

**NOTICE**  
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4-10-0996, 4-11-0043 cons. Filed 05/06/2011

IN THE APPELLATE COURT  
OF ILLINOIS  
FOURTH DISTRICT

In re: K.M., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Champaign County
v. (No. 4-10-0996)	)	No. 07JA52
PHILLIP MATTHEWS,	)	
Respondent-Appellant.	)	
-----	)	
In re: K.M., a Minor,	)	
THE PEOPLE OF THE STATE OF ILLINOIS,	)	
Petitioner-Appellee,	)	
v. (No. 4-11-0043)	)	Honorable
TABITHA CROSS,	)	John R. Kennedy,
Respondent-Appellant.	)	Judge Presiding.

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JUSTICE POPE delivered the judgment of the court.  
Presiding Justice Knecht and Justice Turner concurred in the judgment.

**ORDER**

*Held:* Phillip Matthews and Tabitha Cross filed separate appeals from the trial court's decision to terminate their respective parental rights to K.M. We affirm, holding the trial court's decision as to Matthews was not against the manifest weight of the evidence, and the court did not abuse its discretion in not allowing Cross to testify via the telephone at the fitness hearing.

In December 2010, the trial court terminated the parental rights of respondents, Phillip Matthews and Tabitha Cross, to K.M., born July 27, 2006. Matthews and Cross filed separate appeals, which we have consolidated for appellate review. Matthews argues the trial court's finding it was in the

best interest of K.M. to terminate his parental rights was against the manifest weight of the evidence. Cross argues the trial court erred in not allowing her to testify by telephone at the fitness hearing on the State's petition to terminate her parental rights. We affirm.

#### I. BACKGROUND

In June 2007, the State filed a five-count petition for adjudication of neglect and shelter care with regard to K.M. Counts I, II, III, and V were directed at Cross, alleging she exposed K.M. to substance abuse, inadequate supervision, and risk of physical harm. The State also alleged Cross failed to provide adequate shelter. The State alleged Matthews exposed K.M. to domestic violence.

These proceedings originated after the Department of Children and Family Services (DCFS) hot line received a report on May 14, 2007, alleging Cross was giving K.M. medicine for thrush (even though the child did not have thrush), a crack pipe was found in K.M.'s diaper bag, and K.M. had several finger-sized, circle-shaped bruises on her back and inner thighs. The report also indicated Cross was known to take K.M. to crack houses, and K.M. displayed withdrawal symptoms.

That same day, Cross called DCFS wanting help retrieving K.M. from Matthews. Cross reported Matthews had threatened to kill her in the past, did not pay child support,

and had not seen K.M. for several months. Cross alleged Matthews planted the crack pipe in K.M.'s diaper bag.

During the initial investigation, Matthews had K.M. On May 17, 2007, the DCFS investigator learned Cross had tested positive for amphetamines, cocaine, and marijuana. Although told by the DCFS investigator to allow K.M. to stay with Matthews, Cross obtained an emergency order of protection for both her and K.M. against Matthews and retrieved K.M. from Matthews.

Upon direction from the DCFS investigator, Cross agreed to stay with friends who would monitor her contact with K.M. However, on June 6, 2007, Cross left the child sometime after 8 p.m. alone in the apartment and went to watch a movie with a man in another apartment building. K.M. was found at midnight alone in the apartment. Several days later, while executing a search warrant, the police found K.M. playing on the floor of another residence next to a can filled with marijuana.

On June 13, 2007, K.M. was taken into protective custody, and the trial court found the appointment of a temporary custodian a matter of immediate and urgent necessity and appointed the guardianship administrator of DCFS. Later that month, the temporary custody order was vacated because the emergency order of protection against Matthews had been dismissed. However, the probable-cause finding remained.

On July 26, 2007, the trial court held an adjudicatory

hearing. After admissions and stipulations by Cross and Matthews, the court found in favor of the State and against Cross on counts I and II and against Matthews on count IV, finding K.M. was neglected because of an environment injurious to her welfare as defined by section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Act) (705 ILCS 405/2-3(1)(b) (West 2006)).

