

the best-interests hearing did not sufficiently support a finding that M.B.H.'s best interests were served by terminating Penny's parental rights. *In re M.B.H.*, 2011 IL App (5th) 110031-U, ¶ 130. Following another best-interests hearing, the circuit court again found that termination of Penny's parental rights was in M.B.H.'s best interests. We now consider whether that determination is contrary to the manifest weight of the evidence. We set forth only those facts necessary for a determination of the issue on appeal.

¶ 5 M.B.H. was found to be neglected and physically abused pursuant to section 2-3(2)(i) of the Juvenile Court Act of 1987 (705 ILCS 405/2-3(2)(i) (West 2008)) because Penny had left M.B.H. in Lawrence's custody and Lawrence had hit M.B.H., causing her injury. M.B.H. was made a ward of the court and guardianship was awarded to the Department of Children and Family Services (DCFS). The State subsequently filed a petition to terminate Penny's and Lawrence's parental rights to M.B.H., alleging that Penny was an unfit person as defined by section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2008)). Following a hearing on the issue of parental fitness, the circuit court entered default judgment against Lawrence and determined that Penny was unfit for, *inter alia*, failing to make reasonable progress toward the return of the child to her within nine months after an adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2008)).

¶ 6 At the best-interests hearing, Cassandra Crawford testified that she was a caseworker with Camelot Care Center, DCFS's service provider, and had worked as M.B.H.'s primary caseworker for the previous one year and seven months. Cassandra testified that M.B.H. had experienced three DCFS placements prior to Camelot Care Center's involvement and three additional placements while with Camelot Care Center. Cassandra testified that most recently, M.B.H. had lived with "Becky" for eight or nine months, and that while Becky was not an adoptive placement, she offered an affectionate, structured environment for M.B.H.

¶ 7 Cassandra testified that M.B.H. had behavioral problems and required a structured

home with close supervision. Cassandra testified that M.B.H.'s stealing, temper tantrums, and breaking items had caused difficulties in her placement. Cassandra testified that prior to Becky, M.B.H. stayed with "Lurene and Gene" for 11 months. Lurene and Gene requested that M.B.H. move after she broke the leg of one of their puppies. Cassandra testified that at Lurene and Gene's home, M.B.H. also allegedly tried to pull down the pants of a boy who also lived in the home.

¶ 8 Cassandra testified that prior to Lurene and Gene, M.B.H. was placed with "Debra" for a few weeks, until M.B.H.'s issues could be identified for an appropriate placement. Cassandra testified that Penny had reported abuse in this home to the DCFS hotline, it was investigated, and it was determined to be unfounded. Cassandra admitted that during a visit between Penny and M.B.H., while M.B.H. was in foster care, Penny observed bruising on M.B.H.

¶ 9 Cassandra testified that there was a potential adoptive placement for M.B.H., and if Penny's parental rights were terminated, M.B.H. would gradually have visits with the potential adoptive parent to prepare her for an adoptive home, where she would begin therapy for reactive attachment disorder. Cassandra testified that the potential placement for adoption was "Paula," who was a foster parent with a Springfield agency. Cassandra testified that M.B.H. could not undergo therapy for her reactive attachment disorder without a permanent caregiver.

¶ 10 Cassandra testified that she had had no opportunity to inspect Penny's home because Penny would not allow it. Cassandra testified that she was also unable to discuss M.B.H.'s educational goals with Penny.

¶ 11 Lauren Yoggerst, an in-home counselor with Camelot Care Center, testified that she facilitated two therapy sessions per week with M.B.H., in addition to family counseling in the home with M.B.H.'s foster parent. Lauren testified that M.B.H. had fairly severe

behavioral issues, including problems with aggression, lying, and stealing. Lauren testified that M.B.H. had been diagnosed with attention deficit disorder, attention deficit hyperactivity disorder, oppositional defiant disorder, and reactive attachment disorder.

¶ 12 Lauren testified that M.B.H. required attachment therapies with a permanent caregiver. Lauren testified that M.B.H. could not begin such therapy if she were to maintain her connection to Penny, because Penny was not cooperating with DCFS. Lauren acknowledged that on the day of the hearing, she observed Penny visit with M.B.H. and that M.B.H. acted well-behaved and said that she loved Penny.

