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2011 IL App (3d) 0214-U

Order filed December 19, 2011

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT  
A.D., 2011

J.S.A.,  
Plaintiff-Appellant,  
v.  
M.H. and W.C.H.,  
Defendants-Appellees.

) Appeal from the Circuit Court  
) of the 12th Judicial Circuit,  
) Will County, Illinois,  
)  
) Appeal No. 3-11-0214  
) Circuit No. 99-F-420  
)  
) Honorable  
) Robert Baron,  
) Judge, Presiding.

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JUSTICE WRIGHT delivered the judgment of the court.  
Presiding Justice Carter and Justice Holdridge concurred in the judgment.

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**ORDER**

¶ 1 *Held:* The trial court did not err by denying J.S.A.'s petition for visitation after finding that serious endangerment would likely occur to the child's physical, mental, moral or emotional health if the court allowed visitation as requested by J.S.A.

¶ 2 J.S.A. and M.H. were involved in a extramarital relationship which resulted in the conception and birth of a child, T.H., on January 26, 1996. T.H. was born during the course of M.H.'s marriage to W.C.H. and W.C.H. was named on the birth certificate as the child's father.

¶ 3 The extramarital affair between J.S.A. and M.H. continued for several years after the child's birth. During the 3½ years after the child's birth, J.S.A. interacted with T.H. on an informal basis, but did not contest the accuracy of the information set forth on the birth certificate or challenge the presumed paternity of W.C.H. resulting from the birth of a child during wedlock. ¶ 4 On September 9, 1999, a year after M.H. ended the extramarital relationship with J.S.A., J.S.A. filed a petition to determine the existence of a parent-child relationship with T.H. pursuant to the Illinois Parentage Act of 1984 (Parentage Act) (750 ILCS 45/7(a) (West 1998)), and asked the court to order DNA testing to determine the paternity of the child, who was 3 ½ years old.

¶ 5 In October 1999, M.H. and W.C.H. filed a separate petition to terminate the purported parental rights of J.S.A., based on abandonment, and to allow W.C.H. to adopt T.H. On February 4, 2000, J.S.A. filed an additional petition to set a visitation schedule with the child.

¶ 6 Due to protracted court proceedings and multiple appeals, court-ordered DNA testing was not completed until April 28, 2005. On August 15, 2005, the court held a contested hearing with a guardian *ad litem* present on behalf of the child. Following this hearing, the trial court found that DNA tests confirmed that J.S.A. was the biological father of T.H. However, the trial court also found it was not in T.H.'s best interests to "establish a parent-child relationship between [J.S.A.] and the child." Further, the court found that "it is not in the best interest of the minor child that [J.S.A.] be entitled to exercise any custodial or visitation privilege with the minor child."

¶ 7 J.S.A. appealed this 2005 decision of the trial court. This court dismissed the 2005 appeal on the grounds that putative father was barred from proceeding on the paternity action

because he failed to register with the “Putative Father Registry” under the Adoption Act (750 ILCS 50/12.1(g) (West 1998)). In 2007, our supreme court remanded the case to this court after holding J.S.A.’s failure to register with the “Putative Father Registry did not bar a father from filing proceedings under the Parentage Act. In 2008, this court vacated its earlier decision and remanded the case to the trial court to hold a visitation hearing pursuant to section 607(a) of the Marriage and Dissolution of Marriage Act (Marriage Act) (750 ILCS 5/607(a) (West 2004)). Consequently, the child was 14 years old, in 2010, when the trial court actually conducted the first hearing on J.S.A.’s original petition for visitation with the child. At the close of the hearing, the trial court found that serious endangerment to the physical, mental, moral or emotional health of the child would likely occur if the court ordered visitation.

¶ 8 Throughout the proceedings and all prior appeals, the trial court's protective order, barring the parties from publicly discussing the pending cases and prohibiting plaintiff from contacting the child, remained in effect and was honored by the parties. The instant appeal results from the trial court's decision denying J.S.A.'s request for visitation on February 25, 2011. We affirm.

