

2013 IL App (2d) 130492-U
No. 2-13-0492
Order filed September 30, 2013

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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

<i>In re</i> B'YATA I., a Minor,)	Appeal from the Circuit Court
)	of Winnebago County.
)	
)	No. 09-JA-124
)	
(The People of the State of Illinois,)	Honorable
Petitioner-Appellee, v. Michael G.,)	Mary Linn Green and
Respondent-Appellant).)	Patrick L. Heaslip,
)	Judges, Presiding.

JUSTICE HUDSON delivered the judgment of the court.
Justices Hutchinson and Schostok concurred in the judgment.

ORDER

- ¶ 1 *Held:* Pursuant to *Anders v. California*, 386 U.S. 738 (1967), appellate counsel's motion to withdraw would be allowed and the judgment of the circuit court would be affirmed where no issues of arguable merit were identified on appeal concerning the trial court's rulings that respondent was shown to be unfit by clear and convincing evidence and that it was in the best interests of the minor that respondent's parental rights be terminated or whether respondent was properly served.
- ¶ 2 In May 2013, the circuit court of Winnebago County found respondent, Michael G., to be an unfit parent with respect to his minor daughter, B'yata I. on four separate grounds. Subsequently, the court concluded that the termination of respondent's parental rights was in the minor's best interests, and respondent filed a notice of appeal. The trial court appointed counsel to represent

Michael on appeal. Pursuant to the procedures established in *Anders v. California*, 386 U.S. 738, 18 L. Ed. 493, 87 S. Ct. 1396 (1967), appellate counsel has filed a motion for leave to withdraw as counsel on appeal.¹ In his motion, appellate counsel represents that he has reviewed the record but has not discovered any issue that would warrant relief on appeal. Attached to his motion, counsel submitted a memorandum of law summarizing the proceedings in the trial court, identifying three potential meritorious issues for appeal, and explaining why each issue lacks arguable merit. Counsel further represents that he mailed a copy of the motion to Michael. The clerk of this court also notified Michael of the motion and informed him that he would be afforded an opportunity to present, within 30 days, any additional matters to this court. This time has past, and Michael has not presented anything to this court. For the reasons set forth below, we grant appellate counsel's motion to withdraw and affirm the judgment of the circuit court.

¶ 3

I. BACKGROUND

¶ 4 B'yata was born on September 26, 2008, to Kenyatta B. On March 27, 2009, the State filed a five-count petition alleging that B'yata is a neglected minor. 705 ILCS 405/2-3 (West 2008). The petition was amended on April 1, 2009. Both the original and amended petitions named Bernard I. as B'yata's father and Kenyatta as B'yata's mother. Kenyatta is also the mother of two other minors, Amashaneek T. and Alishawan T.² The day that the State filed its original petition, the trial court held a shelter-care hearing. During that hearing, the trial court questioned Kenyatta regarding the

¹ The *Anders* procedure has been applied to proceedings to terminate parental rights. See *In re S.M.*, 314 Ill. App. 3d 682, 685 (2000).

²Amashaneek and Alishawan were subject to separate neglect petitions. Neither of their cases, however, are part of this appeal.

identity of the minors' fathers. Kenyatta named Jesse T. as the father of both Amashaneek and Alishawan. She named Bernard as B'yata's father. Upon further questioning, Kenyatta admitted that Bernard had not submitted to paternity testing. She testified, however, that he signed "papers" at the hospital acknowledging that he is B'yata's father. Kenyatta added that there was no one other than Bernard who could be B'yata's father. Ultimately, Bernard and Kenyatta waived their right to a hearing on whether there is probable cause to believe that B'yata is a neglected minor, and the court granted temporary guardianship and custody of B'yata to the Illinois Department of Children and Family Services (DCFS). DCFS placed B'yata with relatives. Also on March 27, 2009, the court granted the State leave to publish regarding "All Whom It May Concern." No one came forward and "All Whom It May Concern" was defaulted on May 8, 2009.

