

psychiatric medication and that her mother previously had another child adjudicated as abused. The mother had been off psychiatric medications for a few months at the time she was jailed. Police records showed that from the date of M.L.B.'s birth until the State filed the petition, police had received 33 contacts involving the mother to include battery, domestic violence, and altercations with people. The mother had given birth to five other children—none of whom were living with her due to neglect issues and/or Department of Children and Family Services (DCFS) involvement. The State asked that the court adjudge M.L.B. to be a ward of the court.

¶ 5 Four days later, the court held a temporary custody hearing at which the court appointed the Illinois DCFS to be the temporary custodian of M.L.B. On that same date, the court entered an order requiring DCFS to perform paternity testing to determine whether Antonio G. was M.L.B.'s biological father.

¶ 6 The adjudicatory hearing was held on November 7, 2008. The court entered its order finding that the State's allegations of neglect of M.L.B. were proven.

¶ 7 The dispositional hearing was held on April 27, 2009. The court found that it was consistent with the health, welfare, and safety of the minor, as well as being in the best interests of the minor, to make M.L.B. a ward of the court. The mother was found to be unfit in that her service plan goals were not achieved. The father was found to be unfit and unable to care for M.L.B. because he was then incarcerated. The court adjudicated the minor child as neglected and dependent and placed custody with the guardianship administrator of the Illinois DCFS.

¶ 8 A permanency hearing was held on October 26, 2009, at which time the court noted that neither the mother nor the father was working towards the service plan goals and both were incarcerated.

¶ 9 The State filed a motion to terminate parental rights on January 5, 2010, alleging that

both parents were unfit and that termination was in the best interests and welfare of M.L.B.

¶ 10 A permanency hearing was held on June 28, 2010, with the same findings and order that the parents had not made reasonable and substantial progress towards returning M.L.B. home. Custody and guardianship was continued with the Illinois DCFS.

¶ 11 On August 30, 2010, the court held another permanency hearing at which time the court concluded that the appropriate permanency goal was substitute care pending determination of the termination of parental rights.

¶ 12 The court held a fitness hearing on the record on January 28, 2011, at which time the mother surrendered her parental rights to M.L.B. Also at that hearing, counsel for Antonio G. entered an admission to paragraph 9e of the motion for termination of parental rights. Paragraph 9e provided that Antonio G. was an unfit person to have M.L.B. for the following reason:

"The child is in the temporary custody or guardianship of the Department of Children and Family Services, the parent is incarcerated as a result of criminal conviction at the time the petition or motion for termination of parental rights is filed, prior to incarceration the parent had little or not contact with the child or provided little or no support for the child, and the parent's incarceration will prevent the parent from discharging his or her parental responsibilities for the child for a period in excess of 2 years after the filing of the petition or motion for termination of parental rights."

¶ 13 On April 28, 2011, the court held its hearing on the State's motion to terminate parental rights. The mother was found by clear and convincing evidence to be unfit in light of her recorded surrender of her parental rights on January 28, 2011. Antonio G. was similarly found to be unfit by clear and convincing evidence in light of his admission of unfitness pursuant to paragraph 9e in court on January 28, 2011.

¶ 14 The best-interests hearing was held that same date. Kathy Bass, a child welfare

specialist for the Illinois DCFS, testified that M.L.B. was placed with the current foster family about two weeks after an initial placement and that she had been with that family since then. Five people reside in the foster home in Sumner, Illinois. In addition to the husband and wife, there was a girl who was eight who they had also adopted, as well as a granddaughter who was six. The foster parents also have two adult children who reside outside of the home. M.L.B. was extremely well cared for in this family. All of her needs were being met, and she was fully integrated into the family. She had friends at daycare and within the church community. Kathy testified that there were no concerns regarding the parenting M.L.B. was receiving. All visits between M.L.B. and her biological father took place in prison. She testified to one such visitation that she attended, stating that "it didn't go very well," in that M.L.B. was scared and clung to her caregivers. She knew that at one time, M.L.B. cried until she was ill during visitation and that M.L.B. had difficulty with the commute to the prison from her home. In conclusion, Kathy testified that it would be in M.L.B.'s best interests to terminate the parental rights of her father.