On August 23, 2007, the trial court held a dispositional hearing and found Matthews fit, able, and willing to care for, protect, train, and discipline K.M. The court found Cross unfit and unable to do these things. The court named DCFS as K.M.'s guardian and Matthews her custodian. In the written dispositional report, the trial court ordered the parents to cooperate fully and completely with DCFS and the court-appointed special advocate (CASA); comply with the terms of the service plans; correct the conditions which required K.M. to be adjudged a ward of the court; establish and maintain a regular course of visitation with K.M. (attending each scheduled visit with the minor unless such attendance is impossible); complete psychological, psychiatric, and alcohol/drug usage evaluations; immediately undertake, benefit from, and successfully complete any course of counseling, education, or treatment recommended as a result of such evaluations and provide written proof of such completion to DCFS; successfully complete any course of counseling and/or education and counseling, parenting education

and instruction recommended by DCFS or any individual or agency designated by DCFS; and maintain appropriate, clean, healthy, and stable residences.

A. Tabitha Cross

After the dispositional hearing, Cross's situation continued to decline. She became homeless in October 2007 and on at least two occasions came to visit K.M. with bruises on her face. Cross only attended 4 of 12 scheduled visits with K.M. She did not appear for four drug drops in October and November 2007. In November 2007, she moved to Tulsa, Oklahoma, to live with her mother. As of December 2007, she was unemployed.

While living in Oklahoma, Cross never visited with K.M. She had sporadic employment. While claiming she was complying with DCFS directions regarding assessments, counseling, and treatment, she failed to consistently provide verification of her alleged participation to Catholic Charities.

In February 2009, Cross was arrested in Oklahoma. She had been arrested three other times in the preceding eight months for (1) driving under the influence; (2) distribution of a controlled substance, false impersonation, possession of drug paraphernalia, no driver's license, and speeding; and (3) conspiring to deliver a controlled substance. Cross was later convicted of false impersonation, unlawful possession of a controlled substance, intent to distribute, and endeavoring to

manufacture controlled drugs and was incarcerated in Oklahoma, where she remained throughout the remainder of this case.

During the life of this case, after moving to Oklahoma, Cross never visited with K.M. According to testimony from a Catholic Charities worker, she sent only one package to K.M. during the proceedings in this case.

#### B. Phillip Matthews

From the middle of 2007 until July 2009, Matthews had custody of K.M. Throughout this period of time, the Catholic Charities worker assigned to Matthews's case consistently found Matthews and K.M. had a loving relationship and were very attached. In addition, the Catholic Charities worker consistently found K.M. to be happy, energetic, and well-adjusted. However, during this time, Matthews had sporadic employment, frequently changed residences, did not consistently participate in recommended services, had marital difficulties with his wife which resulted in separations, spent time in the De Witt County jail on an outstanding arrest warrant, missed many required drug drops, and tested positive on multiple occasions for marijuana, tetrahydrocannabinol (THC), and hydrocodone.

On July 8, 2009, a warrant of apprehension was issued for K.M. Two days later, the trial court entered a temporary-custody and admonition order. The court found probable cause to

believe K.M. was neglected/abused for the following reasons: (1) Matthews had not appeared for seven drug drops between December 2008 and March 2009; (2) on March 19, 2009, Matthews tested positive for THC; (3) on April 28, 2009, Matthews tested positive for hydrocodone; (4) on June 10, 2009, Matthews failed to appear for a drug drop; and (5) on June 29, 2009, Matthews tested positive for THC. Matthews's wife tested positive for cocaine on June 30, 2009. The trial court placed temporary custody of K.M. with DCFS.

On July 10, 2009, the State filed a motion to declare Matthews unfit to exercise custody of the respondent minor. The motion noted DCFS had instructed Matthews he needed to appear for drug tests to prove he was "clean." In September 2009, the trial court entered an order finding Matthews dispositionally unfit and placed custody of K.M. with DCFS.

K.M. was placed in a traditional foster home in Champaign and appeared to have adjusted well. The foster parent had worked with K.M. on going to bed on time, her eating habits, and potty training. K.M. had made great strides in a short amount of time. Matthews attended almost all of the visitation sessions with K.M. he was offered. The Catholic Charities reports consistently note his visits went well and K.M. and Matthews clearly loved each other and were still very attached. K.M. was always excited to see Matthews and did not like the

visits to end.

However, Matthews was still missing required drug drops and occasionally testing positive for marijuana. In addition, his familial and living situation was not stable. He had been unable to secure employment or housing and he and his wife's on-again, off-again relationship continued. However, he did finally complete substance-abuse treatment and was attending individual counseling.

