2025 IL App (4th) 250277-U

NO. 4-25-0277

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
August 7, 2025
Carla Bender
4th District Appellate
Court, IL

In re S.M., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Sangamon County
Petitioner-Appellee,	)	No. 22JA113
v.	)	
Maryssa M.,	)	Honorable
Respondent-Appellant).	)	Dwayne A. Gab,
	)	Judge Presiding.

PRESIDING JUSTICE HARRIS delivered the judgment of the court.
Justices Steigmann and DeArmond concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court concluded the trial court's fitness and best-interest determinations were not against the manifest weight of the evidence. The appellate court further determined respondent's appellate counsel violated Illinois Supreme Court Rule 375 (eff. Feb. 1, 1994) by citing multiple cases that did not exist or did not stand for the propositions of law for which they were cited and ordered him to pay $1,000 to the appellate court clerk as monetary sanctions and ordered the appellate court clerk to send a copy of the court's decision to the Illinois Attorney Registration and Disciplinary Commission.

¶ 2 Respondent, Maryssa M., appealed the trial court's judgment terminating her parental rights to her minor child, S.M. (born August 2021). The trial court appointed William T. Panichi to represent respondent on appeal. Respondent's appellate counsel filed an appellant's brief challenging both the court's fitness and best-interest determinations. For the reasons that follow, we affirm the trial court's judgment. We further order respondent's appellate counsel to pay $1,000 to the clerk of the Fourth District Appellate Court as monetary sanctions and direct

the clerk of the Fourth District Appellate Court to send a copy of this decision to the Illinois Attorney Registration and Disciplinary Commission (ARDC).

¶ 3 I. BACKGROUND

¶ 4 On May 3, 2022, the State filed a petition for adjudication of wardship with respect to S.M. The State alleged S.M. was neglected pursuant to section 2-3(1)(a), (b) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(a), (b) (West 2022)) because she was not receiving the proper care and supervision necessary for her well-being and her environment was injurious to her welfare, in pertinent part, because she received a medical diagnosis of "Failure to Thrive."

¶ 5 A permanency report filed in November 2022 provided the following factual basis for the "failure to thrive" allegation:

> "[S.M.] has been a patient of Reporter's since 12/2021. After the first 2 visits in December 2021, Reporter established that [S.M.] was not gaining weight, and [she] had to be admitted into the hospital. On the day she was admitted, she weighed 4.2 kilos. While in the hospital, [she] gained weight, and was discharged weighing approximately 4.30 kilos. *** In February 2022, [S.M.] was removed from the parents' care and placed with an aunt for several weeks. During the time she was with the aunt, [she] gained weight. Reporter saw [S.M.] a few times in March, and she was gaining weight. [She] was returned to the parents[']' care on 3/24/22, and after 2 weeks back with parents she was still gaining appropriately ***. Approx[imately] 3 weeks later 4/15/22, [S.M.] was seen by another physician ***, and [she] was still gaining weight. From 4/15/22 to when [she] was seen on 4/26/22 ***, [she was] losing weight again. [She] lost 1.5 lbs. in

> approximately 2 weeks. *** Reporter stated it has been demonstrated already 2x that when [S.M.] is out of the residence (hospital and Aunt's house for several weeks) that she gains weight, and when she is returned to [respondent's] house, she loses weight. The reporter stated this is a failure to thrive at this point."

¶ 6 On September 28, 2022, respondent stipulated to the "failure to thrive" allegation. Based on respondent's stipulation, the trial court entered an adjudicatory order, finding S.M. neglected and placing her in the custody and guardianship of the Illinois Department of Children and Family Services (DCFS). On November 23, 2022, the court entered a dispositional order, finding respondent unfit, unable, or unwilling to care for S.M. and making S.M. a ward of the court.

¶ 7 In January 2024, the State filed a petition to terminate respondent's parental rights, and it filed a supplemental petition in June 2024. The State alleged respondent was an unfit parent within the meaning of section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2024)) because she: (1) failed to maintain a reasonable degree of interest, concern, or responsibility as to S.M.'s welfare (*id.* § 1(D)(b)); (2) abandoned S.M. (*id.* § 1(D)(a)); (3) deserted S.M. for more than three months preceding the filing of the petition (*id.* § 1(D)(c)); (4) failed to make reasonable efforts to correct the conditions that led to S.M.'s removal during the nine-month periods from September 28, 2022, to June 28, 2023, and from June 28, 2023, to March 28, 2024 (*id.* § 1(D)(m)(i)); and (5) failed to make reasonable progress toward S.M.'s return during the same two nine-month periods identified above (*id.* § 1(D)(m)(ii)).

