

2013 IL App (2d) 120938-U
No. 2-12-0938
Order filed April 4, 2013

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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

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| <i>In re</i> Augustus B., Alexander B., and Ariel B., Minors. |) | Appeal from the Circuit Court of Kendall County. |
| |) | |
| |) | Nos. 10-JA-18, 10-JA-19, 10-JA-20 |
| |) | |
| (The People of the State of Illinois, Petitioner-Appellee v. Eric B., Respondent-Appellant). |) | Honorable Marcy L. Buick, Judge, Presiding. |

JUSTICE SCHOSTOK delivered the judgment of the court.
Justices Hutchinson and Zenoff concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court did not err in (1) denying the respondent visitation; (2) changing the permanency goal from return home within 12 months to substitute care pending termination of parental rights; (3) denying the respondent's motion to compel discovery; (4) finding that the respondent was unfit; (5) finding that it was in the minors' best interests that the respondent's parental rights be terminated; and (6) excluding certain evidence from the permanency hearings and the best interests hearing.

¶ 2 The respondent, Eric B., appeals from a series of orders made by the circuit court of Kendall County that culminated in the termination of his parental rights to his minor children, Alexander

(born August 10, 1998), Augustus (born October 14, 2000), and Ariel (born May 19, 2008).¹ For the reasons that follow, we affirm.

¶ 3 The record in this case is substantial. A great deal of evidence and testimony was presented in the trial court. Therefore, only those facts necessary to an understanding of this court's decision will be set forth below, and the relevant facts will be discussed in the analysis of the issues in which they are pertinent.

¶ 4 **GENERAL BACKGROUND**

¶ 5 Two events led to the respondent losing custody of his children. On July 21, 2010, Kelly B., the respondent's wife and the mother of his children, attempted to kill herself in the basement of the family home by hanging herself from a rafter in the ceiling with an electrical extension cord. The children were present in the home during Kelly's attempted suicide. On August 27, 2010, police found two-year-old Ariel, who was not wearing pants or a diaper, walking near the street in front of the family home. The police took her home. The police noted that when the respondent answered the door he appeared to have alcohol on his breath. Following an investigation, the Department of Children and Family Services (DCFS) filed a petition seeking to have the children adjudicated neglected. In its petition, DCFS alleged that the children were neglected because their environment was injurious due to (1) Kelly's mental health issues; (2) the respondent's alcoholism; (3) the respondent's and Kelly's hostility towards each other; and (4) the respondent's and Kelly's inability to maintain a residence that was sanitary and not infested with insects. On August 31, 2010,

¹ The respondent also has a fourth child, Ramsey. However, because Ramsey turned 18 during the course of the proceedings, the respondent's parental rights as to Ramsey are not at issue.

following a hearing, DCFS was granted temporary custody of the children. The children were placed with the respondent's brother.

¶ 6 On November 17, 2010, following a hearing, the trial court adjudicated the minors neglected. On December 17, 2010, the trial court made the children wards of the court after finding that Eric was unfit, unwilling, and unable to care for his children because he had failed to address the issues that had brought him to court (alcohol/substance abuse, parenting, and domestic violence issues). The trial court set a permanency goal as that the children would return home within 12 months. The trial court additionally ordered that the respondent not have any visitation with his children. The trial court explained that it was not allowing visitation because of the respondent's unwillingness to comply with his service plans. The trial court also noted that many of the respondent's supervised visits had been cut short because he would engage in inappropriate discussions with the children regarding the case. He had also sent hostile e-mails to both Kelly and the foster father. Further, he had contact with one of his children via cell phone in disregard of a court order that provided he was not to have any contact with his children that was not supervised.

¶ 7 On May 4, 2011, the respondent was allowed to attend a family funeral in Iowa that the children were also attending. On September 19, 2011, Kelly committed suicide. On September 21, 2011, the trial court permitted the respondent to attend Kelly's memorial service that the children were also attending. The respondent was directed not to be alone with the children or discuss with them any matters relating to issues in the case. The trial court also ordered that the respondent was allowed to have a supervised visit with the children regarding their mother's death.

