

to directly service the minor children's cases rather than assigning a new contract service provider. For the reasons that follow, we affirm.

¶ 3 A.B. was born on May 26, 2002, and K.D. was born on July 28, 2005. The minor children were removed from their mother, Candice Bias, in September 2007, after their half-sister S.C. was brought to a medical clinic for a broken arm. The DCFS received "hotline" reports regarding the minor children and investigated the matter. On September 29, 2007, Candice Bias agreed to a safety plan where the children were removed from her custody. A.B. and K.D. were placed in the custody of Tabatha and Virgil Colson. The Colsons were neighbors of the minor children and have no biological relationship with the girls.

¶ 4 The State filed a petition for adjudication of wardship on December 12, 2007, alleging that the minor children had been neglected in violation of section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(b) (West 2008)). On December 13, 2007, temporary custody of the minor children was granted to the DCFS. The DCFS then assigned Lutheran Social Services of Illinois, Inc. (LSSI), to the case on December 14, 2007. On December 21, 2007, Madeleine and Stephen Lazorchak moved to intervene in this action, noting that they were the aunt and uncle of Jason Adams, the biological father of K.D. The Lazorchaks sought custody and adoption of K.D. The trial court granted the Lazorchaks motion to intervene on February 7, 2008.

¶ 5 The minor children were made wards of the court on February 28, 2008, and were adjudicated as neglected minors on March 3, 2008. An order of disposition was entered on April 10, 2008, finding Candice Bias to be unfit and granting the DCFS guardianship and custody of the minor children. On October 30, 2008, the court entered a permanency order stating the following:

"That DCFS shall locate adoptive placements for all three minors and move said minors to an adoptive placement as soon as possible. Madeleine Lazorchak shall be

considered as a possible placement for these minors."

On March 31, 2009, Madeleine and Stephen Lazorchak moved to intervene in regard to A.B. The Lazorchaks sought custody and adoption of both K.D. and A.B. However, regarding A.B., the Lazorchaks were willing to defer to Jane Conte, a family friend whom Candice Bias wanted to adopt A.B. On April 12, 2009, the State filed a motion for termination of parental rights and for appointment of guardian with power to consent to adoption. The trial court granted the Lazorchaks motion to intervene in regard to A.B. on May 21, 2009.

¶ 6 On July 23, 2009, Candice Bias signed a final and irrevocable consent to adoption giving consent to Jane Conte to adopt A.B. and for the Lazorchaks to adopt K.D. Subsequently on August 26, 2009, Conte filed a petition to intervene in the matter in regard to A.B. The trial court granted Conte's motion to intervene on September 17, 2009, and found Conte to be a prospective adoptive parent of A.B. in a permanency order. Since September 2009, the permanency goal ordered by the court for A.B. and K.D. has been adoption. On October 8, 2009, Conte filed a petition for temporary custody of A.B., and the DCFS filed a motion in opposition on January 14, 2010. The Lazorchaks filed a petition to modify custody and guardianship on March 10, 2010, and the DCFS filed a response on April 30, 2010.

¶ 7 Hearings, commencing on August 19, 2010, were held and consisted of 16 days of testimony. After the hearing, the guardian *ad litem* recommended that K.D. be placed with the Lazorchaks and that A.B. be placed with Conte. The DCFS recommended that the minor girls remain with the Colsons. On September 24, 2010, the Lazorchaks filed a petition for rule to show cause against the DCFS and/or LSSI, arguing that the DCFS and/or LSSI violated the order entered by the trial court on October 30, 2008, in failing to consider the Lazorchaks as a possible placement for the minor children. The Lazorchaks argued that as a result, K.D. has been separated from her biological family. LSSI refused to consider the

Lazorchaks or Conte as prospective adoptive parents for the minor children. As a result in November 2010, the trial court found that LSSI had failed to make reasonable efforts in the case.