¶ 8 The fitness hearing began in August 2024 and concluded in January 2025. At the outset of the hearing, the trial court took judicial notice of all orders entered in the case. It also admitted, without objection, five of respondent's rated service plans, which were dated

(1) June 9, 2022, (2) October 20, 2022, (3) April 11, 2023, (4) October 13, 2023, and (5) April 16, 2024.

¶ 9 Morgan Benau, S.M.'s caseworker from June 2022 through September 2023, testified that S.M. was removed from respondent's care due to "a medical diagnosis of failure to thrive and environmental neglect or [medical] treatment not being met for the child." Benau rated two of respondent's service plans—one in October 2022 and another in April 2023. She testified that respondent's "services involved cooperation, parenting, substance abuse, mental health, housing, income, and visitation." Respondent was allowed weekly two-hour visits with S.M. During Benau's time as the caseworker, respondent missed 9 of approximately 60 scheduled visits, but the visits she did attend were deemed appropriate. Due to S.M.'s diagnosis of "failure to thrive," respondent was required to attend S.M.'s medical appointments and follow the physician's guidelines. However, respondent attended none of S.M.'s appointments. Benau testified that she referred respondent to "the Parent Place" for parenting classes on two separate occasions, but respondent was dropped from the program both times "[d]ue to inactivity." Benau also scheduled 19 drug screenings for respondent during her time on the case; respondent completed 2 of the screenings, both of which were positive for cannabis. Benau testified that respondent maintained satisfactory communication with her. Benau further testified that respondent "self-reported bipolar [disorder]" and, instead of allowing the agency to refer her to a therapist, "[s]he opted to find a [therapist] on her own either through [the Southern Illinois University School of Medicine (SIU)] or Memorial Behavioral Health." Benau indicated that during her time on the case, respondent "participated, but *** did not complete" her required mental health services. Benau testified that there was never a time she was close to returning S.M. to respondent's care because "the only progression that [she] saw [respondent make] was

with her mental health."

¶ 10 Meghan Swiat was the caseworker from May 2022 to October 2022, and then again from April 2023 until August 2024. Swiat explained that S.M. came into care because she "was not gaining weight and was not [getting] enough nutrition and it was becoming a lot [*sic*] of health problems for her because of that." Swiat rated respondent's October 2023 and April 2024 service plans. Swiat testified that during her time on the case, respondent did not make reasonable progress with any of the required services in her plan. According to Swiat, respondent was rereferred to parenting classes but was again dropped from the program for failing to engage. Between August 2023 and June 2024, respondent attended only one visit, which was on S.M.'s birthday in August 2023. She also did not attend any of S.M.'s medical appointments. With respect to the mental health services, Swiat testified, "[Respondent] did not want to complete mental health through [the agency]. She stated she was going to Memorial Behavioral Health *** and then she switched her story to going to SIU. *** So she kept going back between Memorial and SIU and never followed through with either one." Swiat provided the following explanation for why respondent was never close to having S.M. returned to her care: "Because there is not enough progress being made in her services. There was a lot of back and forth on her mental health services. Parenting was never completed. And there [were] a lot of missed *** random toxicology drops."

¶ 11 Following the parties' arguments, the trial court found the State had proven each allegation of parental unfitness by clear and convincing evidence.

¶ 12 On March 13, 2025, the trial court conducted a best-interest hearing. Swiat testified S.M. had been living with the same traditional foster family since February 2023. The foster family was comprised of a husband and wife and their four children. S.M. had her own

room in the home. Swiat testified S.M. was doing "very well" and "thriving" in the foster home. S.M. was active in ballet and gymnastics and "very close with all of the individuals in the home." The foster parents were meeting all of S.M.'s medical, educational, emotional, and social needs. Swiat testified S.M. required a "special diet" because she was allergic to "milk and fish and eggs." According to Swiat, the foster parents went "above and beyond to make sure that there's no dietary restrictions and making sure that she's developmentally on target." Swiat indicated the foster parents had signed paperwork demonstrating their commitment to adopt S.M.

