>In re</i> A.H., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Logan County
Petitioner-Appellee,	)	No. 24JA1
v.	)	
Anissa H.,	)	Honorable
Respondent-Appellant).	)	Jonathan C. Wright,
	)	Judge Presiding.

JUSTICE DOHERTY delivered the judgment of the court.
Justices DeArmond and Cavanagh concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court did not err in terminating respondent's parental rights.

¶ 2 In the waning months of 2024 and early months of 2025, the trial court completed the statutorily required bifurcated process in determining whether to terminate respondent Anissa H.'s parental rights to her two minor children, A.H. and C.H. Finding that the State had carried its burden, the court terminated respondent's parental rights. On appeal, we consolidated the matters and affirmed the court's judgment as to C.H. but reversed the determination as to A.H. and remanded for further proceedings. See *In re A.H.*, 2025 IL App (4th) 250026, ¶ 58.

¶ 3 On remand, the State filed a new petition to terminate respondent's parental rights as to A.H. on several statutory bases. Following the required hearings, the trial court found that the State had carried its burden and terminated respondent's parental rights. Respondent once again appeals, challenging the court's fitness determination. We affirm.

¶ 4

I. BACKGROUND

¶ 5 In the prior appeal we described the facts of the case. See *Id.* ¶¶ 3-27. We will only repeat those facts necessary in this disposition. Respondent gave birth to A.H. in January 2024, both mother and child tested positive for methamphetamine, and A.H. was removed from respondent's care shortly thereafter. The State sought an adjudication of wardship, alleging that A.H. was neglected due to respondent's drug use and that A.H. was born with blood, urine, or meconium containing any amount of a controlled substance or the metabolite of a controlled substance.

¶ 6 In February 2024, respondent's bond was revoked on a methamphetamine trafficking charge in Logan County case No. 21-CF-66 and in April, she pleaded guilty to the offense and was sentenced to eight years' imprisonment. The trial court in this case subsequently found the allegations in the adjudicatory petition proven and placed custody and guardianship of A.H. with the Department of Children and Family Services (DCFS). Following a dispositional hearing, the court found respondent unfit and unable to care for A.H. due to incarceration and substance abuse issues.

¶ 7 After fitness and best-interest hearings, the trial court terminated respondent's parental rights to A.H. Respondent appealed, and we reversed, finding that the grounds of unfitness alleged by the State were unsupported. The matter was remanded with the observation that the State retained the discretion to file another petition to terminate respondent's parental rights.

¶ 8 On remand, in December 2025, the State filed a second petition to terminate respondent's parental rights, alleging she was unfit for failing to make reasonable progress towards the return of A.H. (750 ILCS 50/1 (D)(m)(ii) (West 2024)); failing to make reasonable efforts (*id.* § 1(D)(m)(i)); and that she was incarcerated and would remain so for a period exceeding two years

after the petition was filed and had little or no contact with A.H. and provided little or no support before her incarceration (*id.* § 1(D)(r)).

¶ 9 At the fitness hearing, the State requested that the trial court take judicial notice of (1) Logan County case No. 21-CF-66 and the order entered there sentencing respondent to eight years' imprisonment, and (2) testimony presented at the November 21, 2024, fitness hearing consisting of testimony from respondent, Nikki Edwards, Amy Chase, and Nichole Tinker. The court took notice of the requested subjects without objection.

¶ 10 The State then called Edwards to testify. Edwards had been the caseworker for A.H. since the child was removed from respondent's care at birth. Following respondent's integrated assessment, a service plan was developed requiring the completion of a number of programs. During the relevant time period, respondent had not engaged in services. Prior to respondent's incarceration, she had no contact with A.H., did not request visitation, and provided no support.

¶ 11 The State tendered a printout from the Illinois Department of Corrections showing that respondent's projected discharge date was December 2030 and that her potential parole date was December 15, 2027. The exhibit was admitted without objection.

¶ 12 Respondent testified that she had completed a program that provided her with "good time credits" and accelerated her parole date to November 2027, and she was expecting additional credit to further reduce the time to parole. She had begun the required services while incarcerated but acknowledged that they were not started until after the relevant time period.

¶ 13 The trial court found that the State had proven all the grounds in the petition by clear and convincing evidence and found respondent unfit. The matter was set for a best-interest hearing, where the court found that it was in the best interest of A.H. to terminate respondent's parental rights.

¶ 14 This appeal followed.

¶ 15 II. ANALYSIS

¶ 16 Under section 2-29(2) of the Juvenile Court Act of 1987 (705 ILCS 405/2-29(2) (West 2024)), the involuntary termination of parental rights is a two-step process. First, the State must prove by clear and convincing evidence the parent is “unfit,” as defined in the Adoption Act. *In re Donald A.G.*, 221 Ill. 2d 234, 244 (2006). If the State proves unfitness, it then must prove by a preponderance of the evidence that termination of parental rights is in the best interest of the child. *In re D.T.*, 212 Ill. 2d 347, 363-66 (2004). We note that respondent only challenges the fitness determination on appeal. The trial court found the State had proven respondent unfit on multiple grounds. On appeal, determining that a singular statutory basis was proper is sufficient to affirm the court’s judgment. *In re H.D.*, 343 Ill. App. 3d 483, 493 (2003).