¶ 9 **BACKGROUND**

¶ 10 The facts of this protracted litigation have been set forth in previous decisions of this court, as well as a supreme court opinion. Therefore, in addition to the summarized facts set forth above, we will briefly set forth the additional relevant facts regarding the events and proceedings that have occurred subsequent to those decisions.<sup>1</sup>

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<sup>1</sup> See *J.S.A. v. M.H.*, 343 Ill. App. 3d 217 (2003); *J.S.A. v. M.H.*, 361 Ill. App. 3d 745 (2005); *J.S.A. v. M.H.*, 224 Ill. 2d 182 (2007); and *J.S.A. v. M.H.*, 384 Ill. App. 3d 998 (2008).

¶ 11 In the most recent appeal, *J.S.A. v. M.H.*, 384 Ill. App. 3d 998 (2008), pursuant to the supreme court decision, this court remanded the case to the trial court with directions for the trial court to conduct a hearing on J.S.A.'s request for visitation, pursuant to section 607(a) of the Marriage and Dissolution of Marriage Act (Marriage Act) (750 ILCS 5/607(a) (West 2004)). *J.S.A. v. M.H.*, 384 Ill. App. 3d 998, 1013 (2008).

¶ 12 On November 29, 2010, the trial court held the hearing on J.S.A.'s petition for visitation, after remand pursuant to *J.S.A. v. M.H.*, 384 Ill. App. 3d 998, 1013 (2008). Before the hearing took place, the trial court ruled that the burden of proof would fall on M.H. to prove that serious endangerment to T.H. would occur if visitation were granted, rather than placing the burden on J.S.A. to prove that it was in T.H.'s best interest to order visitation. This ruling by the trial court has not been challenged.

¶ 13 Attorney Jaquays, M.H.'s attorney, first called Dr. Marilyn Marks-Frey as an expert witness. Dr. Frey testified that she had been a licensed clinical psychologist since 1972 and was retained by M.H., in late 2009, for the purpose of rendering an opinion regarding whether disclosing the identity T.H.'s biological father to T.H. would create potential serious endangerment to the child. Dr. Frey said she prepared a report, dated February 25, 2010, which was admitted into evidence and is part of the appellate record.

¶ 14 In summary, Dr. Frey's report stated:

“[T]o inform a 14 year old adolescent that the man who has raised him and who he believes is the father is not his biological parent, is to put T.H. at risk for various emotional and social damage as well as possible cognitive deterioration. Similarly, to require visits with a person who T.H. does not know exists has significant

potential of causing serious endangerment to his emotional health, social and cognitive functioning. These statements are based on developmental theory and research as to the life tasks for young adolescents. In addition, coupling adolescent developmental theory, with particulars of T.H.'s world, suggests that he is [*sic.*] might be put at significant risk due to the traditional values of his community. T.H.'s close peer group comes from intact families with minimal differences. Acceptance by the peer group and a feeling of sameness is critical for an adolescent of T.H.'s age. In order to continue with a positive sense of self, he needs to feel like his friends and their families.

Again, referring to the classic works of G. Stanley Hall (1904), the role of family and the community is to provide stability for the adolescent as they venture through this normal conflicted stage. Undue trauma can be expected to exacerbate the difficulties for the adolescen[t]. During this exaggerated peer-group conformity stage, it is imperative that the adolescent feel similar to his peers and to their values.

This evaluation does not indicate that at some time T.H. should not be advised of the reality of his situation. This evaluation is not implying anything positive or negative about any party involved in this case. It is addressing the best interest for a 14 year old boy who appears, according to his mother, to be well adjusted. Again, to interview this young man is to cause suspicion and possible emotional and social damage as well as possible cognitive deterioration. Thus, such methodology was not utilized in this matter as it has a high potential to cause significant problems.”

¶ 15 Additionally, Dr. Frey testified that, if T.H. were told about a different biological father

at this stage in his life, she would be concerned about “a deep depression and all that could mean including suicide potential,” or “extreme acting out, behavioral issues, drugs, alcohol.” She also felt that the “chaos and trauma would also impact cognitions, \*\*\* intellectual development,” and severe acting out would affect T.H.’s future development. The doctor stated that the child’s “right to know” his genetic background was not more important than the psychological ties T.H. currently shared with his known parents.

¶ 16 Dr. Frey testified that she took into account the following uncontested characteristics of T.H.: specifically that he is physically healthy, academically successful, socially well-adjusted, and active in sports; maintains many on-going, long-term friendships; lives in an affluent neighborhood; shares the catholic faith with his family; attends a catholic school; shares a strong sense of family; and enjoys spending time with his immediate and extended family.