¶ 5 In September 2009, following an adjudicatory hearing, the court found all three minors to be neglected. B'yata was found to be neglected based on count III of the State's petition, which alleged that B'yata's environment is injurious to her welfare in that her parents engage in domestic violence in the presence of the minor, thus placing B'yata at risk of harm. 705 ILCS 405/2-3(1)(b) (West 2008). In December 2009, following a dispositional hearing, B'yata was made a ward of the court, with guardianship and custody granted to Kenyatta. Kenyatta was also granted guardianship and custody of Amashaneek and Alishawan. Among other things, the dispositional order required Kenyatta to remain drug and alcohol free and to submit to random urine drops. During the pendency of the case, the question of Bernard's paternity arose and several unsuccessful attempts were made to have Bernard submit to DNA testing. In May 2011, the trial court ordered Bernard to complete paternity testing or be held in contempt of court.

¶ 6 Also in May 2011, the State filed a motion to modify guardianship and custody of the three minors. In the motion, the State alleged that Kenyatta was arrested for domestic battery on May 18, 2011, with the victim being Amashaneek. The motion further alleged that Kenyatta failed to remain free of illegal drugs and alcohol as required by the dispositional order entered in December 2009. The State requested that guardianship and custody of all three minors be transferred to DCFS. The trial court granted temporary guardianship and custody of Amashaneek and Alishawan to Jesse, their biological father. The court granted guardianship and custody of B'yata to DCFS with discretion to place her with a responsible relative or in traditional foster care. DCFS eventually placed B'yata with Jesse.

¶ 7 On July 15, 2011, the trial court entered a dispositional order granting guardianship and custody of Amashaneek and Alishawan to Jesse. Also on July 15, 2011, the court was informed that DNA testing suggested that Bernard was not B'yata's father. At that time, the court again questioned Kenyatta as to the identity of B'yata's biological father. Kenyatta indicated that she only knew the father by the name of "Joseph" and had not spoken to him since 2007. On September 9, 2011, the paternity test report was formally presented to the court and Bernard was found not to be B'yata's father. By that time, Kenyatta had pleaded guilty to aggravated battery to a child based on the May 18, 2011, incident, and had been sentenced to probation. The court entered a dispositional order appointing DCFS as the legal guardian and custodian of B'yata with discretion to place the minor with a responsible relative or in traditional foster care. Also on September 9, 2011, the court closed the cases involving the two older children and Jesse was granted permanent legal custody and guardianship of Amashaneek and Alishawan. Jesse also retained guardianship and custody of B'yata.

¶ 8 In June 2012, Kenyatta was sentenced to two years' incarceration for probation violations and a new felony charge of failure to register as a violent offender against youth. An attachment to the court report for a September 4, 2012, permanency review hearing indicated that no one had registered with the putative father registry regarding B'yata as of July 25, 2012. Amber Rasmussen, the caseworker assigned to B'yata's file, testified at the September 4 hearing that B'yata was doing well with the foster parents and she recommended changing the permanency goal to substitute care pending termination of parental rights. The court found that Kenyatta had not made reasonable progress and, based on Kenyatta's lack of progress, her incarceration, and the length of time the case had been pending, adopted Rasmussen's recommendation to change the minor's permanency goal. Also at the September 4, 2012, hearing, the court again granted the State leave to publish regarding "All Whom It May Concern." No one came forward, and "All Whom It May Concern" was subsequently defaulted.

¶ 9 On November 28, 2012, the State filed a motion for termination of parental rights. The motion listed the identity of B'yata's father as "unknown." At a hearing on November 28, 2012, the State noted that Kenyatta did not identify another person as a putative father. However, Rasmussen stated that she received a letter on November 8, 2012, from Michael G. indicating that he was a potential father. Rasmussen stated that Michael was in the Winnebago County jail and that she had already contacted a paternity testing service to conduct a DNA test. Kenyatta admitted that Michael could be B'yata's father. Later that afternoon, Michael was brought to court. He testified that he had just been sentenced to the Department of Corrections and would be moved to their reception facility within three weeks. An attorney was appointed for Michael and was present with him for the remainder of the proceedings. Michael told the court that he had been sentenced to eight years'

imprisonment. At that point, the State handed copies of the original neglect petition, amended neglect petition, and the motion to terminate parental rights to Michael in open court.