¶ 17 A trial court’s finding of parental unfitness will not be reversed unless it is against the manifest weight of the evidence. *In re N.G.*, 2018 IL 121939, ¶ 29. A decision is against the manifest weight of the evidence only when the opposite conclusion is clearly apparent. *Id.*

¶ 18 Pursuant to section 1(D)(r), a parent may be determined unfit if “[t]he child is in the temporary custody or guardianship of [DCFS], the parent is incarcerated as a result of criminal conviction at the time the petition or motion for termination of parental rights is filed, prior to incarceration the parent had little or no contact with the child or provided little or no support for the child, and the parent’s incarceration will prevent the parent from discharging his or her parental responsibilities for the child for a period in excess of 2 years after the filing of the petition or motion for termination of parental rights.” 750 ILCS 50/1(D)(r) (West 2024).

¶ 19 This statutory provision can be broken down into four elements the State must prove in order to establish unfitness: (1) DCFS has temporary custody or guardianship of the child; (2) at the time the State moves to terminate parental rights via a pleading, the parent is incarcerated due to a conviction; (3) as to the child, the parent has (a) provided little or no support or (b) had little or no contact; and (4) incarceration will prevent the parent from discharging parental responsibilities for a period in excess of two years from the time the State moves to terminate parental rights. *In re M.H.*, 2015 IL App (4th) 150397, ¶¶ 25-29 It should be noted that the third element is retrospective, looking to the time prior to incarceration. Further, this element may be satisfied by proving a lack of either support or contact. See *id.* ¶ 28 (“[T]his element is phrased in the disjunctive: either little or no contact before incarceration *or* little or no support before incarceration.” (Emphasis in original.))

¶ 20 Respondent’s main contention regarding this statutory ground for unfitness is that A.H. was immediately removed from her care after her birth in January 2024, and respondent was apparently detained in February and then incarcerated in April. She argues that given this rapid sequence of events she had “only a limited opportunity to establish a parental relationship.” Essentially, respondent concedes that the State established all other elements required by section 1(D)(r) but argues against the finding that she had little or no involvement with A.H. before incarceration.

¶ 21 We find respondent’s argument unavailing. Initially we note that A.H. was removed from respondent’s care because both she and A.H. tested positive for controlled substances upon the child’s birth. This finding was later confirmed by umbilical cord and meconium testing. Respondent subsequently admitted during her testimony, of which the trial court took judicial notice, that she consumed methamphetamine and cannabis while pregnant with A.H. *A.H.*, 2025

IL App (4th) 250026, ¶ 15. It would be absurd to find that removal of A.H. on this basis could have the secondary effect of frustrating the court's subsequent unfitness determination. The record also demonstrates that respondent did not make any efforts to visit or make contact with A.H. after her birth but before her incarceration.

¶ 22 Respondent also points to her detainment and incarceration shortly following A.H.'s birth as additional support to reverse the trial court's judgment. Once again, this argument is misguided. The plain language of the statutory section provides for termination of the parental rights of those who are unable to exercise those rights due to incarceration after having also failed to do so prior to incarceration. Arguing that the removal of the child due to drug use during pregnancy and intervening incarceration cannot serve as a basis for finding the parent had previously failed to discharge parental responsibilities finds no support in the statutory language. This is a case where respondent's lack of effort, not her incarceration, prevented her from forming a parental bond with A.H. See *M.H.*, 2015 IL App (4th) 150397, ¶ 28 (noting that section 1(D)(r) applied even though prior to incarceration the respondent was in custody when the child was born). This is sufficient to satisfy the element of no contact. Further, indulging respondent's arguments would undermine the purpose of the retrospective element in determining whether the parent was previously taking the minimum steps necessary to discharge parental responsibilities. See *In re Gwynne P.*, 346 Ill. App. 3d 584, 597-98 (2004) (noting that parental responsibilities encompass providing a child with a stable home environment and the necessary physical, emotional, and financial support).

¶ 23 Moreover, respondent does not acknowledge the interchangeable nature of the retrospective element, as the State can show preincarceration dereliction of parental responsibilities by either showing little or no involvement as well as little or no support. The State

established that respondent failed to provide any support to A.H. prior to incarceration.

¶ 24 The State established that respondent had failed A.H. prior to incarceration. Respondent, having conceded the other statutory elements, there is no error upon which to reverse. Accordingly, there is a basis to affirm the trial court, and we need not review respondent's other contentions of error. See *H.D.*, 343 Ill. App. 3d at 493.

¶ 25 III. CONCLUSION

¶ 26 For the reasons stated, we affirm the trial court's judgment.

¶ 27 Affirmed.