### C. Unfitness Finding

In July 2010, the State filed a petition seeking a finding of unfitness and termination of the parental rights of Cross and Matthews. The petition alleged both Cross and Matthews were unfit pursuant to section 1 of the Adoption Act (750 ILCS 50/1 (West 2008)) because they failed to (1) make reasonable efforts to correct the conditions that were the basis for K.M.'s removal (count I); (2) make reasonable progress toward the return of the minor within the initial nine months of the adjudication of neglect (count II); (3) maintain a reasonable degree of interest, concern, or responsibility as to K.M.'s welfare (count III); (4) make reasonable progress toward the minor's return during the nine-month period between April 26, 2008, and January 26, 2009 (count IV); (5) make reasonable progress toward K.M.'s return in the nine-month period between January 26, 2009, and October 26, 2009 (count V); and (6) make

reasonable progress toward the return of the minor during the nine-month period between October 19, 2009, and July 19, 2010 (count VI). The motion also alleged Cross was unfit because she was incarcerated as a result of a criminal conviction, had little or no contact with K.M., provided little or no support for K.M. prior to her incarceration, and was prevented by her incarceration from discharging her parental responsibilities for a period in excess of two years after the filing of the petition to terminate her parental rights (count VII). The petition also alleged Cross was deprived (count VIII).

On July 16, 2010, the trial court entered a permanency order setting substitute care pending determination of the termination of Cross's and Matthews's parental rights. The court found neither had made reasonable and substantial progress toward returning K.M. home.

On October 21, 2010, the trial court held a hearing on the State's petition for a finding of unfitness for termination purposes. The court found the State proved by clear and convincing evidence all eight counts against Cross. With regard to Matthews, the court found the State proved by clear and convincing evidence Matthews failed to make reasonable efforts to correct the conditions that were the basis for K.M.'s removal, failed to maintain a reasonable degree of responsibility for K.M., and failed to make reasonable progress

toward the minor's return during the nine-month period between January 26, 2009, and October 26, 2009, and the nine-month period between October 19, 2009, and July 19, 2010.

On November 2, 2010, the trial court filed a written order finding the State proved by clear and convincing evidence both Cross and Matthews were unfit for termination purposes. The court stated Cross was incarcerated, had been incarcerated for a large part of the minor's life, and would remain incarcerated for at least two years from the filing of the petition to terminate parental rights. Before she was incarcerated, Cross failed to comply with treatment for substance abuse. In addition, after moving to Oklahoma, Cross had little contact with K.M. The court also found Cross depraved.

As for Matthews, the trial court noted Matthews maintained a persistent pattern of substance abuse since the initial dispositional order. The court noted Matthews was discharged from substance-abuse treatment at Prairie Center on October 19, 2007, for lack of attendance. He did not complete substance-abuse treatment until July 1, 2010. He was referred to a domestic-violence program in October 2007 but failed to start the program for two months and was later terminated from the program in March 2008. He was also discharged from parenting classes in November 2007 due to missed appointments.

As a result, the court found Matthews failed to make reasonable efforts to correct the conditions that were the basis for the removal of the minor, failed to maintain a reasonable degree of responsibility as to K.M.'s welfare, and failed to make reasonable progress toward the return of the minor during two nine-month periods following adjudication (January 26, 2009, through October 26, 2009, and October 19, 2009, through July 19, 2010).

#### D. Best-Interest Finding

On December 1, 2010, DCFS filed a report prepared by Catholic Charities for the best-interest-determination hearing. The report noted K.M., who was four years old at that time, had shown a lot of growth since being placed in the home of the foster parent. She was potty trained, her eating and sleeping habits were good, and her language skills had improved dramatically. The report noted K.M. appeared very comfortable and had bonded with the foster parent. The foster parent lived in a good neighborhood, was aware of community resources, and had family and friends for support. The foster parent expressed a desire to adopt K.M. in the event parental rights were terminated.

K.M. was attending day care/preschool at La Petite Academy in Champaign and was also attending a Pre-K program at the Champaign Early Childhood Center in the afternoon. While

K.M. had transitioned into those programs, workers at La Petite and the Pre-K program had observed K.M. acting defiant and displaying oppositional behaviors toward the foster parent and the teachers.

At that time, Matthews's visits had been limited to once per week for 1 1/2 hours, due to the filing of a petition to terminate parental rights. K.M. still loved visiting with Matthews, her stepmother, and step-siblings and was always excited to see them. K.M. was still very bonded with her father and showed a lot of love and affection toward him. K.M. did not like the visits to end. However, overall, she handled the transition back to the foster home well.