¶ 8 On November 4, 2011, the respondent filed a motion for supervised visitation. He argued that he should receive additional visitation on the basis that his visits with the children in May and

September 2011 had gone well. DCFS objected to the respondent's motion because he had not complied with his service plans regarding substance abuse and domestic violence. DCFS argued that a domestic violence assessment was particularly pertinent because there was currently a criminal charge pending against the respondent for felony aggravated battery to a pregnant woman. The respondent had allegedly battered his pregnant girlfriend. DCFS further noted that the respondent's visitation rights had been previously suspended because he was unable to control his verbal and physical anger when visiting the children. A representative from the court appointed special advocate program (CASA) also recommended that the respondent's motion be denied because he had failed to comply with his service plan requirements. In its response, CASA also noted that on one occasion the respondent had directed an act of domestic violence against one of his children by forcing that child's head into a toilet.

¶ 9 On November 30, 2011, the trial court denied the respondent's motion for visitation. However, the trial court stated that the respondent could send written correspondence to his children. Such correspondence would be first reviewed by DCFS to ensure that no objectionable material appeared in that correspondence.

¶ 10 On March 2, 2012, following a hearing, the trial court changed the goal of the respondent's service plans to substitute care pending termination of parental rights. The goal was changed based on the respondent's failure to make reasonable progress or efforts in complying with his service plans. The trial court further ordered that the respondent was to have no contact with his children.

¶ 11 On March 28, 2012, the State filed a motion to terminate the respondent's parental rights. The motion alleged that the respondent was unfit because (1) he failed to maintain a reasonable degree of interest, concern, or responsibility for the welfare of the children (750 ILCS 50/1(D)(b)

(West 2010)); (2) failed to protect them from conditions within his environment that were injurious to their welfare (750 ILCS 50/1(D)(g) (West 2010)); (3) failed to make reasonable efforts to correct the conditions which were the basis for removal of the children within nine months after the adjudication of neglect (750 ILCS 50/1(D)(m) (West 2010)); and (4) failed to make reasonable progress toward the return of his children within nine months of the adjudication of neglect (750 ILCS 50/1(D)(m) (West 2010)).

¶ 12 On June 11, 2012, following a hearing, the trial court found that the respondent was unfit based on all the grounds set forth in the State's petition to terminate his parental rights. On July 23, 2012, following a hearing, the trial court found that it was in the children's best interests that the respondent's parental rights to them be terminated. The respondent thereafter filed a timely notice of appeal.

¶ 13 ANALYSIS

¶ 14 The respondent's first contention on appeal is that even after his children were found to be neglected, he retained a right under the Juvenile Court Act of 1987 (the Act) (705 ILCS 405/2-28 (West 2010)) to have reasonable visitation with his children. He therefore insists that the trial court erred when it denied him any visitation with his children.

¶ 15 Our courts have long recognized the inherent right of parents to the society and custody of their children and have held that such rights should not be abrogated without compelling reasons. *In re T.G.*, 147 Ill. App. 3d 484, 487 (1986). The statutory scheme of the Act initially divides the bundle of parental rights and responsibilities into two substantive parts. Section 1-16 of this Act defines residual parental rights and responsibilities to be:

“those rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship of the person, including, but not necessarily limited to, the right to reasonable visitation, the right to consent to adoption, the right to determine the minor’s religious affiliation, and the responsibility for his support.” 705 ILCS 405/1-16 (West 2010).

Section 5-9 of the Act provides that a parent will lose all rights to his children, both custodial and noncustodial, if the trial court determines that he is unfit and that it is in the children’s best interests that his parental rights be terminated. 705 ILCS 405/5-9 (West 2010). The rationale underlying this initial division of parental rights is to provide a statutory mechanism whereby a parent whose child has been adjudged a ward of the court may continue a relationship with the child while he attempts to remedy the conditions which may have led to the child’s removal from parental custody. *T.G.*, 147 Ill. App. 3d at 488. Nonetheless, even though a parent has certain rights under section 1-16 of the Act, such as the right to visitation, the trial court may find that it is not in the best interests of the children that those rights be exercised. *In re A.A.*, 315 Ill. App. 3d 950, 953 (2000). A trial court’s order regarding visitation will not be disturbed absent an abuse of discretion. *In re Beatriz S.*, 267 Ill. App. 3d 496, 500 (1994).