¶ 13 Angela Lewis testified that she took over as S.M.'s caseworker in August 2024. Lewis visited the foster home on a monthly basis to observe the family interact with S.M. She testified that based on her observations, S.M. and her foster family were "very bonded, comfortable, [and] calm." Lewis reported that the other children in the home were "helpful and kind" to S.M. She further indicated S.M. was progressing well in the foster home and appeared "very articulate and very connected." Lewis had no concerns with the foster parents' ability to provide and care for S.M., and she opined it was in S.M.'s best interest to live with them permanently. On the other hand, Lewis expressed concern about respondent's ability to parent S.M. Specifically, she indicated that based on her observations of respondent's visits with S.M., there was a "lack of connection" between them. Lewis explained that S.M. would interact with her foster siblings when they played together, but she would not interact with respondent when respondent tried playing with her. Lewis noted that S.M. referred to respondent as "the lady," while she referred to her foster parents as "Momma" and "Daddy or Papa." Lewis also noted that she had "observed [respondent] eating and drinking things [S.M.] can't have because of her allergies in front of her, and *** there's some concerns there." Lewis testified the foster parents had committed to adopting S.M.

¶ 14 Respondent testified that she did not believe termination of her parental rights was in S.M.'s best interest. She acknowledged bringing snacks to visits that S.M. could not have due to her allergies, but she testified this occurred only once or twice and she would try to ensure it did not happen again. Respondent also conceded that it was "[k]ind of" true there was not a significant bond between her and S.M. She explained, "I mean, we bond a little bit. When she wants to watch Paw Patrol, I'll sit there and watch it with her. Whenever she does engage with toys, I'll make that attempt. Sometimes it works, sometimes it doesn't. It just really depends on her." Respondent testified that she would work to complete her services if the court chose not to terminate her parental rights and "a little bit more time would help, if it's possible."

¶ 15 Following the parties' arguments, the trial court found the State had proven by a preponderance of the evidence that termination of respondent's parental rights was in S.M.'s best interest. The court provided, in pertinent part, the following reasoning:

> "But I really do feel that when we look at other factors really predominant, physical safety, welfare of the child; including food, shelter, health, and clothing, clearly those needs are all being met in the current foster care placement. And they were not being met prior to DCFS involvement. DCFS at the start of this case did try to work as an intact case and it didn't work out because those needs weren't being met.
>
> We look at the child's sense of security, the child's sense of familiarity. The *** continuity of affection, least disruptive alternative, all of those factors weigh heavily in regards to a determination that current foster care placement is, in fact, in the best interest of the child."

¶ 16 This appeal followed.

¶ 17 II. ANALYSIS

¶ 18 On appeal, respondent argues the trial court erred in (1) finding her unfit and (2) ruling termination of her parental rights was in S.M.'s best interest.

¶ 19 A. Unfitness Finding

¶ 20 First, respondent argues the trial court erred in finding her unfit for failing to make reasonable progress toward S.M.'s return to her care. Specifically, respondent contends "[t]he clear and convincing evidence demonstrates that [she] consistently engaged with required services—attending 85% of scheduled visits, participating in treatment planning, and advocating for her child's medical needs—despite significant transportation and communication barriers." "A reviewing court will not reverse a trial court's fitness finding unless it was contrary to the manifest weight of the evidence, meaning that the opposite conclusion is clearly evident from a review of the record." *In re A.L.*, 409 Ill. App. 3d 492, 500 (2011).

¶ 21 Initially, we note respondent has implicitly conceded that the State proved she was an unfit parent. The trial court determined respondent was unfit on each of the seven discrete statutory grounds alleged in the State's termination petition. However, on appeal, respondent challenges only the finding that she failed to make reasonable progress toward S.M.'s return to her care during any nine-month period following the adjudication of neglect. Respondent's "failure to challenge the other grounds [of parental unfitness] renders the *** appeal moot." *In re D.L.*, 191 Ill. 2d 1, 8 (2000); see *In re Marriage of Donald B.*, 2014 IL 115463, ¶ 32 ("As a general rule, courts in Illinois do not decide moot questions, render advisory opinions, or consider issues where the result will not be affected regardless of how those issues are decided."); *In re M.J.*, 314 Ill. App. 3d 649, 655 (2000) ("[I]f there is sufficient evidence to satisfy any one statutory ground we need not consider other findings of parental unfitness.").

Even assuming, *arguendo*, respondent's failure to make reasonable progress was the only ground supporting the court's unfitness finding, we would still reject her argument that the court erred in finding her unfit.