¶ 8 On February 1, 2011, the trial court entered a detailed written order finding that it was in K.D.'s best interests to be placed with the Lazorchaks and that it was in A.B.'s best interests to be placed with Conte. With respect to K.D., the trial court found the following: the Lazorchaks are interested persons as defined by the Juvenile Court Act, they are the biological paternal great-aunt and great-uncle of the minor child, they have shown love and an interest in K.D. from her birth up to the present time, they are capable to provide for the physical safety and welfare of K.D. and have played an important part in K.D.'s life, they are able to help K.D. develop and facilitate a relationship with K.D.'s extended family and cultural ties, K.D. had feelings of love, attachment, affection, and a sense of security with the Lazorchaks, and the least disruptive placement alternative of K.D. is with the Lazorchaks. With respect to A.B., the trial court found the following: Conte is an interested person as defined by the Juvenile Court Act, having been interested in the minor child from an early age and having regularly visited the minor child, A.B. is a child with special needs and has behavioral problems and Conte has established that she is best able to deal with A.B.'s behaviors, Conte is able to provide for food, shelter, health, and clothing for A.B., A.B. feels love, affection, attachment, and a sense of value with Conte more than any other person, and the least disruptive placement alternative of A.B. is with Conte. The trial court also ordered that the DCFS remove LSSI from the case and prepare its own service plan consistent with the rulings and findings in the order. The trial court also held the DCFS in contempt for failing to obey the order entered on October 30, 2008, finding that the DCFS was willful and contumacious in that it took no actions to consider Madeleine Lazorchak as a possible adoptive placement for the minor children.

¶ 9 On March 10, 2011, the DCFS filed a petition for leave to appeal to take a discretionary appeal from that order pursuant to Supreme Court Rule 306(a)(5), which was granted by this court on April 21, 2011. On May 11, 2011, the DCFS filed a motion requesting that the adoptive placement of A.B. with Conte be vacated on the grounds that A.B. is a mentally disturbed special needs child and that Conte is not "sufficiently equipped" to control A.B.'s behavior. The contempt proceedings against the DCFS were dismissed in June 2011. Subsequently on June 22, 2011, the DCFS filed a pleading contending that the issue of custody of A.B. should be reopened in the trial court.

¶ 10 At the outset, we note that the State argues that the instant appeal should be dismissed on mootness grounds and because the instant appeal was improvidently granted. On July 1, 2011, the State filed a motion to dismiss this appeal, which was denied by this court on July 18, 2011. On August 30, 2011, the State filed a motion to bring to the attention of this court additional facts relevant to mootness and discretionary leave to appeal on August 30, 2011, and the DCFS filed a response on September 12, 2011. The State argues that this appeal should be dismissed for the following reasons: (1) the appeal is moot in regards to K.D. because the DCFS has abandoned all opposition to the placement of K.D. with the Lazorchaks and is in fact working to bring about an adoption of K.D. by the Lazorchaks, (2) there is no final order as to the custody of A.B. because the DCFS has moved to reopen the issue of custody and that issue is currently being relitigated in the trial court, (3) the DCFS should be sanctioned for failing to advise this court of pertinent facts as to the minor children's welfare and best interests, and (4) leave to appeal was improvidently granted because it is taken from orders which are now moot and this appeal is contrary to the best interests of the minor children, who should be promptly adopted.

¶ 11 In response, the DCFS notes that the issue it is appealing is whether the trial court lacked the statutory authority to order specific placements of the minor children when the

DCFS was their guardian. Thus, simply because the DCFS now agrees to the adoption of K.D. by the Lazorchaks does not mean that this appeal is moot as to K.D. As to A.B., the DCFS argues that if it believes that the trial court's custody order should be reopened on other grounds than those raised here, then it acted properly. A.B. remains with Conte, which means the facts remain the same as to A.B. as when the DCFS filed leave to appeal.

¶ 12 In response to the State's argument that this appeal be dismissed as a "sanction on DCFS" for failing to inform this court of facts relevant to the minors' best interests, the DCFS argues that these facts are irrelevant to the trial court's authority under the act or did not exist when the DCFS filed its opening brief. Finally, the DCFS argues that the State's argument that the leave to appeal was improvidently granted because the case has become moot, custody of A.B. is still being litigated in the trial court, contempt proceedings have been dropped, and the appeal is an obstacle to the adoptions is simply unfounded. The issues raised by the DCFS still have merit and there is a dispute between the parties.