¶ 16 In *A.A.*, the respondent’s two children were adjudicated neglected and made wards of the court. The respondent was ordered to establish and maintain regular visitation with the children, obtain psychological and alcohol/drug evaluations, and successfully complete any course of counseling and treatment recommended as the result of those evaluations. At five subsequent permanency review hearings, the trial court found that the respondent was making little or no progress toward the goals set out in the dispositional order. Following the fifth hearing, the trial court suspended all of the respondent’s visitation until he engaged in a more regular course of

counseling. *A.A.*, 315 Ill. App. 3d at 952. On appeal, the reviewing court affirmed, explaining that “[t]he loss of visitation rights [was] essentially ‘the stick’ the court [was] holding over respondent’s head to get compliance with another of its orders: counseling.” *Id.* at 953. The reviewing court further stated:

“Ample evidence supports the trial court’s position. Respondent’s failure to get the counseling he has been ordered to obtain while continuing to maintain a close relationship with the minors through his regular visits has contributed to the children’s false hopes that their family will be reunited in the near future. Such false hopes are certainly not in the best interests of the children. The father’s recalcitrance may make it impossible for him to be reunited with the children.

Respondent’s reported attitude of disinterest in obtaining the needed counseling, and his obvious failure to do so, is a justifiable basis for the suspension of visitation.” *Id.* at 953-54.

¶ 17 Here, the trial court did not allow the respondent to have visitation with his children because he was (1) not complying with his service plans; (2) having inappropriate discussions with the children about the case during visitation; (3) sending hostile e-mails to other people involved in the case; and (4) disobeying court orders regarding unsupervised visitation. We believe that all of these factors, especially when considered together, support the trial court’s determination that the respondent’s visitation with his children was not in their best interests. As the respondent did not act in a way that demonstrated he was willing to do what was necessary to regain custody of his children, to allow visitation would have only created a “false hope” for the children that a

reunification with their father would be occurring in the near future. The creation of such a false hope would not have been in the children's best interests. See *id.*

¶ 18 In so ruling, we reject the respondent's argument that *A.A.* was wrongly decided. He asserts that visitation between a parent and his children should not be banned when the goal of the service plans remains the reunification of the family. We believe that *A.A.* was properly decided. Consistent with *A.A.*, we believe that a trial court may properly restrict a parent's visitation with his children in order to alert that parent that, if he does not comply with court orders and his service plans, he is at risk of losing all rights to his children.

¶ 19 Further, we note that the respondent insists that he should have been granted additional visitation because he had positive visits with his children at a memorial service in Iowa as well as following Kelly's death. Even if this argument is true, the trial court was not required to place greater weight on these events in comparison to all of the respondent's other conduct during the pendency of the case.

¶ 20 The respondent's second contention on appeal is that the trial court erred in changing the permanency goal from return home within 12 months to substitute care pending termination of parental rights. The respondent argues that the trial court's decision was not in the best interests of the children. He contends that the trial court's decision was improper because it considered part of only one factor—his failure to fully comply with all of his service plans—rather than all the other factors that the trial court was mandated to consider. He further argues that the trial court did not consider the appropriateness of his service plans. Further, the respondent argues that the trial court made its decision based on the mistaken belief that the respondent would still be able to receive counseling after the permanency goal was changed.

¶ 21 The setting of a permanency goal is governed by section 2-28 of the Act (705 ILCS 405/2-28 (West 2010)), which establishes a number of possible goals for a child. Relevant considerations include the following: “(1) the age of the children; (2) the options available for permanence; (3) the current placement of the children and the intent of the family regarding adoption; (4) the emotional, physical, and mental status or condition of the children; (5) the types of services previously offered and whether the services were successful and, if not successful, the reasons the services failed; (6) the availability of services currently needed and whether the services exist; and (7) the status of any siblings.” *In re S.E.*, 319 Ill. App. 3d 937, 942-43 (2001). The Act directs that, whenever possible, the child’s family ties should be preserved. 705 ILCS 405/1-2(1) (West 2010). However, it also sets forth other considerations, including the welfare of the child and the need to establish permanency “at the earliest opportunity.” 705 ILCS 405/1-2(1) (West 2010). It is not in the minors’ best interests to remain in limbo for extended periods of time. *In re D.S.*, 198 Ill. 2d 309, 328 (2001). The trial court possesses broad discretion in setting a permanency goal, and its decision will not be disturbed unless it is contrary to the manifest weight of the evidence. *In re Faith B.*, 359 Ill. App. 3d 571, 573 (2005). A decision is contrary to the manifest weight of the evidence only where an opposite conclusion is clearly apparent. *Id.*