¶ 17 According to her report, during the adolescent phase, the experts note peer-group conformity is exaggerated and that changes in the social environment can impact self-esteem and future positive adjustment. Dr. Frey’s report noted that, at age 14, T.H. was in the developmental stage of “identity versus role confusion,” according to “Eric Erickson and his theories of development.” Dr. Frey said this is a very important consideration because, as a teenager, T.H. needs to feel that he is similar to his peers and his very identity is linked to the people around him whom he respects, values, and establishes their expectations for him. She stated that, with all the hormonal changes, the teenage years make a more difficult developmental stage than many others, and the teenage child needs as much consistency as possible due to both the physiological and social “chaos” that occurs at this developmental stage.

¶ 18 Dr. Frey testified that she conducted her own research by reviewing several published

studies conducted by experts in the field of psychology.<sup>2</sup> Dr. Frey referred to a 1996 article, written by Lamborn, Dornbusch, & Steinberg and published in the *Journal of Child Development*, which stated that “teenagers benefit by remaining connected with their parents and by using them as important resources in their life. To break the tie of the perception of ‘family’ during this critical stage of development is to put the adolescent at risk.”

¶ 19 During cross-examination by J.S.A., Dr. Frey stated that it would be worse for T.H.’s development to tell him about a different biological father now, rather than when he turns 18 and becomes an adult. She said this is because T.H. will have more emotional development and a better sense of identity when he is older. On rebuttal, Dr. Frey said that she could not form an opinion as whether visitation with J.S.A. would be detrimental to T.H. until she knew how he reacted to being told that J.S.A., rather than W.C.H., was his biological father.

¶ 20 Next, W.C.H. testified that he and T.H. have an extremely close father/child relationship which is as strong as the bonds he shares with his two older children. W.C.H. testified that he thought telling T.H. that he had a different biological father now would “devastate” him. W.C.H. said they told the older children about T.H.’s paternity when they were 21 years old, and they were shocked and very emotional, but they seemed to process the information with composure and maturity. In W.C.H.’s opinion, telling T.H. now, at age 14, would have an adverse affect on every aspect of T.H.’s life: academically, emotionally, socially, athletic

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<sup>2</sup> In her report, Dr. Frey wrote that some of her methodology included “[r]eview of developmental theory of adolescence and how theories accepted in the field of clinical psychology apply to this matter, [r]eview of research articles.” Those listed in her report included: G. Stanley Hall; Harry Stack Sullivan (1904), *The Interpersonal Theory of Psychology* (Sullivan 1953); Erikson, *Identity: Youth and Crisis* (Erikson, 1968); Daniel Offer (Offer, Ostriv & Howard, 1981) in support of Bandura’s theory (1964); Seidman, et al. (1994); and Lamborn, Dornbusch, & Steinberg, an article published in the *Journal of Child Development* (1996).

involvement, and his future life, as well.

¶ 21 W.C.H. said that, since T.H. started high school, he is struggling with the additional demands that are placed on him in high school. When T.H.'s progress reports for high school showed he was struggling in a couple of classes, W.C.H. said they told T.H., if grades did not improve, it could affect his participation in sports. W.C.H. later talked to T.H. alone and T.H. began to cry, which he did not do very often.

¶ 22 When asked by J.S.A. whether W.C.H. thought he was perpetrating a lie by not telling T.H. the truth, W.C.H. said that it was his responsibility, as a parent, to filter what was told to T.H., including other adult matters, until he felt T.H. was able to handle the information.

Regarding his biological father, W.C.H. felt it was best to tell T.H. about that when he turned 21 years old, but realized that the court protections could not continue to protect T.H. after he turned 18 years old.

¶ 23 M.H. testified she was a licensed attorney, but was now working at T.H.'s catholic high school as in-house counsel and director of annual giving and fundraising. M.H. agreed that high school had been a big adjustment for T.H., the most traumatic experience for T.H. so far in his life. M.H. said that she believed T.H. would be traumatized if he now finds out that J.S.A. is his biological father. M.H. stated that T.H. was going to be very angry and hurt towards M.H., and she believed his relationship with his father (W.C.H.) would also suffer. As to the serious endangerment issue, M.H. testified that, if T.H. were now told that J.S.A. was his biological father, she was concerned that T.H.'s school work would suffer while he dealt with all of the emotions that would accompany this information. Emotionally, M.H. was concerned that T.H. could go into a depression or consider suicide. M.H. said, "[Disclosing this information] is

going to kill the him, not to mention the strain it will put on our family,” which would also affect him. M.H. stated, in her opinion, T.H. was not nearly mature enough to handle disclosure of this information at this stage of his life. M.H. said she saw absolutely no advantage to disclosing this information to T.H. now, rather than waiting until he turns 18