¶ 15 The foster mother, Jill Q., testified that she had been married to Harold Q. for 33 years. M.L.B. referred to the other two girls in the home as her sisters. M.L.B. was described as a joyous and impulsive child. She has her own bedroom in the home. Jill and Harold both work and make ample income to provide for M.L.B.'s needs. The foster parents had enrolled M.L.B. in a private Christian school for preschool in the coming year. M.L.B. called Jill and Harold her mommy and daddy. Jill described her visitation with the biological parents as being difficult. The car rides were long, and M.L.B. struggled with car sickness. Jill acknowledged that Antonio G. worked hard to get M.L.B. to warm up to him. Jill indicated that she and her husband would like to adopt M.L.B. and would not be taking on any additional foster children. She testified that she could foresee sending photos and periodic updates to Antonio G., but she was otherwise not comfortable with increased

contact while all of the children in their home were so young.

¶ 16 Antonio G. testified on his own behalf at this best-interests hearing. He testified that he was currently incarcerated as a result of a drug charge and that he was scheduled to get out of prison in June 2012. He testified that he knew that M.L.B.'s mother was pregnant, but he felt that paternity was far from certain, and so until the paternity test came back that he was her father, he did not acknowledge M.L.B. as his child. Since learning that he had a daughter, Antonio enrolled in classes held at his prison—including parenting and anger management classes. He completed both courses and received a certificate for each. He participated in visitation when his daughter was brought up to spend time with him, but he acknowledged that this did not happen with much frequency. Visitation eventually ceased because he was told that the visits were not good for his daughter. At Easter of 2010, Antonio recorded a CD of his own voice reading a gospel book to his daughter. Antonio told the court that he did not really have a chance "to be there" for his daughter, and he stated that he had not had the opportunity to neglect her. He felt that he deserved a chance to parent his daughter—to see if he was a fit parent—before concluding that he was an unfit parent. He said that he had no way to dispute the claims that the foster situation was good for his daughter because he had to go by what he was told. But he explained that he grew up in a foster home, and he attributed that experience to what led him to his present state of incarceration.

¶ 17 At the conclusion of the hearing, the court indicated that it had reviewed the file, as well as having heard the testimony at the hearing. The court explained that it did not need to articulate any specific rationale for its decision regarding a termination of parental rights related to a child's best interest. In ruling, the court stated:

"I'm going to find that the State has proven its case; that the evidence in this case is actually overwhelming. We've had a child virtually from the time of its birth

to the present that hasn't been with the natural parents. The mother has terminated voluntarily and surrendered her parental rights.

I appreciate Mr. G[.]'s candor. I understand his dilemma. As you stated, you want a chance and you think every parent deserves a chance to be a parent. You stated every parent deserves a shot to find out whether he can be a fit father. That's not the test for today's hearing. The test is about your daughter and her best interest. And under the facts and circumstances of this case, the Court has only heard about the stability that's been provided to her through the Q[.]s; that she is in a loving caring atmosphere; that she recognizes that she has some siblings, sisters. She recognizes the Q[.]s as her parents, even though she knows and has been told that there are natural parents, and she's met both of you.

She's three years old. *** There would be substantial risk to her removal. She would be obviously very upset by being separated from those people who she loves, lives with and depends on each day.

*** I appreciate *** that you were raised in foster care. And it made a difference for you, and it wasn't a good one. Well, this is not foster care that we're talking about anymore. She's going to be with one family. She's going to live in that same household. She's going to be with the same mom and dad forever. And she's going to have two sisters ***. Two sisters that she's living with and she recognizes and loves. She's been placed in this position because—not of her choice but because of where her parents are."

¶ 18 From this order of termination of his parental rights, Antonio G. appeals.