¶ 13 Lauren testified that respite care occurs when the permanent foster parent is going out of town or away for a few days and needs childcare. Lauren testified that during one respite placement, M.B.H. poured a bottle of shampoo into the fish tank and stated that she wanted to kill the fish.

¶ 14 Lorna Carter, a friend of Penny's, testified that she had known Penny for 10 years and observed Penny and M.B.H. playing in Penny's home and in M.B.H.'s room. Lorna described M.B.H. as well-behaved and described M.B.H. and Penny's relationship as an appropriate and loving mother-daughter relationship. Lorna testified that every day M.B.H. rode the school bus, Penny stood with M.B.H. at the bus stop in the morning and was there when M.B.H. was dropped off.

¶ 15 Janet Aukamp, Penny's next-door Vandalia neighbor of 14 years, testified that Penny was honest and clean and kept her property in order. Janet testified that while M.B.H. lived with Penny, she observed M.B.H. and Penny playing in the pool and yard, and M.B.H. acted appropriately with Penny and with Janet's dogs. Janet testified that she first met M.B.H. when she was approximately 4 years old and observed her until she was about 5½.

¶ 16 Mary Aukamp, Penny's coworker and Janet's sister, testified that she observed Penny and M.B.H. at Penny's Vandalia home. Mary testified that she observed Penny and M.B.H.

appropriately playing in the yard with the dogs. Mary testified that Penny and M.B.H.'s interactions led her to believe that they had a close relationship.

¶ 17 Debbie Stout, a coworker and friend of Penny's, testified that she observed M.B.H. when M.B.H. lived with Penny. Debbie testified that Penny's home was clean and safe and that M.B.H.'s room was appropriate. Debbie testified that M.B.H. was sufficiently fed and wore clean clothes. Debbie testified that she observed Penny and M.B.H. hug often and that M.B.H. was happy, obedient, and respectful. Debbie testified that she at no time saw Lawrence physically discipline M.B.H.

¶ 18 Shannon Thompson-Black, Penny's friend, testified that she had known Penny for approximately 15 years. Shannon testified that when M.B.H. lived with Penny, she visited Penny's home one to five times a week and observed that M.B.H. and Penny had a close, loving relationship. Shannon testified that M.B.H. acted appropriately with her dogs and with M.B.H.'s own dog, Joe. Shannon testified that Penny cooked appropriate foods and provided clean clothing. Shannon testified that she observed M.B.H. and Penny walking around the yard holding hands and heard M.B.H. tell Penny that she loved her.

¶ 19 Shannon testified that, directly prior to the hearing, she observed visitation between M.B.H. and Penny. Shannon testified that she, Penny, M.B.H., and Cassandra were present. Shannon testified that she observed Cassandra prohibit M.B.H. from hugging Penny. Shannon testified that after the visit, Cassandra stuck a picture in Penny's face and, in a mean, loud voice, said, "This is the picture that you said was thrown away." Shannon testified that she observed a bond between Penny and M.B.H. and that they were happy to see each other. Shannon testified that, during the visit, she heard M.B.H. tell Penny that she loved her and wanted to come home.

¶ 20 Sherri Wohltman, Penny's attorney's secretary, testified that on June 14, 2011, she accompanied Penny on a visitation with M.B.H. at the Camelot Care Center in Springfield.

Sherri testified that when M.B.H. arrived, she ran into Penny's arms. Sherri testified that Cassandra and Shelley Husemann were also present during the visitation. Sherri heard M.B.H. ask to go to Penny's home. Sherri testified that she observed a close relationship between Penny and M.B.H., that they hugged each other, and that M.B.H. climbed on Penny's lap and said, "I remember when I used to sit on your lap and you would rock me." Sherri testified that, at the end of the visit, M.B.H. stated that when she was older, she would go home with Penny. Sherri testified that the Camelot Care Center employees did not provide Penny a promised \$40 gas card but provided a \$25 gas card instead.

¶ 21 Sherri testified that she also observed a July 8, 2011, visitation between Penny and M.B.H. in Vandalia. Sherri testified that M.B.H. was happy to see Penny and that she and Penny made crafts that Penny provided. Sherri testified that she heard M.B.H. tell Penny that she loved her. Sherri testified that, from observing the two visitations, she believed that Penny and M.B.H. had a close relationship.