¶ 24 T.H.’s older brother, A.H., testified that he was now 23 years old, and that he had a very close relationship with T.H., as did his twin sister, B.H. A.H. said that he attended catholic schools and the catholic religion was an important part of his life. A.H. said he was “incredibly shocked” when he was told about T.H. having a different biological father. A.H. testified that he felt it would be a traumatizing experience for T.H. to be told this information and, at this point, A.H. did not think that T.H. had the maturity and understanding to rationally sit down and think about it.

¶ 25 B.H. testified that she was currently working on a master’s degree in biomedical engineering. She stated that she was close to T.H. and has a good perception of his emotional state. She said T.H.’s relationship with W.C.H. was “very close” and that T.H. talks to W.C.H. a lot. B.H. testified that her parents told her about T.H.’s parentage when she was 21 years old and she was “shocked, disappointed, let down and traumatized.” B.H. stated that it would take her a long time to accept and, now at age 23, she is still having a hard time handling the information. She felt that, if T.H. were told about this information now, it would be “devastating” for him. She said that T.H. will have to deal with the knowledge the rest of his life and she could not perceive anything good coming from telling T.H. about it now, at age 15.

¶ 26 J.S.A. called Dr. Robert Shapiro, a licensed clinical psychologist, to testify. Dr. Shapiro testified that he reviewed Dr. Frey’s report, and interviewed M.H. and W.C.H. in 2000 regarding

prior proceedings in this case. Since 2000, Dr. Shapiro said he had an interview and telephone conversations with J.S.A., and he again interviewed M.H. in 2009. Dr. Shapiro stated that it would have been helpful to interview T.H., without telling him why they were conducting the interview, but the court did not allow anyone to interview T.H.

¶ 27 Dr. Shapiro described “trauma,” as it relates to the emotional well-being of children, as “any event that momentarily upsets the equilibrium of the child at some point during their development.” When asked whether learning of the existence of a different biological father would be a traumatic event for a child the age of T.H., the doctor said it would “certainly be unsettling and in some way be traumatic.” According to Dr. Shapiro, serious endangerment was “an event or series of events that would potentially interfere with the normal course of development, whether it is in childhood or adolescence[,] where there is such a shock to the equilibrium of a child or an adolescent that the rest of their development is – could be influenced by that.” The doctor said examples of serious endangerment would be sex abuse or physical abuse to the child, or a child’s parents’ divorce could be a serious endangerment, but it really was dependent on how the parents handle the divorce, not the existence of the divorce itself.

¶ 28 Based on the information he had received about T.H. being well-adjusted, Dr. Shapiro said he felt, with a reasonable degree of psychological certainty, that disclosure to and visitation with T.H. would not cause serious endangerment to T.H. The doctor said:

“[W]ill it “create an impact on [T.H.] to find out that his father is not his biological father? Absolutely. But will that event then somehow derail the normal course of his adolescent development? No, it certainly doesn’t have to do that. And the only way that it would do that is if the adults in his life can’t manage that properly.

But the event itself, knowing that he's got a biological father out there, this is a healthy well developing boy from everything that I have read and everything that I have heard from [M.H.], from yourself, he is an excellent student academically, he has many, many friends.

\*\*\* This is a boy that is well positioned to finish his adolescence finding out that, you know, his mom had a relationship with somebody during a weak period in perhaps her own marriage [and] should not create serious endangerment.”

¶ 29 Dr. Shapiro stated that he did not think it was better to wait until the child turned 18 years old before disclosing this information because T.H. would be preparing to leave his home and its comfort zone to enter college. He also felt that telling him now would give T.H. time to get to know his biological father before leaving home.

¶ 30 When asked to explain how divorce can cause serious endangerment to a child's life, Dr. Shapiro said that it temporarily destabilizes the child and the child may question if he will still attend the same school, where he will eat, if his toys and clothes will be in the same place, and so forth. In the doctor's opinion, disclosure of a different father to T.H. would be less traumatic to him than learning about his parents' divorce, since his “family” and household would remain intact.