¶ 22 We do not believe that the trial court’s decision was against the manifest weight of the evidence. In changing the permanency goal, the trial court noted its consideration of the relevant statutory factors. In particular, the trial court found that the respondent was not complying with his service plans and prior orders of the court. The trial court found that the respondent had been informed about what he needed to do, yet he failed to do it. The trial court additionally noted that the respondent obviously did not like the service plan providers that DCFS recommended and that

he was free to use other providers. However, in doing so, he had to make sure that the other providers conveyed the results of his work with them to DCFS. The respondent failed to do that. The trial court further stated that it had to balance the goal of reunifying families with what is best for the children. As the trial court found that the current plan was not working, and because the children were doing well in foster care, it changed the permanency goal to substitute care pending termination of parental rights. Our review of the record reveals that all of the trial court's findings are indeed supported by the record.

¶ 23 The respondent insists that the trial court reached the wrong decision because it did not consider all of the relevant factors. We disagree. All of the information that the trial court needed to make its decision was before it. The trial court was not required to make specific findings regarding every relevant factor. See *In re A.S.*, 394 Ill. App. 3d 204, 213 (2009). We also reject the respondent's argument that the trial court should have considered whether the type of counseling that he was being directed to receive through his service plans—substance abuse, domestic violence, and parenting—were still necessary and reasonable. As the respondent cites no authority for the proposition that the trial court was required to engage in an independent reassessment of whether the counseling services that the respondent was originally directed to receive were still necessary, his argument is forfeited. See *Kic v. Bianucci*, 2011 IL App (1st) 100622, ¶ 23. Even if this argument, were not forfeited, however, we believe that it was implicit in the trial court's decision to change the permanency goal that it believed the service plans the respondent had been directed to comply with were still necessary and reasonable.

¶ 24 Further, we reject the respondent's argument that the trial court's decision was based on a misunderstanding of the law. The respondent asserts that when the trial court changed the

permanency goal, it believed that he would still be able to receive counseling. However, when the State pointed out that he would no longer be able to receive counseling, the trial court did not change its decision. Rather, it quickly asserted that the respondent had “lost his opportunity” for additional counseling. The respondent suggests that the trial court’s actions demonstrate that, when confronted with its misapprehension of the law, its quick decision to continue to order a change in the permanency goal reflects a “human imperative to hide indecision” rather than according its decision with the law. We disagree. The trial court’s actions demonstrate that, regardless of whether the respondent would be able to continue to receive counseling after the permanency goal changed, it believed that the permanency goal should be changed. As the trial court reiterated its decision after being properly informed of the law, an alleged “misunderstanding of the law” is not a basis to disturb the trial court’s decision.

¶ 25 The respondent’s third contention on appeal is that the trial court erred in denying his motion to compel discovery in connection with the State’s motion to terminate his parental rights. The respondent argues that the trial court improperly relied upon Sixteenth Judicial Circuit Rule 17.12(a) (Sept. 17, 2008) rule to deny his motion. Sixteenth Judicial Circuit Rule 17.12 provides that discovery in juvenile cases will be allowed “only with leave of court for good cause shown.” The respondent argues that the trial court should not have relied upon that local rule because it conflicts with Illinois Supreme Court Rules 201 (eff. Jan. 1, 2013), 206 (eff. Feb. 16, 2011), 213 (eff. Sept. 1, 2008), and 214 (eff. Jan. 1, 1996), which permit requests for discovery without seeking leave of court or showing good cause. The respondent further argues that the denial of his motion was not harmless.

¶ 26 In making his argument, the respondent relies primarily on Illinois Supreme Court Rule 201(b) (eff. Jan. 1, 2013). That rule provides:

“(1) *Full Disclosure Required*. Except as provided in these rules, a party may obtain by discovery full disclosure regarding any matter relevant to the subject matter involved in the pending action[.]” Ill. S. Ct. R. 201(b) (eff. Jan. 1, 2013).

We note, however, that as set forth in Rule 201(c), a movant is not entitled to have whatever information he wants disclosed. Rule 201(c) provides:

“(1) Protective orders. The court may at any time on its own initiative, or on motion of any party or witness, make a protective order as justice requires, denying, limiting, conditioning, or regulating discovery to prevent unreasonable annoyance, expense, embarrassment, disadvantage, or oppression.” Ill. S. Ct. R. 201(c) (eff. Jan. 1, 2013).