¶ 22 Melanie Schaafsma, Ph.D., a counselor and family therapist, testified that she performed a bonding assessment for Penny at no charge. Dr. Schaafsma testified that she observed M.B.H. and Penny on two occasions, on June 23 and July 8, 2011. Dr. Schaafsma observed tension between Penny and Cassandra on these occasions. Dr. Schaafsma described Penny and M.B.H.'s interaction as "very loving." Dr. Schaafsma testified that Penny and M.B.H. were hugging and smiling and that M.B.H. told Penny that she loved her. Dr. Schaafsma testified that M.B.H. did not show the closeness to Cassandra or Becky that she showed to Penny. Dr. Schaafsma testified that M.B.H. wanted to be as close to Penny as possible, including next to her and on her lap. Dr. Schaafsma heard M.B.H. state that she wanted to return to Penny's home. Dr. Schaafsma concluded that Penny and M.B.H. were well-bonded.

¶ 23 Dr. Schaafsma testified that moving a child repeatedly, to six homes in a two-year

period, can complicate reactive attachment disorder. Dr. Schaafsma testified that she understood that there was no one, except Penny, who was a continuous attachment figure for M.B.H. Dr. Schaafsma concluded that it was not in M.B.H.'s best interests to terminate Penny's parental rights.

¶ 24 Penny testified that she lived in Dupo with Lawrence and had previously lived in Vandalia, Illinois. Penny testified that Lawrence had cancer, had no energy, and slept 15 hours a day. Penny testified that she took Lawrence to Springfield, Missouri, to the hospital approximately two times a month. Penny testified that the physicians had told Lawrence that he was dying.

¶ 25 Penny testified that prior to entering foster care in July 2006, M.B.H. had been living with her biological mother in an Oklahoma home where methamphetamine was being produced. Penny testified that in July 2006, M.B.H. began living with her and Lawrence. Penny testified that she and Lawrence underwent a police background check through the state police and the Federal Bureau of Investigation, a home study through Lutheran Family Services, and mental evaluations. Penny testified that prior to July 2006, she had seen M.B.H. approximately four or five times during trips to Oklahoma.

¶ 26 Penny testified that she and M.B.H. had a loving relationship and that M.B.H. wanted to be physically close to her, sitting on her lap or standing beside her. Penny testified that after she adopted M.B.H., she cared for her by bathing her, fixing her hair, feeding her, preparing her for school, and going on field trips. Penny testified that she taught M.B.H. her alphabet and numbers and how to write her name. Penny testified that she helped M.B.H. with her homework and her bedtime routine. Penny testified that she loved M.B.H. very much.

¶ 27 Penny testified that her Dupo home included three bedrooms. Penny testified that if M.B.H. were allowed to live there, she would have her own bedroom. Penny testified that

she had sufficient income and financial resources to care for M.B.H.

¶ 28 Penny testified that she had enjoyed approximately eight visits with M.B.H. in the previous six months. Penny testified that her visits with M.B.H. were positive and that she also sent cards to M.B.H. Penny requested telephone conversations with M.B.H., but Cassandra and Shelley had denied her requests.

¶ 29 Penny testified that she did not believe that M.B.H.'s foster placements were beneficial to her. Penny testified that on September 14, 2009, M.B.H. was placed with Tracey Lidster. In December 2009, M.B.H. was moved to Belleville Specialized Care because, Penny stated, Tracey had grabbed M.B.H. by the back of the neck and bruised her. In the same month, M.B.H. was moved from Belleville Specialized Care to Debra's home, where, Penny stated, M.B.H. was removed because Debra bruised the palm of M.B.H.'s hand with a stick. Penny testified that on December 23, 2009, she took photographs, introduced into evidence, of M.B.H.'s right hand, which Penny described as bruised.

¶ 30 Penny testified that in January 2010, M.B.H. was moved to Lurene and Gene Crane's home. Penny testified that during a previous hearing, Lurene testified that one of the boys in the home had stated that he and M.B.H. were "going to have sex" and that Lurene had allowed them to get under the covers together. Penny testified that M.B.H. was thereafter transferred to Becky's home. Penny testified that on July 8, 2011, M.B.H. told her that Becky only allowed in M.B.H.'s bedroom a bed, a table and chairs, and two baby dolls. Penny testified that M.B.H. had also stated that a picture had fallen off the dresser and that Becky had thrown it away. Penny testified that during her visitation with M.B.H. on the day of the hearing, Cassandra had stuck a picture in her face and said, "[H]ere's the picture that you said got thrown away." Penny testified that M.B.H. witnessed the exchange and looked scared and stunned.