¶ 22 Section 2-29(2) of the Juvenile Court Act (705 ILCS 405/2-29(2) (West 2024)) "delineates a two-step process in seeking termination of parental rights involuntarily." *In re J.L.*, 236 Ill. 2d 329, 337 (2010). First, the State must prove by clear and convincing evidence that the parent is unfit. *In re Donald A.G.*, 221 Ill. 2d 234, 244 (2006). In making such a determination, the court considers whether the parent's conduct falls within one or more of the unfitness grounds described in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2024)). *In re D.D.*, 196 Ill. 2d 405, 417 (2001). Under the Adoption Act, an unfit parent includes any parent who fails to make reasonable progress toward his or her child's return during any nine-month period following the neglect adjudication. 750 ILCS 50/1(D)(m)(ii) (West 2024). In addressing section 1(D)(m) of the Adoption Act, our supreme court has stated the following:

> "[T]he benchmark for measuring a parent's 'progress toward the return of the child' under section 1(D)(m) of the Adoption Act encompasses the parent's compliance with the service plans and the court's directives, in light of the condition which gave rise to the removal of the child, and in light of other conditions which later become known and which would prevent the court from returning custody of the child to the parent." *In re C.N.*, 196 Ill. 2d 181, 216-17 (2001).

This court has described reasonable progress as "an 'objective standard,' " which exists "when 'the progress being made by a parent to comply with directives given for the return of the child is sufficiently demonstrable and of such a quality that the court, in the *near future*, will be able to

order the child returned to parental custody.' " (Emphasis in original.) *In re F.P.*, 2014 IL App (4th) 140360, ¶ 88 (quoting *In re L.L.S.*, 218 Ill. App. 3d 444, 461 (1991)).

¶ 23 Here, the trial court's finding that respondent failed to make reasonable progress toward S.M.'s return during the nine-month periods from September 28, 2022, to June 28, 2023, and from June 28, 2023, to March 28, 2024, was not against the manifest weight of the evidence. Based on the evidence presented at the fitness hearings, respondent failed to comply with the vast majority of her required services during the relevant periods. For instance, Benau testified that during her time on the case, respondent only made progress with her mental health services. Benau's testimony revealed that respondent was dropped from a parenting program multiple times, failed to attend any of S.M.'s medical appointments—despite S.M. coming into care for medical reasons—and completed only 2 of 19 scheduled drug screenings. Swiat testified that respondent made no progress toward S.M.'s return during her time as the caseworker. Critically, Swiat testified that respondent missed every scheduled visit but one during the period from August 2023 to June 2024. Thus, the court's finding that respondent failed to make reasonable progress toward S.M.'s return was not against the manifest weight of the evidence.

¶ 24 B. Best-Interest Determination

¶ 25 Next, respondent argues the trial court erred in finding termination of her parental rights was in S.M.'s best interest. Specifically, respondent asserts, "The record shows a strong parent-child bond, [her] ongoing commitment to reunification, and no testimony indicating that [S.M.] remaining with [her] would harm [S.M.]" We will not reverse a trial court's best-interest determination absent a finding it was against the manifest weight of the evidence, which, again, "mean[s] that the opposite conclusion is clearly evident from a review of the record." *A.L.*, 409 Ill. App. 3d at 500.

¶ 26 If the State satisfies its burden of proving the respondent unfit, the termination proceedings advance to the second stage, where the State must prove by a preponderance of the evidence that termination of the respondent's parental rights is in the minor's best interest. 705 ILCS 405/2-29(2) (West 2024). At the best-interest stage, the focus shifts from the parent to the child, and the issue is "whether, in light of the child's needs, parental rights should be terminated." (Emphasis omitted.) *In re D.T.*, 212 Ill. 2d 347, 364 (2004). Thus, "the parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life." *Id.* Section 1-3(4.05) of the Juvenile Court Act lists the best-interest factors for the court to consider, in the context of the minor's age and developmental needs, when making its best-interest determination: (1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's background and ties; (4) the child's sense of attachments; (5) the child's wishes and long-term goals; (6) the child's community ties; (7) the child's need for permanence; (8) the uniqueness of every family and child; (9) the risks associated with substitute care; and (10) the preferences of the persons available to care for the child. 705 ILCS 405/1-3(4.05) (West 2024).