¶ 10 On December 6, 2012, the State filed an amended motion for termination of parental rights. As to Michael, the amended motion alleged four counts of unfitness. Count I alleged that Michael has failed to maintain a reasonable degree of interest, concern, or responsibility as to B'yata's welfare. See 750 ILCS 50/1(D)(b) (West 2012). Count II alleged that Michael is depraved. See 750 ILCS 50/1(D)(i) (West 2012). Count III alleged that Michael has shown evidence of intent to forego his parental rights by his failure for a period of 12 months to visit the child, communicate with the child or DCFS, or to maintain contact with the child or to commence an action to establish paternity within 30 days of knowing of the child's birth. See 750 ILCS 50/1(D)(n) (West 2012). Count IV alleged that the child is in the temporary custody of DCFS, the parent was incarcerated as a result of criminal conviction at the time the motion for termination of parental rights was filed, prior to incarceration the parent had little or no 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 parental responsibilities for the child for a period in excess of two years after the filing of the motion for termination of parental rights. See 750 ILCS 50/1(D)(r) (West 2012).

¶ 11 At a hearing on January 24, 2013, the court received the DNA testing report with respect to Michael. The report indicated a 99.99% probability that Michael fathered B'yata. Because Michael was not present to accept the results, the adjudication of paternity was continued until he was in court.

¶ 12 On April 3, 2013, Michael was present with his attorney and the case proceeded. At that hearing, Rasmussen testified regarding her contact with Michael. She stated that she had seen

Michael in court in November 2012, but had not had any contact with him since. Rasmussen added that she had not been able to contact Michael through the Department of Corrections, although she sent a letter to that agency, and that no one from DCFS contacted Michael about the case or the results of the DNA testing. Rasmussen stated that she did not prepare an integrated assessment or any service plan for Michael, and had not offered him any services. In addition, she stated that between the time she received the letter from Michael in November 2012, indicating that he was a potential father, and April 2013, Michael has never contacted her to inquire about B'yata's welfare. The State then tendered as exhibits certified copies of six felony convictions for Michael: (1) a 1996 conviction of a violation of the controlled substances act; (2) a 2005 conviction of escape; (3) a 2008 conviction of aggravated driving after revocation; (4) a second 2008 conviction of aggravated driving after revocation; (5) a 2012 conviction of driving after revocation; and (6) a 2012 conviction of aggravated battery.

¶ 13 Kenyatta testified that she originally did not think that Michael was B'yata's father and she only contacted Michael after the DNA test excluded Bernard. On cross-examination, Kenyatta acknowledged that she always knew that Michael was a potential father, but never disclosed it. Kenyatta also pointed out that Michael never contacted her to determine if a child was born of their relationship.

¶ 14 Michael testified that he has been incarcerated for approximately 20 months (since September 12, 2011) and will remain incarcerated until 2015. Michael testified that Kenyatta contacted him in the fall of 2012 concerning the possibility that he was B'yata's father. In response, Michael wrote a letter to DCFS to request a paternity test. He stated that he had no contact with anyone from DCFS since he sent his letter in November 2012 and that no one from DCFS informed him about any

available services, a service plan, or an integrated assessment. Michael related that he would like to establish a relationship with B'yata. Asked what he would do while incarcerated to ensure a relationship with B'yata, Michael noted that he has a G.E.D. and that he is taking a construction class. He added that he is "trying to be a better me." Michael denied ever receiving a summons in the case or any notices of motions.