¶ 31 Penny testified that she was also concerned with the medications M.B.H. had been

administered while in foster care. Penny testified that M.B.H. was placed on Strattera, then Concerta, and was administered clonidine, a sleeping pill, three times daily. Penny testified that M.B.H. was also being administered trazodone.

¶ 32 Penny testified that if M.B.H. were returned to her, she would obtain counseling for her. Penny testified that M.B.H. had a dog at her home and that M.B.H. had always behaved gently and appropriately to the dog. Penny testified that she was willing to move away from Lawrence and would care for him while M.B.H. was at school.

¶ 33 On cross-examination, Penny acknowledged that the circuit court had admonished her to cooperate with DCFS but that she had refused to sign a medical consent form and had refused to undergo a psychological exam by a DCFS-approved psychiatrist. Penny testified that she had undergone an integrated assessment before the adjudicatory hearing and was willing to comply with the DCFS service plan, if she were allowed to choose her own psychological experts and parenting classes. Penny testified that she did not want DCFS or Camelot Care Center in her home but that she would consider allowing another agency into her home. Penny testified that she did not trust DCFS or Camelot Care Center agents.

¶ 34 Penny testified that she had previously cooperated with DCFS by undergoing a home study. Penny offered into evidence an adoptive home study completed October 1, 2007. At that time, M.B.H. had resided with Penny and Lawrence for over one year. The study indicated that Penny and Lawrence lived in a quiet area in Vandalia, that the residence was appropriate, and that M.B.H. was bonded and attached to them.

¶ 35 The circuit court concluded that it was in M.B.H.'s best interests to terminate Penny's parental rights. Accordingly, on August 2, 2011, the circuit court entered an order terminating Penny's parental rights. The court entered a default judgment against Lawrence.

¶ 36 Penny appealed, and on December 30, 2011, this court entered an order reversing the order terminating Penny's parental rights. *In re M.B.H.*, 2011 IL App (5th) 110031-U, ¶

130. We held that although the evidence presented at the fitness hearing supported the circuit court's determination that Penny was unfit, the evidence presented at the best-interests hearing did not sufficiently support a finding that M.B.H.'s best interests were served by terminating Penny's parental rights. *Id.* ¶ 125. With respect to the evidence presented at the best-interest hearing, we stated:

"The evidence revealed that Penny had provided food, shelter, healthcare, and clothing for M.B.H. but that while in Penny's home, M.B.H. suffered a bruise that she said Lawrence inflicted. The evidence revealed that M.B.H.'s identity and family ties were dependent on her connection to Penny, her only remaining, interested relative. Dr. Schaafsma's bonding assessment revealed that Penny and M.B.H. were well-bonded, that they loved each other, and that M.B.H. wanted to return home to Penny. The evidence revealed no other persons available to care for M.B.H. long-term.

Until Penny complies with the goals of the DCFS service plan and demonstrates that she can care for M.B.H. without endangering her health or safety, M.B.H.'s need for permanence will not be met. On the other hand, M.B.H. has not enjoyed a stable lifestyle since leaving Penny's home, and the State failed to present evidence showing that the potential adoptive placement mentioned at the hearing was appropriate or likely. Based on the evidence presented, we find that the circuit court's determination, that M.B.H.'s best interests were served by terminating Penny's parental rights, was against the manifest weight of the evidence." *Id.* ¶¶ 122-23.

In our order, we specifically admonished Penny to cooperate with DCFS, stating:

"Accordingly, we strongly admonish Penny to comply with the DCFS service plan goals, her lack of trust notwithstanding, or she will most likely face future termination of her parental rights." *Id.* ¶ 125.

¶ 37 Shortly after the filing of this court's order, Penny filed a motion seeking visitation

and telephone contact, arguing that because this court reversed the order terminating Penny's parental rights, visitation should resume. Noting that the State and Camelot Care had indicated their intent to have M.B.H. evaluated to determine whether visitation was in M.B.H.'s best interests, Penny argued that she should be allowed to have an independent evaluation of M.B.H. conducted. The motion also alleged that Penny had scheduled a psychological evaluation and was in the process of obtaining a home study.