The circuit court rule at issue, 17.12, provides that in juvenile proceedings, “[a]ll provisions for civil discovery set out in the Supreme Court Rules are applicable only with leave of Court for good cause shown.” 16th Judicial Cir. Ct. R. 17.12 (Sept. 17, 2008).

¶ 27 Illinois Supreme Court Rule 201(c) and Sixteenth Judicial Circuit Rule 17.12 are not inconsistent. Illinois Supreme Court Rule 201(c) clearly allows courts to impose limits and conditions on discovery. Sixteenth Judicial Circuit Rule 17.12 conditions a party’s ability to obtain discovery in juvenile proceedings on its ability to show good cause why it needs that information. The local circuit rule in no way violates Illinois Supreme Court Rule 201. We also note that none of the other supreme court rules that the respondent cites are inconsistent with Illinois Supreme Court Rule 201 and thus are also not inconsistent with the local circuit rule 17.12. Thus, the

respondent's argument that local rule 17.12 is not consistent with the supreme court rules is without merit.

¶ 28 We also reject the respondent's argument that he was prejudiced by the trial court's denial of his motion to compel discovery. The respondent points to only one specific example of how he was allegedly prejudiced. He notes that his attorney sought to question Arletta Jones, a DCFS supervisor, regarding Kelly's unsuccessful suicide attempt in 2010 and the reasonableness of the respondent's efforts thereafter to comply with the service plan. The State objected on the basis that Jones was being questioned about events prior to her being assigned to the case from a document which was already in evidence. The trial court sustained the objection. The respondent argues that had the trial court compelled his motion for discovery, "he likely would have known the nature of [Jones'] testimony on that, and other topics, in advance of the hearing." The respondent's argument is without merit as he was seeking through Jones' testimony evidence that was already in the record, just in another form. As such, the respondent fails to cite any example in the record of how the trial court abused its discretion in denying his motion to compel discovery. See *Mistler v. Mancini*, 111 Ill. App. 3d 228, 233 (1982) (trial court's decision denying motion for discovery will not be disturbed absent an abuse of discretion).

¶ 29 The respondent's fourth contention on appeal is that the trial court erred in finding that he was unfit to parent his children. Under the Act, a parent can be found unfit for failure to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare. 750 ILCS 50/1D(b) (West 2010). The time period for consideration is from when the children were taken into care until the filing of the petition for termination of parental rights. *In re C.L.T.*, 302 Ill. App. 3d 770, 773 (1999). The failure to maintain a reasonable degree of any of the three identified

grounds—interest, concern, or responsibility—as to the welfare of the minor may be established as a basis for unfitness. *In re C.E.*, 406 Ill. App. 3d 97, 108 (2010).

¶ 30 The interest, concern, or responsibility must be objectively reasonable. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1064 (2006). The trial court focuses on reasonable efforts, not success. It may consider any circumstances which make it difficult to visit, communicate or otherwise show interest in the child. A parent is not fit simply because he or she has demonstrated some interest in or affection for the child. Rather, the interest, concern or responsibility must be reasonable. *In re Jaron Z.*, 348 Ill. App. 3d 239, 259 (2004). Completion of service plan objectives can be considered evidence of a parent’s concern, interest, and responsibility for his children. *In re Gwynne P.*, 346 Ill. App. 3d 584, 591 (2004). Conversely, a parent’s failure to comply with his service plans may be considered as evidence that the parent is unfit under section 1(D)(b) of the Juvenile Court Act. *In re T.Y.*, 334 Ill. App. 3d 894, 906 (2002). A trial court’s determination of unfitness will not be overturned unless the finding was against the manifest weight of the evidence. *In re Michael M.*, 364 Ill. App. 3d 598, 606 (2006).

¶ 31 As set forth above, the respondent was directed to complete programs relating to substance abuse, domestic violence, and parenting. The only assessments he completed were ones in connection to an unrelated domestic battery case involving his girlfriend Erin Spear. While completing the assessments, he did not follow through and do the treatment recommended in the assessments. He did an unverified four-hour parenting class on-line. However, One Hope United caseworker Paula Williams testified that the typical DCFS parenting course runs 6-8 weeks.