¶ 27 Here, the evidence presented at the best-interest hearing demonstrated that S.M. had been in care nearly her entire life. She had been living with the same foster family since February 2023. According to her caseworkers, S.M. was thriving in the foster home. She appeared bonded and "very close with all of the individuals in the home." She was active in ballet and gymnastics, and the foster parents were meeting all of her needs, including her medical, educational, emotional, and social needs. Swiat testified the foster parents went "above and beyond" to ensure S.M. received an appropriate diet and remained "developmentally on target." Lewis testified that the other children in the home were "helpful and kind" to S.M. and

she referred to her foster parents as "Momma" and "Daddy or Papa." The foster parents had signed paperwork demonstrating their commitment to adopt S.M. On the other hand, no significant bond had been observed between respondent and S.M. S.M. even referred to respondent as "the lady." Moreover, respondent acknowledged there had been multiple occasions in which she brought to visits snacks S.M. could not have due to her allergies. She also testified she would need more time to attempt to complete the services in her service plan. Based on this evidence, we find the trial court's best-interest determination was not against the manifest weight of the evidence.

¶ 28 C. Rule to Show Cause

¶ 29 In the course of reviewing this appeal, this court discovered that respondent's appellate counsel, Attorney Panichi, cited two cases in his appellant's brief—"*In re M.M.*, 2015 IL App (4th) 150203," and "*In re A.P.*, 2017 IL App (4th) 170070"—which, based on research performed, do not exist, and two cases—"*In re C.N.*, 196 Ill. 2d 181 (2001)," and "*In re D.D.*, 196 Ill. 2d 405 (2001)"—that exist but do not stand for the propositions of law for which they were cited. Consequently, we entered a rule to show cause directing Attorney Panichi to explain by way of a written response why sanctions should not be imposed against him for his conduct pursuant to Illinois Supreme Court Rule 375 (eff. Feb. 1, 1994).

¶ 30 In his written response, Attorney Panichi asserts that each of the citations identified above were "included in good faith" and not intended "to mislead the Court or to misrepresent the law." Specifically, he contends the citation to *C.N.* "was intended to support the standard of review on best interest findings and was believed to reflect settled law on judicial discretion." With respect to *D.D.*, Attorney Panichi contends that the case addresses "fitness and best interest review standards" and if it "was misapplied or cited for a broader proposition than

warranted, counsel regrets the overstatement." Attorney Panichi further contends that "*A.P.*" "was intended to reference factual distinctions about reasonable progress timeframes" and, if "the citation contained typographic or doctrinal inaccuracy, this was unintentional." Finally, Attorney Panichi asserts that "*M.M.*" "may have been included based on older Fourth District internal summaries or shared pleadings and was believed to be valid at the time."

¶ 31 We find Attorney Panichi's responses disingenuous and misleading. First, Attorney Panichi did not cite *C.N.* to identify the applicable standard of review for reviewing a best-interest determination. He cited it only in the section of his appellant's brief addressing the trial court's unfitness finding, and not even for the purpose of identifying the applicable standard of review for reviewing unfitness findings. Moreover, nowhere in *C.N.* did the supreme court identify the applicable standard for reviewing a trial court's best-interest determination. See *C.N.*, 196 Ill. 2d 181. Second, regarding *D.D.*, that case addressed only the issue of parental unfitness. However, Attorney Panichi cited it in support of the factors a trial court should consider in making a best-interest determination. See *D.D.*, 196 Ill. 2d 405. Thus, his contention that the case was simply "misapplied or cited for a broader proposition than warranted" lacks credibility. Third, "A.P." appears to be a fictitious case, and yet Attorney Panichi not only fails to address this rather significant defect, he goes on to explain that it was cited "to reference factual distinctions about reasonable progress timeframes." Lastly, Attorney Panichi's claim that the citation to "*M.M.*"—another fictitious case—was "included based on older Fourth District internal summaries or shared pleadings" is nonsensical. We point out that the above four citations were the only case citations Attorney Panichi included in his appellant's brief and all four are invalid.

¶ 32 Our review makes it clear that Attorney Panichi has violated Rule 375 by willfully citing multiple cases that do not exist or do not stand for the propositions of law for which they were cited. See *In re Baby Boy*, 2025 IL App (4th) 241427, ¶¶ 107-119. We find that Attorney Panichi has failed to adequately explain his inclusion of fictitious and unsupported citations in his appellant's brief. The explanations he did provide in response to this court's rule to show cause were both disingenuous and misleading. Accordingly, we find sanctions should be entered against Attorney Panichi pursuant to Rule 375 and the ARDC should be informed of his conduct. See *id.* ¶¶ 120-132.

¶ 33 III. CONCLUSION

¶ 34 For the reasons stated, we affirm the trial court's judgment and order respondent's appellate counsel to pay $1,000 to the clerk of the Fourth District Appellate Court as monetary sanctions and direct the clerk of the Fourth District Appellate Court to send a copy of this decision to the ARDC.

¶ 35 Affirmed.