¶ 38 Camelot Care's February 22, 2012, status report to the court stated that resumed visitation would not be in M.B.H.'s best interests. Attached to the report was a copy of an evaluation of M.B.H. which had been performed by Dr. Helen Appleton, a psychologist, who opined that visitation with Penny was not in M.B.H.'s best interests so long as Penny refused to comply with her service plan. Dr. Appleton further opined that visitation would be beneficial to M.B.H. only if Penny demonstrated her willingness to comply with the service plan, including not saying anything that would undermine her current placement, or if Penny was willing to forfeit her parental rights and seek only to regain her role as M.B.H.'s grandparent.

¶ 39 That same day, the court held a hearing on Penny's motion for visitation. During that hearing, the court admonished Penny regarding her need to cooperate with DCFS and Camelot Care. The circuit court granted Penny's request for an independent evaluation, but scheduled a conference call to discuss the cost thereof. The court denied the motion for visitation and telephone contact pending the outcome of the independent evaluation.

¶ 40 On March 26, 2012, a copy of Penny's new service plan was filed with the court. The service plan indicated that the permanency goal continued to be substitute care pending termination of parental rights. The target completion date for the goals set for Penny was mid-September 2012. Penny did not sign the service plan.

¶ 41 On March 30, 2012, DCFS filed a permanency hearing report with the court. The

report indicated that a "Child/Family/Team" meeting had been held after the February 22, 2012, hearing and that Penny had been uncooperative and hostile when the goals of her service plan were explained to her. The report also indicated that Penny had failed to attend a March 14, 2012, administrative case review meeting, allegedly because she had car problems.

¶ 42 After several continuances, a telephone conference was held on May 7, 2012. According to the court's docket entry, Penny had found an evaluator, but the evaluation would cost \$3,000. The court felt that \$3,000 was too high and directed Penny to contact other providers. The court granted Penny leave to obtain an evaluator without further order of the court and set a cap of \$1,500. On May 21, 2012, the circuit court appointed Dr. Ronald Zec to conduct a psychological evaluation of M.B.H.

¶ 43 On July 16, 2012, the State filed a motion for a best-interests hearing. That same day, the court held a hearing on several pending matters, including Penny's amended motion for visitation. Penny explained that Dr. Zec's fee was \$3,000, and the court ordered the State to pay Dr. Zec's fee. The court did not hear the amended motion for visitation and telephone contact because the independent evaluation had not yet been performed.

¶ 44 A permanency review hearing was held on August 20, 2012. The circuit court adopted the recommendation of Camelot's July 13, 2012, permanency report, which indicated that the permanency goal should be substitute care pending termination of parental rights and that there be no visitation or contact of any kind until Penny complied with her service plan. Penny indicated that the independent evaluation of M.B.H. was scheduled for the first week of September.

¶ 45 A telephone conference was held on September 24, 2012. Penny stated that the psychologist appointed to evaluate M.B.H. informed her that he does not perform such evaluations, and she requested additional time to seek an evaluation of M.B.H. She also

requested that the best-interests hearing be continued. The circuit court denied both requests and scheduled the best-interest hearing for November 9, 2012.

¶ 46 Prior to the hearing, Penny filed a motion *in limine* to prevent the State and its witnesses "from making reference to, mentioning, or any fashion using" Dr. Appleton's evaluation and sought a continuance because a complaint for administrative review of her service plan which she had previously filed was still pending. The circuit court granted the motion *in limine* but denied the motion for a continuance.

¶ 47 The State began by calling Penny as an adverse witness. Penny acknowledged that she had no intention of cooperating with M.B.H.'s caseworker and that she had refused to talk to her. She had recently moved into a mobile home and had attempted to get a home study done, but had been unsuccessful. She was not legally separated from Lawrence, but was not living with him and planned to divorce him. She did not talk to the caseworker and felt that it was the caseworker's duty to contact her. Her only source of income was a disability payment of \$784 per month.