¶ 19 LEGAL ANALYSIS

¶ 20 Termination of a parent's rights is an extreme act because a parent has a superior right to raise his or her own children. *In re Adoption of Syck*, 138 Ill. 2d 255, 274-75, 562 N.E.2d

174, 184 (1990). Once a parent has been determined to be unfit, "the parent's rights must yield to the child's best interest." *In re Tashika F.*, 333 Ill. App. 3d 165, 170, 775 N.E.2d 304, 307 (2002); *In re J.L.*, 236 Ill. 2d 329, 337-38, 924 N.E.2d 961, 966 (2010). Up until the hearing on the best interests of the child, the interests of both the parent and the child coincide "to the extent that they both 'share a vital interest in preventing erroneous termination of their natural relationship.'" *In re D.T.*, 212 Ill. 2d 347, 363, 818 N.E.2d 1214, 1226 (2004) (quoting *Santosky v. Kramer*, 455 U.S. 745, 760-61 (1982)). The State bears the burden of proof by a preponderance of the evidence that termination of a parent's rights is in the child's best interests. 705 ILCS 405/2-29(2) (West 2008); *In re D.T.*, 212 Ill. 2d at 366, 818 N.E.2d at 1228. On appeal of a best-interests determination, we must decide whether the trial court's decision is contrary to the manifest weight of the evidence. *In re S.J.*, 368 Ill. App. 3d 749, 755, 859 N.E.2d 281, 286 (2006).

¶ 21 The factors to be considered in deciding the best interests of the child are the child's physical safety and welfare, the child's background and ties (including family, culture, and religion), the need for permanence, including familiarity, stability, and continuity with parental figures and other relatives, risks related to substitute care, and preferences of the person available to care for the child. 705 ILCS 405/1-3(4.05) (West 2008); *In re Deandre D.*, 405 Ill. App. 3d 945, 953-54, 940 N.E.2d 246, 253-54 (2010). The likelihood of adoption is an appropriate factor to be considered in a best-interests-of-the-child determination. *In re Tashika F.*, 333 Ill. App. 3d at 170, 775 N.E.2d at 308. The court may also consider the length of the child's relationship with his present caretakers as well as the emotional and/or physical effect of a change of placement on the well-being of the child. *In re Brandon A.*, 395 Ill. App. 3d 224, 240, 916 N.E.2d 890, 904 (2009) (citing *In re Austin W.*, 214 Ill. 2d 31, 50, 823 N.E.2d 572, 584 (2005)).

¶ 22 As the trial court indicated in its ruling, the court is not required to individually

consider each and every factor in determining the best interests of the child. *In re Tiffany M.*, 353 Ill. App. 3d 883, 893, 819 N.E.2d 813, 822 (2004).

¶ 23 In reviewing the judge's ruling and the evidence presented at this hearing, we are not able to find that the trial court's determination as to the best interests of M.L.B. is against the manifest weight of the evidence. The evidence revealed that M.L.B. had been with her foster family for over three years. The environment was extremely good for M.L.B. She was thriving in her home. All of her needs were being met. M.L.B. referred to her foster parents as her mommy and daddy, and she considered the two other young girls in her home to be her sisters. M.L.B. had begun to develop relationships with other children in her daycare and at church, and she was scheduled to start school this fall in a private school. M.L.B. was fully bonded with her foster family and integrated into this new life. Testimony at the best-interests hearing revealed that removal of M.L.B. from that home, given her integration and history with her family, would be harmful. Finally, of import, we note that the foster family has stated its intentions to adopt M.L.B. Overall, M.L.B. needs the stability that her foster family provides.

¶ 24 We acknowledge the attempts made by her biological father in an effort to prove his ability to parent—taking and completing classes, spending visitation time with her, maintaining interest in his daughter's home life and well-being, and providing her with appropriate gifts. However, the fact remains that we are not here to judge the issue of whether Antonio G. is a fit parent. That issue was already decided when Antonio G. admitted to the court that he was an unfit parent. Accordingly, as the trial court noted, the focus of the case shifts entirely to what is in the best interests of M.L.B. Antonio G. is presently incarcerated and is not scheduled for release until June 2012, and we cannot presume that his future upon release from prison is going to be consistent with appropriate care and custody of his daughter. That possibility is unknown.

¶ 25 Accordingly, we find that the best interests of M.L.B. require that she remain with her foster parents, and therefore we conclude that the trial court's order terminating Antonio G.'s parental rights was appropriate.

¶ 26 CONCLUSION

¶ 27 For the foregoing reasons, the judgment of the circuit court Jefferson County is hereby affirmed.

¶ 28 Affirmed.