¶ 15 On cross-examination by the State, Michael acknowledged that his parole date is September 12, 2015, which is more than two years away. He also acknowledged his various convictions. Michael stated that his "relationship" with Kenyatta began in 1998, but their sexual relationship was only in December 2007 and January 2008. He stated that he last saw Kenyatta in January 2008, he was incarcerated in September 2008 for one of his convictions, and he did not know that B'yata had been born. Michael stated that he did not know what the putative father registry was, but agreed that he had not registered. Michael testified that he took the paternity test on December 19, 2012. He testified that no one from DCFS notified him of the paternity test results and he did not learn that he was B'yata's biological father until March 2013, when Kenyatta informed him of his status by letter. He stated that he never inquired about B'yata's well being because he was not sure if he was the father, he had only his attorney's contact information, and he never had any idea who to call at DCFS or any other agency. Michael later acknowledged that he learned of B'yata's existence after he was released from prison in 2009, but he never thought she was his biological child.

¶ 16 In closing argument, the State commented on the paternity test results. At that point, the court formally adjudicated Michael to be the father of B'yata. In his closing argument, Michael's attorney questioned the jurisdiction of the court. He asserted that "there's no evidence whatsoever" that Michael was ever "provided with proper notice either by personal service, by certified mail, or

by proper publication.” He claimed, therefore, that the courts orders were void, citing *In re K.C.*, 323 Ill. App. 3d 839 (2001). The attorney also maintained that Michael had made reasonable efforts after being notified that he might be B’yata’s father and he claimed that that DCFS failed to provide Michael with any services or any opportunity to make progress toward the return of his child. The State responded that Michael had not presented a motion to contest jurisdiction. The State asserted that it could not serve an unidentified person and that Michael was served personally in open court when he was identified in November 2012. The court took the case under advisement.

¶ 17 On May 2, 2013, the court found Michael unfit based on all four grounds alleged in the State’s motion to terminate. At the best interests hearing which immediately followed, the State asked the court to take judicial notice of the evidence at the unfitness phase. Rasmussen then testified that since June 2011, B’yata has resided in a foster home with her two older half-siblings (Amashaneek and Alishawan), their father (Jesse), and his wife (Aretha). According to Rasmussen, B’yata has a good relationship with the foster parents, who are willing to adopt her. Rasmussen further testified that B’yata has a close relationship with her half-siblings. B’yata shares a room with Amashaneek and looks up to her as a role model. Rasmussen also noted that B’yata attends church with the foster parents, that she is in preschool, and that the foster parents have attended B’yata’s school meetings and conferences. In addition, B’yata has friends at school and in the neighborhood. Rasmussen acknowledged that there was some concern in the foster home because Michael was also named by Kenyatta as a possible father for Amashaneek and Amashaneek was having some difficulties with this news. Rasmussen recommended counseling for B’yata to help address this matter. Rasmussen testified that B’yata, at four years of age, has never met Michael and has no

relationship with him. In her opinion, B'yata should be freed for adoption so she could have a stable, permanent home where she knows the parents and is a part of a family unit.

¶ 18 On cross-examination, Rasmussen testified that Michael has not had visitation with B'yata. She explained that Michael sent her a letter in 2012 regarding paternity. The next time she heard from him was in April 2013, after the unfitness hearing. At that time, Michael requested visitation, but she has not had an opportunity to arrange it.

¶ 19 Michael testified that after the April 2013 court date, he had written to caseworker Rasmussen in care of DCFS headquarters, and he received no reply, so he obtained a different address and wrote to her again. He said he took no action before that time because he was still unsure of his status as B'yata's father, since he had not yet received the DNA results. Michael acknowledged that his release date from prison was September 2015, but also stated that his case was on appeal, so "anything could happen." After the close of formal testimony, Michael thanked the foster parents for their care of B'yata.

¶ 20 The State called Jesse, the foster father, as a rebuttal witness. Jesse testified that he would allow Kenyatta to visit B'yata after adoption since Kenyatta was having visits with the two older children, who were under his guardianship and were not having parental rights terminated as to Kenyatta. He also confirmed that he and his wife Aretha are willing to adopt B'yata.

¶ 21 Following closing arguments, the trial court announced its decision. The court noted that the focus at the best interest phase of the proceeding is B'yata and no one else. Noting B'yata's strong bond with her siblings and the unusual position that the foster parents had taken of openly agreeing to maintain contact with a biological parent, the court terminated the parental rights of both Kenyatta

and Michael. The formal order of termination was entered on May 7, 2013, and the notice of appeal was filed the same day.