¶ 31 Dr. Shapiro was asked if he relied on any “learned treatises” when he formed the opinion regarding the serious endangerment issue resulting from learning about a different biological father and being ordered to visit with J.S.A., and Dr. Shapiro said there was “no research on point.” Dr. Shapiro acknowledged that learning about a the existence of a different biological parent could be traumatic to T.H., and that it would be more traumatic to learn this at age 9, 11,

or 13, than it would have been at age 4 or 5. He also acknowledged that, generally, you would expect T.H. to be more mature at age 18 than at age 15, but Dr. Shapiro still stood on his position that it was better to tell T.H. now rather than wait until he turned 18 years. Dr. Shapiro agreed that trauma is not always temporary, and can have lasting consequences that can rise to the level of serious endangerment based on the child's perception.

¶ 32 Dr. Shapiro stated that a trauma, such as telling a 15-year-old teenager that the person whom he considered to be his father is not, in fact, his biological father may qualify as a more serious trauma, but the doctor said he believed the potential for psychological damage to T.H. was small depending on how the adults managed the disclosure. However, Dr. Shapiro testified the psychological "injury could be serious or not serious," depending on where the child was psychologically, which was why he wanted to interview the child. When asked whether he thought T.H.'s peers could influence the trauma to the child, Dr. Shapiro said the question assumed T.H.'s peers would find out about it, but the doctor felt T.H. would not have to tell his friends because he could discuss this matter with his parents or a counselor, in lieu of friends.

¶ 33 Dr. Shapiro said he was a proponent of the "right to know theory" in most situations, and that a child should be made aware of the identity of his biological parents. The doctor said he felt that the bond between W.C.H. and T.H. was so strong and secure that information regarding a different biological father would not cause serious endangerment, but that this was all speculative as to how T.H. would respond to this information. He agreed the information would absolutely cause trauma to the child's life, but he did not think this specific child's adolescent development would be "kicked off the rails" by learning this information. In his opinion, the doctor felt serious endangerment was not likely to happen, but admitted it could occur. Dr.

Shapiro testified that the advantage of knowing who his biological father is, at this time, would give T.H. the opportunity to know the love of a biological father, four other half brothers and sisters, and would expand his family. He said that this would be harder to accomplish after T.H. turns 18 years old, because T.H. will be “off and doing” different things and will not be as rooted in one location.

¶ 34 Finally, J.S.A. testified that he had four children, in addition to T.H., between the ages of 31 and 26 years of age. J.S.A. stated he was a good father to his other biological children and would be a good father to T.H. J.S.A. said his other children attended college, were successful adults, and wanted to get to know T.H.. J.S.A. testified that T.H. had nieces and nephews who he was also entitled to meet.

¶ 35 After closing arguments the court took the matter under advisement. The court noted, in its written decision entered on December 28, 2010, that it assigned the burden of proof to M.H. to show that visitation could seriously endanger T.H. by the preponderance of the evidence. The court also noted that this burden placed on M.H. was “onerous, stringent, rigorous, and more stringent than best interest.”

¶ 36 The court articulated that both experts agreed that revealing the biological connection to J.S.A. and ordering visitation would be traumatic for T.H., although the experts did not agree on the severity of this impact. According to the judge, both experts agreed that the teen years are difficult and that the truth could be handled better when the child becomes more mature.

¶ 37 The court found that T.H. was presently a 14-year old freshman at a catholic high school who believed he was a member of a very close-knit intact family, consisting of M.H., W.C.H., and his older twin brother and sister who were now 23 years old. The court found T.H. shared

an exceptionally strong parent/child relationship with W.C.H. The court noted that A.H. and B.H. testified about their reactions to learning the parentage of T.H., at age 21, and “[t]he Court was impressed by the emotional impact it had on them and the problem they had processing and assimilating this revelation.”

¶ 38 In the written decision, the court found:

“Dr. Frey’s analysis was particularly thoughtful as was her opinion that disclosure to [T.H.] at this time in his life would probably cause serious impact on him emotionally and psychologically. His strong ties to his family, his image of his family and his place in that family, will all impact on him. His self perception of the way his family and peers perceive him will affect him in a severe way when he is currently going through the ‘identity’ phase of teen development. The disclosure will likely cause a depression deep enough to risk this young man turning to drugs, alcohol, or even suicide if the depression cannot be controlled. Clearly, his sense of who he is would be affected.