¶ 13 Supreme Court Rule 306(a)(5) provides for permissive appeals from interlocutory appeals affecting the care and custody of unemancipated minors. *In re Marriage of A'Hearn*, 408 Ill. App. 3d 1091, 1098 (2011). Appellate jurisdiction is based upon the existence of a real controversy, and this court will dismiss an appeal involving only moot issues. *Adkins Energy, LLC v. Delta-T Corp.*, 347 Ill. App. 3d 373 (2004). An issue is moot if the interests and rights of the parties are no longer in controversy and the resolution of the issue will have no practical effect. *Adkins Energy, LLC*, 347 Ill. App. 3d 373. We deny the State's argument and motion on the basis that it amounts to a motion to reconsider our previous ruling. Even if the appeal were moot, this court can decide legal matters involved under the public-interest exception. The public-interest exception allows a court to consider an otherwise moot issue when the question presented is of a public concern, there is a need for an authoritative determination for the future guidance of public officers, and there is a likelihood of future

recurrence of the question. *In re Alfred H.H.*, 233 Ill. 2d 345, 355 (2009). The current issues on appeal meet the public-interest exception, and we will address them in this appeal.

¶ 14 On appeal, the DCFS first argues that the trial court exceeded its statutory authority by changing the custody of K.D. and A.B., both of whom remain under the guardianship of the DCFS. The DCFS argues that under sections 2-23(3) and 2-28(2) of the Juvenile Court Act, after the DCFS has been appointed as the minor children's guardian, the trial court "is not empowered *** to order specific placements." 705 ILCS 405/2-23(3), 2-28(2) (West 2008). In response, the State argues that the power of the Juvenile Court Act to set permanency goals of adoption and to terminate parental rights necessarily includes the power to order the guardian to place the child in an adoptive placement.

¶ 15 When interpreting a statute, the first duty of a reviewing court is to apply the intent of the legislature. *Shively v. Belleville Township High School District No. 201*, 329 Ill. App. 3d 1156 (2002). Also, in interpreting the statute it is presumed that the legislature did not intend absurd, inconvenient, or unjust results. *In re Robert R.*, 338 Ill. App. 3d 343 (2003). The prevailing purpose of the Juvenile Court Act is to serve the best interests of the minor children. *In re R.G.*, 283 Ill. App. 3d 183, 186 (1996). The provisions of the Juvenile Court Act must be construed liberally to effectuate this purpose. *In re Lawrence M.*, 172 Ill. 2d 523, 529 (1996). Section 2-28(2) of the Juvenile Court Act allows trial courts to conduct permanency hearings and provides, "At the permanency hearing, the court shall determine the future status of the child." 705 ILCS 405/2-28(2) (West 2008). Among the permanency goals that may be ordered are "substitute care pending court determination on termination of parental rights" and "[a]doption." 705 ILCS 405/2-28(2)(C), (2)(D) (West 2008). When the court has ordered either of those two permanency goals, "the [DCFS] shall not provide further reunification services, but shall provide services consistent with the goal selected." 705 ILCS 405/2-28(2) (West 2010).

¶ 16 The DCFS cites cases in support of the proposition that the trial court has no power to order a child ready for adoption into an adoptive placement. See *In re R.M.*, 288 Ill. App. 3d 811 (1997); *In re M.V.*, 288 Ill. App. 3d 300 (1997); *In re T.L.C.*, 285 Ill. App. 3d 922 (1996). However, none of these cases involved an adoption and are thus readily distinguishable from the case at bar. In the instant case, the trial court had the power to order K.D. and A.B. to be placed with the available adoptive parents. By February 1, 2011, the girls were available for adoption and indeed should have been adopted earlier. The minor children's mother Candice Bias consented to K.D.'s adoption by the Lazorchaks and of A.B.'s adoption by Conte, K.D.'s biological father was willing to consent to K.D.'s adoption by the Lazorchaks, and A.B.'s biological father's consent was defaulted. The trial court found after a lengthy and detailed hearing that the best interests of K.D. required adoption by the Lazorchaks and that the best interests of A.B. required adoption by Conte. The minor children were ages nine and five, and A.B. has special needs. Conte had been close to A.B. for almost her whole life, and the Lazorchaks had similar ties with K.D. With parental rights about to be terminated and the minor children removed from their former foster home there was no one else as close to them and interested in adopting the minor children. The trial court's order placing the minor children with the Lazorchaks and Conte was not a selection of a foster home, but the selection of an adoptive home in order to have the girls promptly adopted as set out in the permanency orders.