The report noted Matthews was still residing with friends in Mahomet, where he had lived since June 2010. Matthews's 14-year-old son Jonathan lived with him. Jonathan had resided with Matthews since July 2010 pursuant to a safety plan entered after an investigation involving an accusation that Jonathan had sexually molested his sister, Jessica. Matthews testified at the best-interest hearing the accusation was unfounded. Because of a lack of appropriate relatives to take Jonathan, the safety plan allowed Jonathan to live with his father. Matthews's wife, Crystal, and her children were living with her mother in Champaign. Matthews reported they were waiting on a mobile home in Mahomet to become available for them

to purchase.

Matthews was still on unemployment and looking for full-time employment. Matthews was doing side jobs for extra money and had an interview scheduled at Penske Oil in Urbana. Matthews also claimed he had signed up to take architecture classes at Parkland College. Matthews's wife was also on unemployment and was taking classes to get her general equivalency diploma (GED).

Between July 6, 2010, and November 18, 2010, Matthews had 10 negative drug tests and 3 no-shows. During that same period, Matthews's wife had seven negative tests, one positive test for hydrocodone, and on six occasions she did not appear for the tests.

Matthews was still in individual counseling with a Catholic Charities worker and had attended 18 of 18 counseling sessions. The counselor reported Matthews had made a certain amount of progress but was stagnant in terms of change.

Cross was still incarcerated in Oklahoma but had a parole hearing scheduled for February 2011. Cross claimed she would be in Champaign no later than December 2011. Cross still had not visited with K.M. Her visitation privileges were suspended at the July 2010 permanency hearing.

As to Matthews, the best-interest report stated:

"There is no question as to how much

Mr. Matthews loves and cares for his daughter, but rather a question of how adequately he can take care of his daughter. Throughout the life of the case[,] Mr. Matthews has not been able to hold a consistent job. He has had four different jobs and now has been unemployed for over one year. Mr. Matthews has been able to pick up side jobs for extra money, but it is unknown how long this will continue for. Mr. Matthews has also changed residences nine times, which shows instability. It has also taken Mr. Matthews an extensive amount of time to complete services thoroughly and completely. Mr. Matthews was referred to Prairie Center three times, before he actually complied with the assessment and treatment. Mr. and Mrs. Matthews continue to have issues in their marriage, which they report they are working on. Mr. Matthews appears to be a good man and father, however he needs to show stability in his life before he can adequately care for his daughter."

Catholic Charities recommended both Matthews's and Cross's parental rights be terminated.

On December 7, 2010, the trial court held a best-interest hearing. Matthews testified he had not used drugs, alcohol, or other substances in over a year. He testified he told his caseworker he was going to miss one of his scheduled drug drops because he had to be out of town. Matthews testified the drug-drop process did not allow him to make up the missed drug drop. Matthews testified he was going to purchase a mobile home for himself, his son, and K.M. to live in. Matthews testified he was married but separated from his wife Crystal. He testified they maintain a positive relationship. He sees her children, and she sees his son. He also testified Crystal and her children were still participating in visits with K.M.

Matthews testified he was currently unemployed but had standing job offers in Kansas City, Missouri, and Northbrook, Illinois, but wanted to stay in the Champaign area to participate in this case. He was waiting to hear about a job at Penske Oil in Urbana where he had interviewed. He also testified he had been working with Jeff Haines Construction but was injured when he fell off a roof.

Matthews testified he currently lived with his son and an unmarried couple who had been together for seven years, Joseph Wells and Sharon Shirley. According to Matthews, both

Catholic Charities and DCFS performed background and home-inspection checks on Wells and Shirley and found no issues.

Matthews testified he had never harmed K.M., used alcohol or any controlled substances when he was with her, or ever endangered or threatened her with his conduct. He testified he and K.M. were very attached. According to Matthews, other than financial issues, nothing in his life prevented him from taking care of K.M. Matthews also testified DCFS placed custody of his son with him. He testified he was active in his son's education and would do the same with K.M.