Dr. Shapiro was also well qualified and admitted to the traumatic nature the disclosure would have on this young man at this time of his development. It might cause serious endangerment. What impressed the Court was Dr. Shapiro’s agreement that the severity of the trauma would depend on how the child is told and especially on how the adults handle the disclosure and follow up visitation. This caused the Court great concern since there is deep and obvious hatred between the parties. The Court cannot conceive that the biological parents could accomplish this at this time without compounding the psychological impact.”

¶ 39 As a result of these findings, the court found that revealing his true parentage to T.H., at this time, would cause serious endangerment to this child and, therefore, denied visitation. The court further continued to enjoin J.S.A. from disclosing this information to T.H. This decision was followed by a written order on February 25, 2011. J.S.A. appeals this ruling of the court.

¶ 40 ANALYSIS

¶ 41 On remand, this court directed the trial court to hold a hearing on J.S.A.'s request for visitation pursuant to section 607(a) of the Marriage Act. 750 ILCS 5/607(a) (West 2010). J.S.A. claims that the trial court exceeded its powers by holding a "revelation hearing," rather than a visitation hearing, that was not authorized by section 607(a). M.H. contends that the only hearing the court conducted was a visitation hearing in compliance with section 607(a).

¶ 42 Section 14(a)(1) of the Paternity Act requires the court to apply the relevant factors of the Marriage Act "and any other applicable law of Illinois" when determining the best interests of the child for visitation, support, and bond for security. 750 ILCS 45/14(a)(1) (West 2010). The relevant law in the Marriage Act is found in section 607(a), which provides:

"A parent not granted custody of the child is entitled to reasonable visitation rights unless the court finds, after a hearing, that visitation would endanger seriously the child's physical, mental, moral or emotional health." 750 ILCS 5/607(a) (West 2010).

This court has previously held that any parent, in wedlock or out of wedlock, is allowed a presumption in favor of visitation *unless there is no prior or existing parental relationship* between the biological parent and the child. (Emphasis added.) *Wenzelman v. Bennett*, 322 Ill. App. 3d 262, 265 (2001). In this case, we conclude there was no prior or existing parental relationship between J.S.A. and his biological child. Here, J.S.A. maintains he visited with the

child during the first three years of the child's life, but the history of this case reveals J.S.A. admitted he presented himself to the child as "Scott," M.H.'s friend rather than T.H.'s biological father, during all previous visits before M.H. ended her extramarital relationship with J.S.A.. Thus, we conclude the presumption in favor of visitation does not apply based on the circumstances surrounding the biological father's previous non-parental contacts with the child.

¶ 43 Typically, J.S.A. would be required to prove that visitation would now be in the child's best interests. By all accounts, this is not a typical paternity action. Consequently, the trial court placed an onerous burden on M.H. to overcome any arguable presumption in favor of a noncustodial parent's visitation by proving to the trial court that J.S.A.'s desire to develop a visitation schedule with T.H. would result in serious endangerment to T.H. if the court granted visitation. See *Jines v. Jurich*, 335 Ill. App. 3d 1156, 1162-63 (2002). No one challenged the court's decision to abandon the best interest standard in favor of applying the more stringent burden based on the tortuous litigation history between these parties. After the hearing, the court found M.H. met this higher standard by showing visitation would seriously endanger T.H. at this point in T.H.'s life.

¶ 44 Next, we address whether this finding of serious endangerment was against the manifest weight of the evidence, was manifestly unjust, or was a clear abuse of discretion. *Wenzelman*, 322 Ill. App. 3d at 264. Two expert psychologists testified before the court in this case.

¶ 45 Dr. Shapiro testified that there was no research available on this topic, but it was his opinion that a trauma such as telling a 15-year-old teenager that the person he believed to be his biological father is not his biological father may be a more serious trauma. Shapiro believed the potential for psychological damage to T.H. could be minimized depending on how the adults

managed it. However, Dr. Shapiro testified the psychological “injury could be serious or not serious,” depending on where the child was psychologically, which Dr. Shapiro could not determine here because he was not allowed to interview T.H.