¶ 22 Appellate counsel has identified three potential issues for review. The first potential issue identified by appellate counsel is whether the proceedings terminating respondent's parental rights were defective because Michael was not properly served. The second potential issue is whether the State proved by clear and convincing evidence at least one ground of unfitness. The third potential issue is whether the State proved by a preponderance of the evidence that it was in the minor's best interests to terminate Michael's parental rights. As noted above, counsel concludes that these issues are without merit.

¶ 23 With respect to the first potential issue, appellate counsel asserts in his memorandum that Michael could attempt to present an argument concerning the adequacy of service of summons and personal jurisdiction. Appellate counsel notes that at the close of the unfitness phase of the proceeding, Michael's attorney argued that Michael had never been personally served with the original neglect petition and therefore the entire proceeding was defective for lack of personal jurisdiction. In support of this argument, Michael's attorney cited *In re K.C.*, 323 Ill. App. 3d 839 (2001). Appellate counsel contends, however, that *K.C.* is distinguishable from the facts present here. We agree. *K.C.* involved whether the plenary guardian of a person adjudicated disabled under the Probate Act must be named and served as a necessary party under the Juvenile Court Act when the disabled person's parental rights are in jeopardy. *K.C.*, 323 Ill. App. 3d at 847. No such issue is presented here.

¶ 24 Appellate counsel further maintains that that the State followed the proper procedure to serve an unknown father. Again, we agree. This is not a case where the State knew the identity of the

father but failed to exercise due diligence in locating that individual. See, e.g., *In re Dar C.*, 2011 IL 111083. Upon questioning by the trial court at the shelter-care hearing in March 2009, Kenyatta identified Bernard as B'yata's father. Kenyatta noted that Bernard had not submitted to paternity testing, but he signed "papers" at the hospital acknowledging that he is B'yata's father. Kenyatta further testified that there is no one other than Bernard who could be B'yata's father. Despite Kenyatta's assurances that Bernard was the only man who could have fathered B'yata, the State requested leave to publish the neglect petition on "All Whom It May Concern." See 705 ILCS 405/2-16(2) (West 2010) (providing for service by publication where "a respondent's usual place of abode is not known."). The State also filed an affidavit in support of notice by publication, stating in relevant part that to the best of its "knowledge, information and belief, upon diligent inquiry, the place of residence of said respondents, 'ALL WHOM IT MAY CONCERN,' and all whom it may concern in this cause, cannot be ascertained so that process can be served upon them in person or by certified mail, and that publication is therefore necessary to give notice to said unknown respondents." However, no one came forward and "All Whom It May Concern" was defaulted. It was only after the DNA tests excluded Bernard as B'yata's father that the State had reason to believe that another man had fathered the minor. Moreover, Michael acknowledged at the unfitness hearing that he had not registered with the putative father registry, so he could not have been identified by that means. Given these circumstances, we agree with appellate counsel that the State could not have done any more than it did to serve an unknown parent as the case stood at the time the neglect petition was filed.

¶ 25 Appellate counsel also argues that to the extent that Michael was challenging service of the motion to terminate parental rights, he has no valid basis to do so. We agree. Section 2-15(7) of the Juvenile Court Act (705 ILCS 405/2-15(7) (West 2010)) provides:

“(7) The appearance of the minor’s legal guardian or custodian, or a person named as a respondent in a petition, in any proceeding under this Act shall constitute a waiver of service of summons and submission to the jurisdiction of the court, except that the filing of a motion authorized under section 2-301 of the Code of Civil Procedure [735 ILCS 5/2-301 (West 2010)] does not constitute an appearance under this subsection. A copy of the summons and petition shall be provided to the person at the time of his appearance.” 705 ILCS 405/2-15(7) (West 2010).