The trial court found by a preponderance of the evidence that it was in K.M.'s best interests the parental rights of Matthews and Cross be terminated. With regard to Matthews, the trial court stated the child felt love, attachment, and a sense of being valued both with Matthews and in her current foster placement. As a result, the court found this factor favored neither termination nor allowing Matthews to retain his parental rights. However, the court found the physical safety and welfare of the child, including food, shelter, health, and clothing, and the child's sense of security and continuity of affection favored termination. The court also found terminating parental rights would be the least-disruptive placement alternative. Finally, the court found the child's need for permanence, including K.M.'s need for stability and

continuity of relationships with parental figures and with siblings and other relatives favored termination. The court stated K.M.'s future with Matthews was uncertain, unstable, and unclear. The court also stated it believed there would be a continuing pattern of neglect on Matthews's part. The court noted it was concerned Matthews would not be able to provide K.M. stable shelter, which could lead to K.M. being transferred in and out of various schools on a continuous basis. With regard to Cross, the trial court noted Cross had no significant relationship with K.M. and little chance existed with regard to permanence.

These appeals followed.

## II. ANALYSIS

Before a trial court can terminate parental rights, the State must prove by clear and convincing evidence (*In re M.H.*, 196 Ill. 2d 356, 365, 751 N.E.2d 1134, 1141 (2001)) the parent is unfit as defined by the Adoption Act (750 ILCS 50/1 through 24 (West 2008)) (*In re B.B.*, 386 Ill. App. 3d 686, 698, 899 N.E.2d 469, 480 (2008)). A reviewing court will reverse a trial court's finding of unfitness only when it is against the manifest weight of the evidence. *In re D.F.*, 201 Ill. 2d 476, 495, 777 N.E.2d 930, 940-41 (2002). A decision is against the manifest weight of the evidence only where the opposite result is clearly evident or where the determination is unreasonably

arbitrary and not based on the evidence presented. *In re Cornica J.*, 351 Ill. App. 3d 557, 566, 814 N.E.2d 618, 626 (2004).

Once a parent has been found unfit in a termination proceeding, "the parent's rights must yield to the best interests of the child." *In re M.F.*, 326 Ill. App. 3d 1110, 1115, 762 N.E.2d 701, 706 (2002). The State has the burden of proving termination is in the best interest of the child by a preponderance of the evidence. *In re D.T.*, 212 Ill. 2d 347, 366, 818 N.E.2d 1214, 1228 (2004). "A trial court's finding termination is in the children's best interest will not be reversed unless it is contrary to the manifest weight of the evidence." *M.F.*, 326 Ill. App. 3d at 1115-16, 762 N.E.2d at 706. Under this standard, a reviewing court gives the trial court deference because it is in the better position to observe the parties' and witnesses' conduct and demeanor. *M.H.*, 196 Ill. 2d at 361, 751 N.E.2d at 1139. We will not substitute our judgment for that of the trial court regarding witness credibility, the weight to be given witness testimony, or inferences to be drawn from the evidence presented. *People v. Deleon*, 227 Ill. 2d 322, 332, 882 N.E.2d 999, 1005 (2008).

A. Phillip Matthews--No. 4-10-0996

1. *Matthews's Unfitness*

Although not argued by Matthews's appellate counsel,

we have reviewed the record with regard to the trial court's unfitness finding. A parent's parental rights can be terminated if even a single alleged ground for unfitness is supported by clear and convincing evidence. *In re Gwynn P.*, 215 Ill. 2d 340, 349, 830 N.E.2d 508, 514 (2005). In this case, the court found Matthews unfit on multiple grounds. The manifest-weight-of-the-evidence standard of review applied to a court's unfitness findings calls for deference to be given to the court's decision. A decision is against the manifest weight of the evidence only where the opposite result is clearly evident or where the determination is unreasonably arbitrary and not based on the evidence presented. *Cornica J.*, 351 Ill. App. 3d at 566, 814 N.E.2d at 626.

One of the trial court's findings was Matthews had failed to make reasonable progress toward the return of the minor during the nine-month period between January 26, 2009, and October 26, 2009. We cannot find this was manifestly erroneous. Matthews missed drug drops on January 30, 2009, February 9, 2009, February 20, 2009, February 25, 2009, and March 13, 2009. He tested positive for THC on March 19, 2009. On April 28, 2009, he tested positive for hydrocodone. On June 10, 2009, he failed to appear for a drug test. On June 29, 2009, he tested positive for the presence of THC. On July 10, 2009, he could not drop but attempted to do so. On July 15, July 31, and

August 5, 2009, he could not drop and provided no proof of an attempt. From August 14, 2009, to the end of this nine-month period he had no positive tests and consistently appeared for drug drops. However, when this nine-month period is considered as a whole, the trial court's finding he had not made reasonable progress was not manifestly erroneous.