¶ 48 Wanda Trumbo testified that she is a licensed foster parent and that M.B.H. had been in her home for a year and was currently in third grade. Wanda was employed by the State of Illinois Capital Development Board as an assistant personnel officer and had worked for the State for 15 years. Wanda's husband, Jeffrey, was employed as a union carpenter, and they had been married for nine years. The Trumbos had another foster child, 11-year-old Will, and they were in the process of adopting him. M.B.H. and Will interacted well together. The Trumbos also had three adult children, none of whom resided with them, and Wanda had seven grandchildren as well as sisters, nieces, and nephews. M.B.H. was part of the extended family and seemed to enjoy being with them.

¶ 49 Wanda testified that when M.B.H. first came to live with them there were behavioral problems, but they had taken steps to address those problems and M.B.H. was making

progress. M.B.H. saw Lauren Yoggerst, a counselor provided by Camelot, weekly. The Trumbos and M.B.H. also saw Yoggerst as a family. Wanda believed that M.B.H. was making progress because her tantrums were not as severe and her stealing was less frequent.

¶ 50 Wanda acknowledged that M.B.H. had been involved in two instances of inappropriate sexual behavior. Shortly after M.B.H. came to live with the Trumbos she snuck into Will's bedroom and asked him if he wanted to have sex. Wanda told M.B.H. that was inappropriate. She also contacted Camelot Care, her caseworker, and M.B.H.'s counselor. The counselor came to the home and spoke with M.B.H. On another occasion, Wanda was on her porch when she heard M.B.H. ask one of the 10-year-old boys playing in a nearby field if he wanted her to perform a sex act on him. Wanda took M.B.H. in the house and explained to her why what she did was inappropriate. Wanda also called Camelot Care and M.B.H.'s counselor came to the house and spoke with M.B.H. Wanda put an alarm on M.B.H.'s bedroom door which chimes if M.B.H. opens it. The counselor has worked with Wanda to address this issue, and there have been no incidents since November 2011.

¶ 51 Wanda also testified that when M.B.H. first came to live with the Trumbos she was hoarding food. She would get up at night and raid the refrigerator and they would find food in her room. M.B.H. did not explain why she was sneaking food in the middle of the night. Wanda stated that M.B.H. was provided with enough food and that she had addressed the issue with M.B.H.

¶ 52 Wanda testified that the family went to movies, read books together, went for walks in a nearby park, and went out to eat. Wanda took M.B.H. shopping and they would go together to have their hair and nails done. Wanda testified that she and Jeff loved M.B.H. and wanted to adopt her. Wanda had discussed with M.B.H. that they wanted to adopt her, and M.B.H. was excited and had stated that she wanted them to adopt her. Wanda testified that if Penny's parental rights were terminated she and Jeff would "definitely" seek to adopt

M.B.H.

¶ 53 Lauren Yoggerst testified that she was M.B.H.'s in-home therapist and that she had begun counseling M.B.H. in October 2010, prior to her placement with the Trumbos. She stated that M.B.H. had made progress, especially since being placed with the Trumbos. Yoggerst was aware of the issues with food hoarding and inappropriate sexual behavior. Both issues predated her placement with the Trumbos. She stated that the hoarding behavior has to do with control, not lack of food, and can arise from past traumas. Food hoarding was symptomatic of M.B.H.'s diagnoses. Yoggerst was working with M.B.H. on her sexual acting out, and the Trumbos were addressing it appropriately.

¶ 54 Yoggerst testified that the interactions between M.B.H. and the Trumbos were generally all positive. M.B.H. is very affectionate with the Trumbos and refers to them as "mom" and "dad." The Trumbos appear to be loving and caring parents who are genuinely concerned for M.B.H.'s well-being and best interests. Yoggerst opined that it was in M.B.H.'s best interests to terminate Penny's parental rights so that the Trumbos could adopt her. Yoggerst acknowledged that she had never spoken to Penny and never informed her of M.B.H.'s progress.

¶ 55 Penny called Cassandra as an adverse witness. Cassandra testified that she was a case manager for Camelot Care center and had been M.B.H.'s caseworker for approximately three years. Cassandra acknowledged seeing or receiving numerous requests for visitation or phone contact in 2012, but no visitations or phone contacts were provided. A child/family team meeting was held at the courthouse at the time of the February 22, 2012, hearing. Penny did not want to attend the meeting, but agreed to do so after speaking with her attorney. Cassandra was told by Penny's attorney not to speak with Penny or contact her and that all contact with Penny was to be through her attorney. As they went over the various tasks and goals of the service plan, Penny would shake her head "no." Penny continued to

state that she would not cooperate or have anything to do with the service plan. Cassandra provided her phone number to Penny's attorney, but Penny never contacted her.