¶ 46 Dr. Frey testified that she did extensive research in adolescent child development and psychology as it applied to the facts in this case. Dr Frey informed the trial judge that:

“[T]o inform a 14 year old adolescent that the man who has raised him and who he believes is the father is not his biological parent, is to put T.H. at risk for various emotional and social damage as well as possible cognitive deterioration. Similarly, to require visits with a person who T.H. does not know exists has significant potential of causing serious endangerment to his emotional health, social and cognitive functioning. These statements are based on developmental theory and research as to the life tasks for young adolescents.”

Dr. Frey shared her concerns about T.H. developing “a deep depression and all that could mean including suicide potential,” or “extreme acting out, behavioral issues, drugs, alcohol.” She also felt that the “chaos and trauma would also impact cognitions, \*\*\* intellectual development,” and severe acting out would affect T.H.’s future development.

¶ 47 Although both experts disagreed about the extent of the trauma, both experts agreed the disclosure would create serious “trauma” for T.H. Dr. Shapiro thought perhaps the adults could help minimize the impact on T.H.

¶ 48 In its written decision, the court concluded that the adults would not manage mandatory visitation well because there is a “deep and obvious hatred between the parties.” As such, the court believed *each* one of T.H.’s biological parents would compound, rather than minimize, the

psychological impact on the child.

¶ 49 In Illinois, the law is well established that the trial judge, sitting without a jury, has the obligation of weighing the evidence and making findings of fact, and an appellate court will defer to the fact findings of the circuit court unless they are against the manifest weight of the evidence. *Chicago Investment Corporation v. Dolins*, 107 Ill. 2d 120,124 (1985). Although it is clear the trial court carefully considered all the testimony introduced during the hearing, including the testimony of both experts, it is clear that the court found Dr. Frey’s testimony more persuasive. Dr. Frey unequivocally opined that revealing this information to T.H., at this stage of his adolescence, had significant potential of causing serious endangerment to T.H.’s emotional health and social and cognitive functioning. Therefore, the trial court’s finding that serious endangerment would result to the child if the court allowed J.S.A.’s visitation request was not contrary to the manifest weight of the evidence presented to the court.

¶ 50 Our supreme court’s 2007 decision in *J.S.A. v. M.H.*, 224 Ill. 2d 182 (2007)), contains particularly thoughtful language that is particularly instructive here. The court held:

“As we have recently explained, the right of a biological father to establish paternity to a child born to a marriage does not also mean that the legal rights flowing from the parent and child relationship are automatically conferred. [Citation.] As stated, the Parentage Act specifically provides in section 14(a)(1) that decisions regarding the involvement of the biological father in the life of the child are to be governed solely by what is in the child's best interests. 750 ILCS 45/14(a)(1) (West 1998) (decisions regarding custody and visitation ‘shall [be] determine[d] in accordance with the relevant factors set forth in the Illinois Marriage and Dissolution

of Marriage Act [750 ILCS 5/101 *et seq.*] and any other applicable law of Illinois, to guide the court in a finding in the best interests of the child’); [citation]. Accordingly, ‘even though paternity may be established upon the filing of a petition pursuant to section 7(a), any parental rights of the biological father, such as the right to have custody of, or visitation with, the child, shall not be granted unless it is in the child’s best interest.’ [Citation.]

Therefore, under this statutory scheme, subsequent to the circuit court’s declaration of paternity[,] that court is required to conduct a best-interests hearing to determine whether, and to what extent, the natural father may exercise any rights with respect to the child. At such time, both parties may introduce evidence either in support of, or in opposition to, the natural father being granted parental rights to his biological child.” *J.S.A. v. M.H.*, 224 Ill. 2d at 211-12.

¶ 51 Based upon our careful review of the record, and the very unique facts of the instant case, we conclude that there was substantial evidence supporting the court’s finding that court-ordered visitation would endanger the physical, mental, moral, and social well being of T.H., at this stage in his life. Having found visitation would endanger the well being of T.H., this record also demonstrates ordering visitation between T.H. and his biological father, who did not share a previous parental relationship with T.H., would not be in the best interests of T.H. based on the circumstances presented to the trial court during the 2010 visitation hearing.

¶ 52 Accordingly, we hold that the trial court’s decision to deny visitation to J.S.A. was not against the manifest weight of the evidence.

¶ 53 CONCLUSION

¶ 54 For the foregoing reasons, we affirm the decision of the trial court

¶ 55 Affirmed.