¶ 32 In the psychological evaluation done by Dr. Brown at the Kane County Diagnostic Center, Dr. Brown opined that the respondent avoided personal responsibility and perceived himself as a

victim. The respondent acknowledged to Dr. Brown that the alleged incident of domestic violence with Spears occurred after the respondent had a few beers. Dr. Brown reported that the respondent did not believe that his alcohol use created interpersonal or legal problems; hence, the respondent did not abstain or believe that he needed to do so. Dr. Brown stated that the respondent would continue to have personal and legal difficulties as long as he continued to drink. His entrenched personality style was not likely to be influenced by therapeutic intervention. He recommended that the respondent complete a 26-week domestic violence program and a chemical dependency assessment and that the respondent follow all recommendations.

¶ 33 Sarah Weithers, an alcohol counselor and therapist whom the respondent had personally selected, reported that the respondent had little insight into his own behaviors and motivations. He did not fully acknowledge his role in his children's removal. He continued to drink and did not demonstrate a desire to abstain. He thought drinking was therapeutic. Weithers stated that the respondent's progress on alcohol abuse was minimal.

¶ 34 The trial court found that the respondent failed to maintain a reasonable degree of interest, concern or responsibility for the welfare of the children. The trial court noted that although the respondent wrote once to each of the children, he failed to cooperate and engage in the services offered to enable greater contact and visitation. Although the respondent took some minimal steps towards complying with his service plans, he ultimately did not do enough.

¶ 35 The trial court's decision was not against the manifest weight of the evidence. The respondent's failure to comply with his service plans was sufficient to establish that he was not demonstrating a reasonable degree of interest, concern or responsibility for the welfare of his children. See *T.Y.*, 334, Ill. App. 3d at 906. The respondent argues that we should look at his

conduct before his children were removed from his custody by DCFS. The respondent asserts that as he never abandoned his children, saw them virtually every day, and interacted with them throughout their lives, he demonstrated that he had a reasonable degree of interest, concern, and responsibility for his children. We disagree. The record reveals that the children were removed from the respondent's custody for legitimate reasons, that being the respondent's alcohol abuse and domestic violence problems. DCFS created a series of service plans to help the respondent remedy those concerns so that the children could be returned to him. However, the respondent never made more than a "minimal" effort to comply with those plans. The respondent's minimal efforts indicated that he did not have a reasonable degree of interest, concern or responsibility for his children.

¶ 36 As we have determined that the trial court's decision was not against the manifest weight of the evidence as to the respondent's failure to maintain a reasonable degree of interest, concern or responsibility for his children, we need not consider the other grounds on which the trial court found the respondent unfit. See *In re Brandon A.*, 395 Ill. App. 3d 224, 238 (2009).

¶ 37 The respondent's fifth contention on appeal is that the trial court erred in determining that it was in his children's best interests that his parental rights be terminated. Once a parent is found unfit, the trial court must consider if it is in the best interests of the children to terminate a parent's parental rights. *In re Tiffany M.*, 353 Ill. App. 3d 883, 889 (2004). Following a finding of unfitness, the focus shifts to the child. The issue is whether, in light of the child's needs, the parental rights should be terminated. At the best interests hearing, the parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life. *In re D.T.*, 212 Ill. 2d 347, 364 (2004). The State must establish that termination is in the children's best interests by

a preponderance of the evidence. That decision will not be reversed unless it is against the manifest weight of the evidence. *In re M.R.*, 393 Ill. App. 3d 609, 617 (2009).

¶ 38 At the best interests hearing, Danielle Gale testified that she had been the children's CASA advocate since August 2010. She saw the children at least once a month for several hours, including individual time with each child. In June 2012, the foster family moved to a new house on a cul-de-sac in Hinsdale, which allowed each child to have their own room. Gale testified that Ariel, who was 4 years old, was primarily cared for by the foster mother, although the foster father was very involved and Ariel was eager and happy to see him when he got home from work. Ariel went to Montessori school where the foster mother worked. Ariel was very affectionate with her. Ariel was learning her numbers, letters, and how to read.

¶ 39 Gale further stated that the foster home was a very healthy environment, calm, structured and pleasant. Augustus and Alexander liked their new home and were looking forward to their new school. Both boys had some trouble in school at first since they were behind, but were doing much better because the foster parents worked hard to get them extra help to get caught up. The children told her that they did not mind attending the foster parents' church with them.