The State filed its motion for termination of parental rights on November 28, 2012. The motion named B’yata’s father as “unknown.” However, during the hearing, the caseworker testified that she received a letter from Michael indicating that he was a potential father. Michael, who was incarcerated at the Winnebago County jail, was brought into court that day, appointed an attorney, and handed copies of the original neglect petition, amended neglect petition, and the motion to terminate parental rights. The State subsequently filed an amended motion for termination of parental rights naming Michael as a putative father. Michael subsequently appeared and testified at the hearing on the motion to terminate. Further, the record is devoid of any evidence that respondent filed a motion pursuant to section 2-301 of the Code of Civil Procedure at any pertinent time. Accordingly, by his appearance, Michael waived any challenge to the service of summons and the jurisdiction of the trial court. See *In re Antwan L.*, 368 Ill. App. 3d 1119, 1125-28 (2006). Therefore, we agree with appellate counsel that any challenge to service would be without merit.

¶ 26 With respect to the second potential issue, appellate counsel asserts in his memorandum that respondent cannot overcome the finding of unfitness. We agree. The Juvenile Court Act of 1987 (Juvenile Court Act) provides a two-stage process for terminating parental rights involuntarily. 705 ILCS 405/2-29(2) (West 2010). Initially, the State must prove parental unfitness by clear and convincing evidence. *In re Adoption of Syck*, 138 Ill. 2d 255, 277 (1990); *Antwan L.*, 368 Ill. App. 3d at 1123. If a court finds a parent unfit, the State must then show that termination of parental rights would serve the child’s best interests. See *Syck*, 138 Ill. 2d at 277; *Antwan L.*, 368 Ill. App. 3d at 1123. Section 1(D) of the Adoption Act (Adoption Act) (750 ILCS 50/1(D) (West 2010)) lists various grounds under which a parent may be found unfit, any one of which standing alone may support such a finding. *Antwan L.*, 368 Ill. App. 3d at 1123. The State has the burden of proving a parent’s unfitness by clear and convincing evidence, and a trial court’s determination of a parent’s fitness will not be reversed unless it is contrary to the manifest weight of the evidence. *In re Brianna B.*, 334 Ill. App. 3d 651, 655 (2002). A decision is against the manifest weight of the evidence “if a review of the record ‘clearly demonstrates that the proper result is the one opposite that reached by the trial court.’ ” *Brianna B.*, 334 Ill. App. 3d at 656 (quoting *In re M.K.*, 271 Ill. App. 3d 820, 826 (1995)).

¶ 27 In this case, the trial court found Michael unfit on all four grounds alleged in the State’s amended motion for termination of parental rights. Count II of the State’s motion alleged that Michael is deprived pursuant to section 1(D)(i) of the Adoption Act (750 ILCS 50/1(D)(i) (West 2010)). That section provides that there is a rebuttable presumption that a parent is deprived if the parent has been criminally convicted of at least three felonies and at least one of these convictions occurred within five years of the filing of the petition or motion seeking termination of parental

rights. 750 ILCS 50/1(D)(i) (West 2010). The supreme court has defined “depravity” as “ ‘an inherent deficiency of moral sense and rectitude.’ ” *In re Abdullah*, 85 Ill. 2d 300, 305 (1981) (quoting *Stalder v. Stone*, 412 Ill. 488, 498 (1952)). Moreover, where, as here, the presumption of depravity is rebuttable, the parent is able to present evidence showing that, despite his convictions, he is not depraved. *In re A.M.*, 358 Ill. App. 3d 247, 253 (2005).

¶ 28 In the present case, the State presented certified copies of respondent’s convictions of six felonies. Four of the felony convictions occurred within five years of the filing of the motion to terminate Michael’s parental rights. Therefore, under section 1(D)(i), the State’s evidence created a rebuttable presumption that Michael was depraved. Appellate counsel contends that Michael did not present any evidence to rebut the presumption of depravity. We note, however, that Michael did testify that he has obtained a G.E.D. and that he has been taking a construction class while incarcerated. This evidence arguably impacts a claim of depravity. Once such evidence is offered, the presumption of depravity ceases to exist and the State must prove by clear and convincing evidence that the respondent was unfit because of depravity. *A.M.*, 358 Ill. App. 3d at 253-54.