¶ 17 The legislature has explicitly stated that its intent was to provide permanence for abused and neglected minors and to provide for the adoption for such children when the parents are unfit or unable to care for them. Therefore, the intent of the legislature was that power to set a permanency goal of adoption, and the power to terminate parental rights includes the power to order a child placed in an adoptive home. It is absurd, inconvenient, and unjust to allow a guardian to refuse to place a child in an adoptive placement after the

trial court has found that the best interests of the minor children require placement with the best available adoptive parents. Since the Juvenile Court Act authorizes a trial court to set a permanency goal of adoption and to terminate parental rights of unfit parents, it necessarily authorizes a trial court to implement those orders directing the guardian to place the minor children in the adoptive homes. 705 ILCS 405/2-28(2)(D), 2-29 (West 2008). The trial court's order was properly within its statutory authority.

¶ 18 Moreover, our courts have held that the trial courts have an inherent constitutional power to regulate the conduct of a guardian, and while a court may not violate specific statutory provisions, its jurisdiction and powers over a guardian are not limited by statute. *In re K.C.*, 325 Ill. App. 3d 771 (2001); *In re M.M.*, 156 Ill. 2d 53 (1993). The Lazorchaks and Conte were the only available adoptive parents once the trial court determined that the best interests of the minor children required removal from the Colson foster home. The trial court had the authority to order K.D. and A.B. removed from the Colson home and placed with their prospective adoptive parents. See *In re A.H.*, 195 Ill. 2d 408 (2001); *In re A.L.*, 294 Ill. App. 3d 441 (1998). Accordingly, we reject the DCFS's argument and conclude that the Juvenile Court Act, which gives the court the power to order the adoption of the child, also gives the court the power to place the minor children with their prospective adoptive parents.

¶ 19 Next, the DCFS argues that the trial court exceeded its authority in ordering the DCFS to directly service the minor children's cases rather than using a contracting agency. The DCFS concedes that the trial court had the power to remove LSSI from the case but argues the trial court's order should be reversed because the trial court failed to state reasons for the removal. Under section 2-27(1)(c) of the Juvenile Court Act (705 ILCS 405/2-27(1)(c) (West 2010)) the trial court may commit the minor children to an agency for care or placement, except an institution under the authority of the Department of Corrections or of

the DCFS. Section 2-27(1)(d) of the Juvenile Court Act (705 ILCS 405/27(1)(d) (West 2010)) states that the trial court may commit the minor children to the DCFS for care and services. The Children and Family Services Act (20 ILCS 505/23 (West 2010)) provides that the DCFS "may enter into agreements with any public or private agency determined appropriate and qualified by the [DCFS]" for the provision of services. Under the Juvenile Court Act, the trial court's power to interfere with the DCFS's discretion to use service providers is limited: a trial court "is not empowered *** to order *** specific service providers." 705 ILCS 405/2-23(3), 2-28(2) (West 2010).

¶ 20 Moreover, Illinois law allows a trial court judge to remove a caseworker or group of caseworkers from a child neglect case. *In re A.H.*, 195 Ill. 2d 408 (2001); *In re A.L.*, 294 Ill. App. 3d 441 (1998). The ultimate determination of a caseworker is left to the sound discretion of the DCFS. *In re K.C.*, 325 Ill. App. 3d 771, 759 (2001).

¶ 21 In November 2010, after a hearing, the trial court found that LSSI had not made reasonable efforts in this case. In February 2011 the trial court found that the DCFS had deliberately refused to obey the October 2008 order for adoptive placement and ordered that LSSI be removed from the case. The trial court did not state who within the DCFS could be assigned to the case; it stated that it could not be LSSI. The trial court's order requiring the DCFS to directly service this case was simply another way of stating that LSSI was removed from the matter. Had the court committed the minor children to LSSI or another agency for care or placement, the court would have exceeded its authority, but the court simply had LSSI removed. The trial court's order would have otherwise affected the DCFS if, and only if, it had a plan to assign another service provider. However, the DCFS had no plan to bring in another service provider and had not requested leave to assign another service provider to handle the case. Since LSSI was the service provider assigned by the DCFS, LSSI was immediately responsible for the failure to obey the court order and for the resulting damage

in the best interests of the minor children to be adopted. The trial court set permanency goals for the minor children to be adopted and held that the Lazorchaks and Conte were the only prospective adoptive parents for K.D. and A.B. Accordingly, the trial court's order was appropriate in removing LSSI from the case, and we conclude that the trial court did not exceed its authority in removing LSSI from the case.

¶ 22 We hereby affirm the order entered by the circuit court of Williamson County.

¶ 23 Affirmed.