¶ 40 Gale further testified that the foster parents were very patient and tried to be consistent parents. They were very loving with the children and made efforts to spend individual time with them. Augustus indicated that he believed it was a good idea to be adopted by the foster parents as he liked living with them. Alexander told Gale that he loved his aunt and uncle and the new house, and he was excited about being adopted. At different times the boys expressed an interest in seeing their father, but they did not express a desire to live with him. Gale believed that it was in the children's best interests that they be adopted by the foster parents.

¶ 41 Williams, the children's caseworker since April 2011, testified that the foster parents were willing to adopt the children. Although there were some academic and behavioral problems when the children were first moved into foster care, they had adjusted and were doing well at school. The children had contact with their extended family in Iowa and their grandmother in Egypt. Both of the boys were excited about their new school and home. Williams believed that it was in the children's best interests to live with their foster parents and to be adopted.

¶ 42 The foster father, who was the respondent's brother, testified that he and his wife were willing to adopt the children. The foster parents alternated their work-at-home-schedules so that someone was home with the children before and after school. He indicated that there were some problems with the boys when they first came, but they had adjusted well. Augustus had nightmares and behavior issues; however, he was now happy and well-adjusted. He was behind academically but the school was very cooperative, and he was now on par with his freshman year class. Alexander was adjusting well. He is both popular and doing well academically. Ariel was also adjusting well and playing as a normal 4-year-old. The foster parents help Ariel work on her letters and numbers and the whole family was helping her learn to read with flash cards.

¶ 43 The boys were consulted about the move to the new house, and each child had their own room. They visited a lot with their extended family, and they maintained contact via regular telephone calls with their maternal grandmother who lives in Egypt. The children did a lot of family activities with the foster family. The children were making friends in the neighborhood. The family was Jehovah's Witnesses and attended services twice a week. Because of their ages, the children were required to go and sit quietly and respectfully, but a choice of religion will be up to them.

¶ 44 At the close of the hearing, the trial court found that it was in the children's best interests that the respondent's parental rights be terminated. The trial court found that it was very important that the foster parents were willing to adopt. The trial court noted that the foster parents had cared for the three children during the entire two year period and that the children were very happy and doing well in the home and at school. The trial court further determined that the foster parents were able to provide permanence and stability to the children, something which was of vital importance.

¶ 45 We do not believe that the trial court's decision was against the manifest weight of the evidence. The testimony from all of the witnesses at the hearing was that the children were thriving, both academically and socially, while in foster care. The children were fully integrated with their foster family. Most importantly, the foster parents offered the children something that respondent could not—a sense of permanency.

¶ 46 In urging a contrary result, the respondent points out that the foster father moved the children from Chicago to Hinsdale without telling him. Even if this were minimally relevant to the best interests hearing, it did not affect the respondent's visitation with the children. The respondent also complains that the children were required to attend Jehovah's Witness religious events, a religion that the respondent describes as being "a demanding and uncommon religion that [the children] were not exposed to before they were removed from their father." We note, however, that the foster father specifically testified that it would up to the children to choose their own religion. Moreover, neither Gale nor Williams testified to any concerns with the children attending Jehovah's Witness religious services. The respondent also argues that his children still love him. Even if that is so, it does not override the children's need for permanency, something that the respondent cannot provide. The respondent also contends that the children are more attached to him than they are to the foster father.

However, that argument was contradicted by all of the testimony presented at the hearing. As such, none of the arguments that the respondent raises are a basis to disturb the trial court's ruling.

¶ 47 The respondent's final contention on appeal is that, during the permanency hearings and the best interests hearing, the trial court erred in excluding certain evidence and denying him the opportunity to make offers of proof. We note that the respondent did not attend either the February 29, 2012, permanency hearing or the best interests hearing. Thus, his attorney attempted to elicit testimony from other witnesses that the respondent would have been better able to provide.

¶ 48 The determination of whether evidence is relevant rests within the sound discretion of the trial court and its decision will not be overturned absent an abuse of discretion. *Green v. Lake Forest Hospital*, 335 Ill. App. 3d 134, 139 (2002). Relevant evidence means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence. *People v. Gonzalez*, 142 Ill. 2d 481, 487-88 (1991). Evidence which is not relevant, is not admissible. *People v. Cloutier*, 156 Ill. 2d 483, 501 (1993). Evidence that is too remote in time from the issues involved in the case is irrelevant. *Green*, 335 Ill. App. 3d at 139. A witness may not testify to a matter unless evidence is introduced to support a finding that the witness has personal knowledge of the matter. *Hengels v. Gilski*, 127 Ill. App. 3d 894, 913 (1984). Hearsay evidence is not admissible. *People v. Lawler*, 142 Ill. 2d 548, 557 (1991).