## 2. *K.M.'s Best Interest*

"A trial court's finding termination is in the children's best interest will not be reversed unless it is contrary to the manifest weight of the evidence." *M.F.*, 326 Ill. App. 3d at 1115-16, 762 N.E.2d at 706. Based on our review of the record in this case, we cannot conclude the trial court's decision to terminate Matthews's parental rights was against the manifest weight of the evidence.

For almost half of K.M.'s life she had lived with Matthews on a full-time basis. During this period, K.M. appeared to be happy, appropriately dressed, full of energy, and well adjusted. K.M. appeared to have a strong bond with her father. The record does not reflect Matthews ever presented any threat of physical harm to K.M. Even after entering foster care, the bond between K.M. and Matthews remained strong. He consistently visited her when allowed, and K.M. was always excited to see him and became upset when the visits ended. Nevertheless, as discussed below, even after nearly four years,

K.M. is not in a position to be returned to Matthews.

The record also shows K.M. adjusted well to her foster placement. The foster parent worked with her on her sleeping and eating habits and potty training. Catholic Charities reported she made great strides in a short amount of time. K.M. was doing well in foster care, and the foster parent expressed a desire to adopt K.M. if her parents' parental rights were terminated.

While some trial courts may not have found it was in K.M.'s best interest to terminate Matthews's parental rights at that time, we must follow the law with regard to the standard of review in parental-termination cases. Based on the deferential standard of review, we cannot find the court's decision was against the manifest weight of the evidence even if we might have ruled differently had we been the trial court. Unlike the trial court, this court was not able to see Matthews or the other witnesses testify.

While Matthews had successfully completed substance-abuse treatment after he lost custody of K.M., he had still recently missed two required drug tests. In addition, his employment, housing, and familial situation were still uncertain and unstable. After hearing from witnesses and considering the evidence in this case, the trial court believed Matthews would continue to display a pattern of neglect if his parental rights

were not terminated. Even ignoring the witness-credibility aspect of this determination, based on Matthews's past conduct, we cannot find the trial court's decision was against the manifest weight of the evidence. Throughout this case, Matthews made progress but then relapsed time and time again. Even though Matthews and K.M. clearly loved one another, the State presented enough evidence K.M.'s best interest would be served by the termination.

B. Tabitha Cross--Case No. 4-11-0043

Cross does not challenge the trial court's unfitness or best-interest findings. Instead, her argument centers on the trial court's decision not to allow her to testify via the telephone at the termination hearing. She also argues the trial court's actions in not allowing her to testify telephonically violated her due-process and equal-protection rights. We find both of these arguments meritless.

When a child's parent is in prison, a trial court must make reasonable efforts to ensure the parent has a meaningful opportunity to participate in a termination proceeding. See generally *In re C.J.*, 272 Ill. App. 3d 461, 650 N.E.2d 290 (1995). Here, Cross was represented by counsel in the courtroom, the court made efforts to ensure Cross was able to hear what was happening in the courtroom, and the court allowed Cross to confer with her attorney. Moreover, documentary

evidence offered by Cross was admitted at the hearing.

While the trial court did not allow Cross to offer testimony over the telephone, Cross has failed to establish this violated her due-process or equal-protection rights. The court did not bar Cross from testifying. The court specifically stated it was only ruling Cross could not testify via the telephone. Cross's attorney did not seek a continuance to determine another means for Cross to testify or inquire of the court for suggestions as to a method it would find appropriate. In other words, the court only denied a particular method for introducing evidence, not the evidence itself.

Because Cross has failed to establish the trial court's actions violated her constitutional rights, this court must only determine whether the trial court erred in not allowing Cross's testimony to be introduced over the telephone. Because the other parties in the case specifically waived any objections they had to Cross testifying via telephone, the trial court could have allowed the testimony to be introduced. However, this does not mean the court erred in denying the mother's request to testify in that manner. This was a determination subject to the court's discretion. We do not find the court abused its discretion.

Cross has failed to establish the trial court erred in refusing telephone testimony. In addition, Cross's counsel

failed to seek other methods for Cross to testify. Further, counsel failed to make an offer of proof as to what the substance of Cross's testimony would have been.

Because the evidence in this case overwhelmingly supports the trial court's actions in terminating Cross's parental rights, we deny Cross's prayer to reverse the termination of her parental rights.

### III. CONCLUSION

For the reasons stated, we affirm the trial court's judgment to terminate both Matthews's and Cross's parental rights.

No. 4-11-0043: Affirmed.

No. 4-10-0996: Affirmed.