¶ 29 As noted above, the State’s evidence consisted of Michael’s six felony convictions, which occurred between 1996 and 2012. These convictions showed clear and convincing evidence of Michael’s inherent deficiency of moral sense and rectitude. See *A.M.*, 358 Ill. App. 3d at 254. Moreover, the evidence established that Michael’s depravity under the law existed at the time the motion to terminate parental rights was filed and that the acts constituting his depravity were of sufficient duration and of sufficient repetition to establish a deficiency in Michael’s moral sense and either an inability or unwillingness to conform to accepted morality. See *A.M.*, 358 Ill. App. 3d at 254; *In re J.A.*, 316 Ill. App. 3d 553, 561 (2000) (quoting *In re Adoption of Kleba*, 37 Ill. App. 3d

163, 166 (1976)). While Michael did present evidence that he completed a G.E.D. and that he was taking a construction class, we cannot say that these factors, standing alone, are sufficient to show that an individual has been rehabilitated and is no longer depraved. See *A.M.*, 358 Ill. App. 3d at 254. Accordingly, we agree with appellate counsel that the State established by clear and convincing evidence that Michael is depraved as that term is defined under the law. Moreover, we find that Michael failed to prove that he was no longer depraved. As an opposite conclusion is not clearly apparent, the trial court's conclusion that respondent is unfit because of depravity is not against the manifest weight of the evidence. Because only one ground of unfitness need be proven, we need not address the other three grounds found by the trial court. See *Antwan L.*, 368 Ill. App. 3d at 1123.

¶ 30 The final issue identified by appellate counsel concerns the best interests of the minor. Appellate counsel asserts that Michael cannot establish that the trial court erred in determining that it is in B'yata's best interests that his parental rights be terminated. Once the trial court finds a parent unfit, it must determine whether termination of parental rights is in the minor's best interests. *In re Anaya J.G.*, 403 Ill. App. 3d 875, 882 (2010). As our supreme court has noted, at the best-interests phase, "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 bears the burden of proving by a preponderance of the evidence that termination is in the best interests of the minor. *D.T.*, 212 Ill. 2d at 366; *In re Deandre D.*, 405 Ill. App. 3d 945, 953 (2010). A trial court's best interest finding will not be disturbed on appeal unless it is against the manifest weight of the evidence. *Deandre D.*, 405 Ill. App. 3d at 953. As noted above, a decision is against the manifest weight of the evidence only if an opposite conclusion is clearly apparent. *Brianna B.*, 334 Ill. App. 3d at 656 (quoting *M.K.*, 271 Ill. App. 3d at 826).

¶ 31 We agree with appellate counsel that Michael cannot establish that the trial court's best-interest finding is against the manifest weight of the evidence. At the time of the best-interest hearing, B'yata was 4½ years old. She had never met Michael and had no relationship with him. She had been in the same foster home for about 18 months. She resides with her half-siblings with whom she is closely bonded. She attends preschool and accompanies the foster parents to church. According to the caseworker, B'yata and the foster parents have a good relationship, the foster parents attend B'yata's school meetings and conferences, and B'yata has friends at school and in the neighborhood. The foster father testified that he and his wife are willing to adopt B'yata. Given the foregoing evidence, we cannot say that a conclusion opposite to the one reached by the trial court is clearly apparent. Quite simply, the testimony established by a preponderance of the evidence that it was in the best interests of B'yata to terminate Michael's parental rights. As such, we conclude that the trial court's finding that it is in B'yata's best interest to terminate Michael's parental rights is not against the manifest weight of the evidence.

¶ 32

V. CONCLUSION

¶ 33 In sum, after carefully examining the record, the motion to withdraw, the accompanying memorandum of law, and the relevant authority, we agree with appellate counsel that no meritorious issue exists that would warrant relief in this court. Therefore, we allow the motion of appellate counsel to withdraw as counsel in this appeal, and we affirm the judgment of the circuit court of Winnebago County.

¶ 34 Affirmed.