¶ 56 Penny testified that she had recently moved and was no longer living with Lawrence because she had only recently become aware that there was no chance of M.B.H. being returned to her while she was living with Lawrence. She stated that she had done everything she could to comply with her service plan, except work with Camelot Care, because she did not trust them. She had attempted to have a home study done, but had been unsuccessful because she could not pay for one, and did not trust Camelot Care to perform one. She had consulted with Dr. Muddasani and had obtained a psychological assessment from him. Penny stated that she had no psychological problems that would prevent M.B.H. from being in her care. Penny testified that she had made numerous attempts to obtain visitation with M.B.H., but had not been allowed visitation or any contact. She denied that the service plan was discussed at the February 22, 2012, meeting. Penny stated that M.B.H. had lived with her for 2½ years before her removal and that they had become very bonded. She also stated that she loves M.B.H., could provide for her, and could give her a good home.

¶ 57 At Penny's request, the court took judicial notice of the transcripts of the prior best-interest hearing and the exhibits that had been admitted.

¶ 58 On November 26, 2012, the court entered an order terminating Penny's parental rights. The court noted that Penny had admitted that she desired to have no contact with Cassandra and would not cooperate with her, and that Cassandra had testified that Penny refused to cooperate with her. The court found that Penny had taken no positive steps toward accomplishing any of her goals. The court also noted that Yoggerst had testified that M.B.H.'s behavior was improving and that she had made better progress since being placed with the Trumbos.

¶ 59 The court found that M.B.H. was in a safe, secure, and loving environment with

foster parents who are ready, willing, and able to adopt her. The court noted that M.B.H. calls the Trumbos "mom" and "dad," and loves them, and that M.B.H. had been out of Penny's house for over three years and that it was time she had a sense of permanence.

¶ 60

ANALYSIS

¶ 61 On appeal, Penny argues that the circuit court's determination that termination of her parental rights was in M.B.H.'s best interest is against the manifest weight of the evidence and contrary to law. Penny notes that she is M.B.H.'s biological grandmother, that she has a close and loving relationship with M.B.H., and that she has been the only consistent attachment figure in M.B.H.'s life.

¶ 62 Once parental unfitness has been established, the parent's rights must yield to the child's best interests. See 705 ILCS 405/2-29(2) (West 2008); *In re M.F.*, 326 Ill. App. 3d 1110, 1115 (2002). The court focuses upon the child's welfare and whether termination would improve the child's future financial, social, and emotional atmosphere. *In re Adoption of Syck*, 138 Ill. 2d 255, 276 (1990). A separate hearing and determination of the child's best interests is mandatory to ensure that the court properly focuses on those interests. *In re D.R.*, 307 Ill. App. 3d 478, 484 (1999). To determine the child's best interests, the circuit court is required to consider, in the context of the child's age and developmental needs, the following:

"(a) the physical safety and welfare of the child, including food, shelter, health, and clothing;

(b) the development of the child's identity;

(c) the child's background and ties, including familial, cultural, and religious;

(d) the child's sense of attachments, including:

(i) where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love,

attachment, and a sense of being valued);

- (ii) the child's sense of security;
- (iii) the child's sense of familiarity;
- (iv) continuity of affection for the child;
- (v) the least disruptive placement alternative for the child;

(e) the child's wishes and long-term goals;

(f) the child's community ties, including church, school, and friends;

(g) the child's need for permanence which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives;

(h) the uniqueness of every family and child;

(i) the risks attendant to entering and being in substitute care; and

(j) the preferences of the persons available to care for the child." 705 ILCS 405/1-3(4.05) (West 2008).

¶ 63 "Because the best interest determination focuses on what is in the *child's* best interest, the child's likelihood of adoption is an appropriate factor for the trial court's consideration." (Emphasis in original.) *In re Tashika F.*, 333 Ill. App. 3d 165, 170 (2002). "Evidence of a bond or lack thereof between parent and child is relevant to the trial court's best-interest determination." *In re M.R.*, 393 Ill. App. 3d 609, 615 (2009). Other important considerations include the nature and length of the child's relationship with the present caretakers and the effect that a change of placement would have upon the child's emotional and psychological well-being. *In re Austin W.*, 214 Ill. 2d 31, 50 (2005). "[T]he trial court need not articulate any specific rationale for its decision, and a reviewing court may affirm the trial court's decision without relying on any basis used by the trial court." *In re Tiffany M.*, 353 Ill. App. 3d 883, 893 (2004).