¶ 49 To preserve an error in the exclusion of evidence, the proponent of the evidence must make an adequate offer of proof in the trial court. Failure to make an adequate offer of proof results in the forfeiture of the issue on appeal. An adequate offer of proof apprises the trial court of what the offered evidence is or what the expected testimony will be, by whom it will be presented, and its

purpose. The purpose of the offer of proof is to disclose to the trial court and opposing counsel the nature of the offered evidence and to enable a reviewing court to determine whether the exclusion of the evidence was proper. *Northern Trust Co. v. Burandt and Armbrust, L.L.P.*, 403 Ill. App. 3d 260, 280 (2010).

¶ 50 The respondent first complains that, at the June 29, 2011, permanency hearing, the trial court erred in not allowing him to question his therapist regarding a domestic violence assessment. This assessment took place four months before the incident which caused the State to institute neglect proceedings against him. He also claims that the trial court erred in not allowing him to make a sufficient offer of proof as to what his therapist would have testified to. As it is readily apparent that the evidence at issue was not relevant because it occurred before the State initiated its case against the respondent, the trial court did not abuse its discretion in not allowing the testimony. See *Green*, 335 Ill. App. 3d at 139. Further, as it is apparent that the testimony would not have been relevant, there was no need for a more detailed offer of proof. See *Northern Trust Co.*, 403 Ill. App. 3d at 280.

¶ 51 The respondent next complains that, at the February 29, 2012, permanency hearing², he should have been allowed to question Williams regarding (1) her knowledge of a “time-line” of the circumstances that the respondent had created; (2) family photographs; (3) the respondent’s desire to divorce his wife and his reaction to her suicide; and (4) interactions between the respondent and his children at the mother’s memorial service. The trial court did not allow Williams to testify

² In his brief, the respondent indicates that he is complaining about Williams’ testimony “[a]t the fitness hearing.” However, in reviewing the record, it is apparent that the evidentiary rulings that the respondent is complaining about occurred at the February 29, 2012, permanency hearing.

regarding the time line because she was not the one who had created it. See *Hengels*, 127 Ill. App. 3d at 913. The photographs were not admissible because they predated the time that the children were taken into protective custody. See *Green*, 335 Ill. App. 3d at 139. The trial court did not allow testimony regarding the respondent's desire to divorce his wife and his feelings about her suicide because it was not relevant to the permanency hearing. See *Gonzalez*, 142 Ill. 2d at 487-88. Further, the trial court did not allow Williams to testify regarding the respondent's and the children's interactions at the mother's memorial service because Williams was not present and thus did not have first-hand knowledge. See *Hengels*, 127 Ill. App. 3d at 913. We find that none of the trial court's rulings concerning Williams' testimony constituted an abuse of discretion. See *Green*, 335 Ill. App. 3d at 139.

¶ 52 In regards to the best interests hearing, the respondent claims that the trial court erred in excluding evidence (1) regarding the exact location of the new house that the foster family moved into in June 2012; (2) the foster parents' son's reaction to the move; and (3) whether the respondent had insurance for the children. We do not believe that the trial court abused its discretion in finding that none of this evidence was relevant. See *Gonzalez*, 142 Ill. 2d at 487-88. The respondent also claims that he should have been able to question Williams whether the respondent could add to the children's coping with their mother's death which the foster parents could not. Such testimony, however, would necessarily have been speculative and therefore improper. See *Johnson v. Johnson*, 386 Ill. App. 3d 522, 545 (2008) (testimony based on guess, speculation or conjecture is inadmissible). The respondent also claims that the trial court erred in sustaining numerous objections comparing the discipline the children had with their father prior to their removal and the discipline they received in the foster home. We believe that the trial court properly determined that

the issue of discipline was more relevant to the issue of the respondent's fitness and therefore was irrelevant to the best interests hearing.

¶ 53 In sum, we do not believe that the trial court abused its discretion in making any of the evidentiary rules of which the respondent complains.

¶ 54 CONCLUSION

¶ 55 For the foregoing reasons, the judgment of the circuit court of Kendall County is affirmed.

¶ 56 Affirmed.