¶ 64 The State must prove, by a preponderance of the evidence, that termination of parental rights is in the child's best interests. *In re D.W.*, 214 Ill. 2d 289, 315 (2005). A circuit court's finding that termination is in the child's best interests will not be reversed unless it is contrary to the manifest weight of the evidence. *In re D.F.*, 201 Ill. 2d 476, 495 (2002).

¶ 65 We reversed the previous order terminating Penny's parental rights based on the lack of evidence showing that the potential adoptive placement mentioned at the first best-interests hearing was appropriate or likely. At the time of the first best-interests hearing, M.B.H. had had numerous foster placements, none of which gave her the permanence or stability she required.

¶ 66 At the November 9, 2012, best-interests hearing, Wanda Trumbo testified that M.B.H. had been in the Trumbos' home for approximately one year. Wanda and Lauren both testified that since her placement with the Trumbos, M.B.H. had made progress with her emotional and behavioral issues. Wanda testified that the family went to movies, read books together, went for walks in a nearby park, and went out to eat. She took M.B.H. shopping and they would go together to have their hair and nails done. Wanda also testified that she and Jeff loved M.B.H. and wanted to adopt her. Wanda had discussed with M.B.H. that they wanted to adopt her, and M.B.H. was excited and had stated that she wanted them to adopt her.

¶ 67 The evidence elicited by the State at the second best-interests hearing adequately addresses the evidentiary weaknesses noted in our prior reversal. The State presented evidence that M.B.H. had been with the Trumbos for approximately one year, that her behavioral issues had improved since being placed with them, that she was happy and well-adjusted, and that she was finally achieving the sense of permanence she needed. Wanda Trumbo testified that she and her husband wanted to adopt M.B.H. and would begin the

process to do so as soon as possible. Given this evidence, along with the evidence elicited at the first best-interests hearing, we cannot say that the circuit court's determination that termination of Penny's parental rights was in M.B.H.'s best interests is contrary to the manifest weight of the evidence.

¶ 68 Penny notes that she was denied any contact with M.B.H. following our reversal of the prior order terminating her parental rights. The State's refusal to allow Penny any visitation with M.B.H. is troubling. Although the State bears the burden of demonstrating by clear and convincing evidence that termination of parental rights is in the minor's best interests, a respondent at a best-interests hearing is at clear disadvantage where the respondent has been denied contact with the minor. We also note that while the State denied contact based on a psychological evaluation which indicated that contact was not in M.B.H.'s best interests, Penny was deprived of the ability to challenge the State's psychological evaluation when the circuit court ultimately denied her request to have an independent psychological evaluation of M.B.H. performed. Nevertheless, under the unique circumstances of this case, we cannot find that Penny was so prejudiced that reversal is required because nothing in the record suggests that the outcome of the best-interests hearing would have been different had Penny been permitted contact with M.B.H.

¶ 69 In our prior decision, we specifically noted that "[u]ntil Penny complies with the goals of the DCFS service plan and demonstrates that she can care for M.B.H. without endangering her health or safety, M.B.H.'s need for permanence will not be met." *In re M.B.H.*, 2011 IL App (5th) 110031-U, ¶ 123. The record demonstrates that, despite our earlier admonition and the circuit court's repeated admonitions, Penny refused to comply with her service plan and continued to refuse to cooperate with Camelot Care, DCFS's service provider. Nothing in the record suggests that Penny would have cooperated had she been allowed contact with M.B.H. Penny's own testimony at the November 9, 2012, best-

interests hearing demonstrates that she remains adamant in her refusal to cooperate with DCFS, Camelot Care, or M.B.H.'s therapists or caseworkers. In the absence of such cooperation, Penny cannot meet M.B.H.'s need for permanence. Consequently, we cannot find that the circuit court erred in terminating Penny's parental rights.

¶ 70

CONCLUSION

¶ 71 For the foregoing reasons, the judgment of the circuit court of Fayette County is affirmed.

¶ 72 Affirmed.